

BUILDING BRIDGES

1 Our speaker today is the honorable
2 Eric Andell. He is the judge of the 315th
3 Family District Court here in Harris County,
4 Texas. Judge Andell is very well known, and is
5 respected in this area. I've met him several
6 times. I've met him in the courtroom. I've
7 met him in politics, and we've done the
8 television circuits before. Most recently, he
9 and I did the legal arguments and presentations
10 on a television show where Kathrine McGuire,
11 who recently completed her sex reassignment
12 surgery, did a two-day stint on a local
13 television show. I also know Judge Andell
14 through the University of Houston Law School
15 Alumni Association. He is a very active
16 person. He is extremely giving of his time and
17 energy. He's just a good person, and I want
18 you to meet him and welcome him today, Judge
19 Andell.

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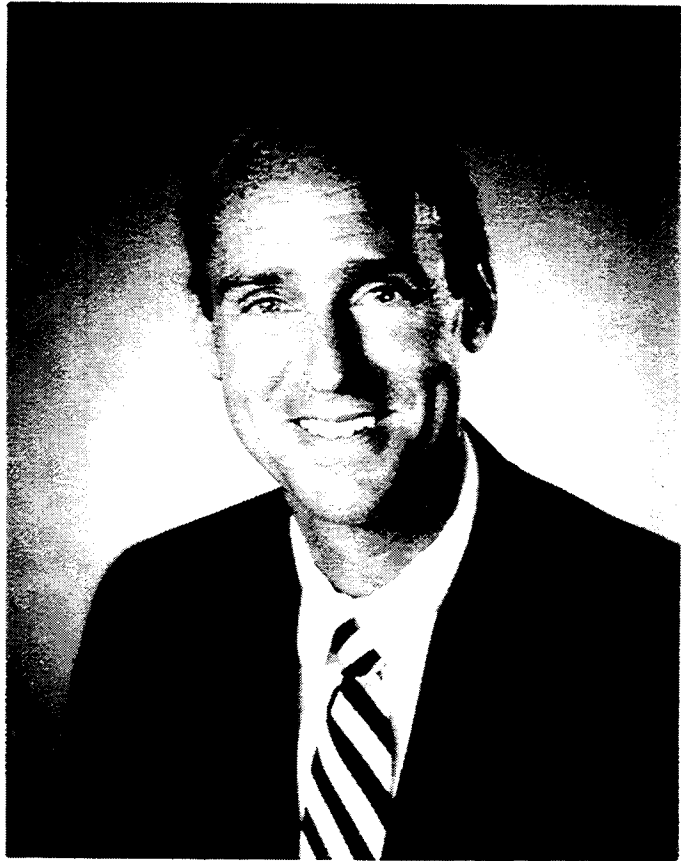
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JUDGE ANDEL:

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I'm smiling because anyone who has done any public speaking at all, knows one would not want to follow that.

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When Phyllis asked me to speak here, I said, "Yes." Without reservation or qualification and I said, "But Phyllis, don't do anything and put me behind the eight ball. I mean after all, I'm already the leadoff speaker at this conference which is something as a public speaker, you don't want to be. You never want to be two things: One, a luncheon speaker, and number two, the leadoff speaker. Phyllis, in her own style, said, "Yes, but Eric, that makes you the anchor of our conference." Actually I had not thought about that. The anchor of the conference. I went out and bought a new suit. I got this new tie -- you didn't see that. Then I looked up the definition of anchor. Dead -- dead weight.

24

You have to know Phyllis to understand her, but her engineering background will tell

1 you how precise she is and organized she is.
I'm not going to say that she called me every
2 day to asked me if I was prepared and whether
my speech was ready or not, but let's just say
3 memos and letters and faxes and meetings,
whereupon, she kept asking me, "Do you know
4 what your going to say, and what are you going
to say?" I kept assuring her that, "Don't
5 worry, I will have something to say when I get
there." As recently as 12:25 when I showed up,
6 same thing. She asked me, "Well, what are you
going to say?" And I wasn't sure what I was
7 going to say even at 12:25, because I had to
ask Phyllis one question that I forgot to ask
8 her. Am I making a speech, or is this a
keynote address?

