

NOW IS THE TIME: AN INFLECTION POINT TO EQUAL JUSTICE



By: Luther J. Battiste, III, National President of the American Board of Trial Advocates

The following is a message from Luther J. Battiste, III, National President of the American Board of Trial Advocates:

DALLAS (June 5, 2020) —
The American Board of Trial Advocates held its first meeting of 2020 in Charleston, South Carolina, in January. The keynote speaker during the business session was Judge Richard M. Gergel, a distinguished federal judge in Charleston. He was the South Carolina ABOTA Judge of the Year in 2017 and the trial judge in the case of Dylann Roof, the young man convicted of killing nine church members at Emmanuel AME Church in Charleston.

Judge Gergel spoke about his recent book, *Unexampled Courage: The Blinding of Sgt. Isaac Woodard and the Awakening of President Harry S. Truman and Judge J. Waites Waring*. The book is about a young African American soldier returning home in uniform from service in the Pacific during World War II. Sgt. Woodard was struck unlawfully with a blackjack by a white South Carolina police chief, gouging his eyes and permanently blinding him. The horrific incident was publicized on the radio airwaves by Orson Welles and others, which resulted in a national public outcry about the inhumane actions of the police chief. It was an inflection point for President Truman and influenced his decision to issue an Executive Order integrating the armed forces. It also inspired Judge J. Waites Waring, a federal judge and native Charlestonian, to become a champion of civil rights in his rulings.

In May, a 17-year-old girl captured on video a white Minneapolis police officer with his knee pressed on the neck of an African American man, George Floyd, for almost nine minutes. Despite pleas from Mr. Floyd saying, "I can't breathe," the officer and three other officers standing by continued until there was no breath left in George Floyd's body. This

horrific event outraged the world and was an affront to the African American community, which was already grappling with the recent deaths of Ahmaud Arbery and Breonna Taylor and the disproportionate effect of COVID-19 on African American communities. Citizens in this country and the world have exercised their First Amendment right to protest the tragic death of George Floyd. These protests have brought together diverse groups of people of goodwill to challenge the treatment that these men and women suffered and the systemic problems with explicit bias, racism and policing in this country.

The United States of America was born from protest. Protesters today are demanding equal justice, which is an American ideal not always practiced. The words "Equal Justice Under Law" are carved in marble above the entrance to the United States Supreme Court. These words emphasize the Fourteenth Amendment requirement that "nor shall any state deprive any person of life, liberty, or property without due process of law."

The United States is at another inflection point in its history. The people of this country are telling us that it is time, it is necessary for us to address the history of racial injustice

and systemic problems with policing and the legal system. They are telling us that it is time to respect the rule of law. We, at this time, in this country, must find a way to channel protest to policy.

ABOTA is an organization of members of goodwill. It is an organization that has a respect for the Constitution and the rule of law. ABOTA's Code of Professionalism states that members should "encourage respect for the law, the courts and the right to trial by jury." We have a mandate to support change in our criminal justice system and to dismantle the systemic racism that plagues our cities and country and affects how policing is practiced.

We should actively support social justice for all. It should be a bedrock of our ideals, our mission, and our programming. Our members should engage in dialogue that confronts the issues that divide us. We should encourage our government leaders to address the root causes of the problems that result in the misuse of police authority. We should advocate for a legal system which ensures proper charging of offenders and a trial that is fair to the accused and the victims.

I have hope that the tremendous outpouring of

peaceful resistance in our streets and the demands for changes in our legal system will serve to bend the arc of the moral universe toward justice. We should be a country of equality where every person regardless of race, creed, color, religion or sexual orientation can have an expectation of liberty and justice for all.

I have faith that ABOTA members will not be merely observers but advocates for positive change and will seize this moment with enthusiasm, goodwill and open minds by

accepting the responsibility to be leaders in creating a better world.

Finally, President Jimmy Carter provided a telling statement about the recent protests nationwide. "People of power, privilege, and moral conscience must stand up and say 'no more' to a racially discriminatory police and justice system, immoral economic disparities between whites and blacks, and government actions that undermine our unified democracy," the President said.

"We are responsible for creating a world of peace and equality for ourselves and future generations."

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Abraham Lincoln knew that the nation could not afford to look away, instilling a sense of duty in all of us, when he said, "Let's have faith that right makes might; and in that faith let us, to the end, dare to do your duty as we understand it." He later said, "It often requires more courage to dare to do right than to fear to do wrong."



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Luther J. Battiste, III is a founding shareholder of Johnson, Toal & Battiste, P.A. He is a graduate of the University of South Carolina and Emory University Law School. Luther has served as president of the Columbia Lawyers Association, the Richland County Bar, Association, the South Carolina Trial Lawyers Association, and The Southeastern Region of the American Board of Trial Advocates (SEABOTA).