9
There's a difference. If it's a
10 speech, then I have to impart to you what you
would call technical information. You might
11 even want to take notes on, and verify what I'm
saying as being the truth. If there is enough
12 time, of course a good speaker never leaves
enough time for questions, it's a speech. On
13 the other hand, if it's a keynote address, then
I have to leave a message. She said, "Keynote."

14
Perfect! Here's my message: Bridges.
15 Now, I may not get back to it, but I have to
leave you a thought. So my thought is
16 bridges. I hope that I can get back to it
because the thought of bridges came to me this
17 morning while I was running. That's when I
thought about what I was going to say to you.

18
I am the only trial court judge that
19 you will have as a speaker. And that makes a
big difference as we talk about the law and any
20 issue, and in particular the issue that you
meet on.

21
I was in talking to Tom Kennedy who is
22 a columnist here for the Houston Post, and he
called me because of the pro-choice issue that
23 was so prevelent here a couple of weeks ago
during the convention. Because, frankly, as I
24 explained to him, it is the judiciary that
braces itself for the storm. The Executive

1 Branch is rhetoric. The Legislative Branch
2 turns the rhetoric into political fire storm,
3 but it is the Judiciary that braces itself to
4 interpret and rule on the laws as it is
5 written.

6 We, the Judiciary, are the ones that
7 get caught up in the fire storm of protest and
8 how we're going to interpret the law. The law,
9 therefore, is transitional. We don't make the
10 law because that's the Legislative Branch. We
11 don't try to convince other people what the law
12 should be; that's the Executive Branch. We
13 sure have to take care of, on a day-to-day
14 basis, how the State of Texas is going to tell
15 you how to conduct your life. That's a very
16 scary thought: That the State should have
17 vested interest in how individuals should
18 conduct themselves.

19 As we look at the trial judges
20 throughout the country, we see the storm flags
21 waving. We see that we are drawn upon more and
22 more to micromanage families. Micromanage every
23 single decision that should or should not be
24 made by an individual.

25 This to me, just as a personal note,
26 is a very scary thought. We don't really belong
27 in the micromanagement of family decisions.
28 But the law doesn't give us much choice; that
29 is, if the parties can't agree, and litigation
30 is the way we are going to resolve our
31 problems, then the Trial Courts must step up
32 and decide how you will conduct yourselves with
33 regard to your family and to yourself
34 individually.

35 So, let's look at what I'm looking
36 at. Let me see what I'm saying as I stand up
37 here. If I'm standing up here and looking out
38 in the horizon, what's happening in the area of
39 family law? Where are we heading? What might
40 we expect in the next ten years, and how does
41 that effect you? In other words, what does
42 the '90s look like?

43

44 Is it an abyss for individual rights

1 and privacy? Or is it going to be the dawning,
2 the awakening of the spirit of individualism,
3 the right to privacy with the State not
4 interfering so much into families' lives? It's
5 a mixed bag. It's a mixed bag.

6 Now, you all are going to have, and
7 lawyers use this term "In horn-book fashion,"
8 what the law is. I'm not going to discuss to
9 you what the law is because, frankly, we have
10 so many states represented here, who knows?
11 Who knows what your Trial Court will or will
12 not do with the following issues? But, let me
13 tell you what I think the trend is. If that
14 trend is balanced with the understanding that
15 government really does not belong on a
16 micromanaged basis into your lives, then I
17 think we're heading towards -- and I hope we're
18 heading towards an age of individualism.

19 Let me tell you the latest scenario
20 that's going on in Texas. This will give you
21 some hint, or perhaps, some clue of where Texas
22 might be heading. I wouldn't say that Texas is
23 the most progressive state in the United
24 States. If we're not the most progressive, if
25 we're heading in this direction, then this
26 might give us an idea, short of legislation
27 changing the direction, short of the Supreme
28 Court of the United States changing our
29 direction. If we just let the pendulum swing
30 where it is swinging now, where would we be
31 heading?

32 Let me give you an example. Right now
33 the hot topic on the block in my Court is a
34 very interesting topic, and that's what makes
35 the law such an interesting profession to be
36 in. It deals with a mother and a father,
37 husband and wife. The wife decided that her
38 life was not exciting enough, which is fine.
39 On a couple of evenings a week, she wanted a
40 little more excitement. She got some
41 excitement, and she got pregnant. That's how
42 exciting her life was.

43 She came back home. She didn't hide
44 her pregnancy. He confronted her. She says,

1 "I'm having this child." And he says, "Is it
mine?" And she said, "No." He said, "I want it
2 to be mine." She said, "Okay."

3 They reconciled their differences.
They decided to keep this child. Now the law
4 in the State of Texas is, it's presumed to be,
it's presumed to be, the child of that
5 marriage. It's an irrebuttable presumption for
most part.

6
7 Well, they get a knock on the door,
and low and behold, it's this male who says,
"I've come to see my child." To which the
8 mother says, "What child?" "The one that we had
together, I am the biological father. I want
9 to see my child." And then the husband, the
legal father says, "No it's our child." The
10 biological father has filed suit to see this
child.

11
12 It is one heck of a great question
because it ties in to what we're talking about
here today. This is a cause of action that was
13 unheard of ten to fifteen years ago. Who would
of even thought of it? That a biological
14 father could interfere with a marriage, and
actually ask a Court to: (A), give that person
15 standing; (B), sue for paternity, and have
access to that child.

16
17 There's a split in Texas as to what
I'm supposed to do. That's how it always
happens, isn't it? One Court of Appeals says,
18 "Absolutely not. You cannot do it." Another
Court of Appeals says, "Absolutely. The father's
19 the father. That's the way it is." It's going
up to the Texas Supreme Court. I don't have
20 time to wait for that decision, so I have to
make a decision. There's been some briefings
21 being done for me.

22
23 But my point is very clear. If you're
going to look at the law as just being planted
in concrete, you will never get anywhere. The
law changes as our attitudes change. And as
24 our thought processes think as to what should
be done: What is in the best interest of the

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1 child?

2 The Family Code says that the Court
3 must order visitation to the other parent. It
4 says it. That is, in a divorce you're entitled
5 to visit with the child. Now, there's also
6 nothing in the Family Code that says you can't
7 sue for custody. Nothing. There's absolutely
8 nothing in the Family Code that says that.
9 And, there's some little hooks in there that
10 you've got to be familiar with. Number one, a
11 child, age 12 or older in Texas, can designate
12 with whom he or she would like to live. Number
13 two, the only test is best interest. Well,
14 what is that?

15 In other words, it's not a lay-down
16 unless you lay down. It's not a lay-down
17 unless you lay down.

18 There's a burden of proof and it must
19 be brought by the person who's preventing that
20 action to be taken. But in terms of
21 visitation, when the Court says, "You shall
22 order visitation unless it is not in the best
23 interest, AND -- conjunctive -- AND it would
24 seriously impair the emotional and physical
25 well-being of the child.

26 But whose burden is it? Is it your
27 burden to make that case by saying, "I am going
28 to seriously and emotionally impair that
29 child," or is it the moving party that has to
30 convince the court? I would submit to you that
31 I doubt that burden can be sustained. I don't
32 think there's a text somewhere that a person
33 can sustain that burden to prevent anyone from
34 visiting their child.

35 The fear that you have, though, and
36 this is the real fear, is that the cases, as
37 you will find out, rest upon two things: The
38 welfare of the child, and the public interest.

39 Sometimes Courts can become very
40 officious and decide for themselves what they
41 think the public interest is in such cases.
42 When a court does that, here's what the

1 problems are. This is what Phyllis was
indirectly alluding to. You can voluntarily
2 terminate your parent/child relationship, or
you can get it done to you!

3
4 In some of the cases that you will be
given in terms of briefs or otherwise, there
are cases, few true, where a transgender
5 situation has sued just to see the child, and
there was a crossaction to terminate the
6 parent/child relationship. "Not only don't I
want you to see this child, but besides that,
7 public interest demands that you forever are
precluded from seeing your child." There is at
8 least one case that did, in fact, terminate the
parent/child relationship because of the
9 gender.

10 That's the risk taking. That's the
risk taking. And we're almost coming back to
11 the bridge. That's the risk taking.

12 If this biological father, who had no
rights according to any law that we know of,
13 stayed put and didn't want to ever see his
child, then we would never know, would we, what
14 his rights are. We would never know. It is
like is there any sounds in the forest when a
15 tree falls if no one's there? We just would
never know, would we, if there weren't
16 pioneers. If there weren't persons willing to
challenge the law to find out where the law is
17 or should be.

18 What's making the adoption case so
difficult, and, therefore, the same areas with
19 regard to your rights, visitation, and custody
is that there's a missing ingredient here that
20 people seem to forget. It's a growing body of
law: That's the rights of the children. The
21 rights of the children. It is that hook that I
think that tells me the law is heading towards
22 standing in all these cases, and the rights of
those children to visit and see and be with and
23 know their family. I just have a feeling
that's where we're going.

24

I see it. I think the Supreme Court

1 of Texas is going to give this biological
2 father the right to access into this married
3 home. And you talk about havoc? Think about
4 that? I mean if the Courts would of believed
5 that Phyllis's scenerio was going to cause
6 havoc, think about a third party coming in and
7 trying to explain who the uncle is.

8 It's just as complicated, if not more
9 complicated. I have a feeling that the Supreme
10 Court is going to say, "Yes, that person has
11 standing." But someone had to do it. Someone
12 had to step up to the line. Someone had to
13 fight this issue out, and that's what brings me
14 to the bridge.

15 I was running this morning. I was
16 worried because Phyllis was going to ask me if
17 I had thought of something to say. And had she
18 seen me at Memorial Park I would of had to say,
19 "No." And then I crossed a bridge. It dawned
20 on me. It dawned on me. What is a bridge? A
21 bridge is a vehicle that enabled me to get from
22 one spot to another spot easier. It just made
23 it easier for me to go from one spot to another
24 over trouble. There's trouble underneath, and
25 it just made it easier for me. I could have
26 gotten to the other side without a bridge. You
27 can get to the other side without a bridge.

28 But someone built that bridge, and it
29 sure made my life a lot easier. So, why are
30 you here today? You're here today to build a
31 bridge. So it'll make it a lot easier for
32 people who follow to go from one side to the
33 other, over those troubled waters.

34 They can get there. Phyllis got there
35 without the bridge, didn't she? She did get
36 there. You can get there without the bridge.
37 But wouldn't it have been nice to have been
38 able to use a bridge to get from one point to
39 another.

40 And that's my message to you. Those
41 are my thoughts to you. If I can flow ever so
42 easily into a quote. I hope I can find it
43 without breaking the momentum here. I wanted

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1 to close with a quote that I think it is very
2 applicable to building bridges and taking the
3 kind of leadership that it takes to fight for
4 something that you know is right. The person
5 that said this is someone I think we're all
6 familiar with. Well, you're all too young, I
7 shouldn't say that. John F. Kennedy.

8 "Each time," and I'll use his
9 language, so don't take any offense. "Each time
10 a man stands up for an ideal, or acts to
11 improve the lot of others, or strikes out
12 against injustice, he sends forth a tiny ripple
13 of hope, and crossing each other from a million
14 different centers of energy, and daring those
15 ripples build a current that can sweep down the
16 mightiest walls of oppression and resistance.
17 Moral courage is a greater commodity than
18 bravery in battle or greater intelligence.
19 Yet, it is the one essential -- it is the one
20 essential vital quality for those who seek to
21 change a world that yields most painfully to
22 change."

23 The bottom line is it takes courage to
24 build bridges, and I believe you've got that
25 kind of courage, and I commend you for it.
26 Thank you.

27 PHYLLIS FRYE:

28 Well, Mr. Anchor, you were no dead
29 weight. You're very inspiring, and we
30 appreciate you being here.

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