

I want to thank Mary Jo White – my dear and yes best friend – for those kind words. -----Some of them were true.

It is a special honor for me to receive an award named for Fern Schair who served as your Executive Director and Chair of the Board of the Fund for Modern Courts.

I first met Fern in the mid 70's, when she was the Executive Director of the New York City Bar Association (and I believe the first woman to hold that position) -- and I was on its Criminal Courts committee, where I was the only woman for a time. Those were the good old days when dinner was served after the meeting, complemented by a full bar and cigars. I tried a cigar one evening – just for the hell of it. I was embarrassed afterwards and felt compelled to share my misbehavior with Fern – we visited, I confessed and she just smiled and laughed.

Our paths crossed again when I was Chief Assistant to Bob Morgenthau. At the time I was the Chair of the Criminal Justice Council at the New York County Lawyers Association. We were planning a weekend retreat to discuss Criminal Justice in our City ...and I wanted to invite Al Sharpton. While the Tawana Brawley incident was in the past, he remained a controversial choice. Some were not open to the idea. I called Fern. She told me to go for it. I did.

Fern was as deeply committed to justice, and to access to justice, as any lawyer I have ever known and she was always there for me.

I should also say a kind word about my co-recipient Jeffrey Kessler, who is truly the nation's preeminent sports lawyer. Jeffrey appeared before me on a number of occasions when I was on the bench and then in private practice when I was an arbitrator. I have to say that He combines seemingly

antithetical qualities-- somehow managing to be both combative and yet charming. --And before me at least, he seems to always win.

In preparation for tonight, I have read through many of the Fund's recent reports, and it will not surprise you to learn that I share the Fund's values and goals. But one initiative did give me pause. In 2022, the Fund wrote a report on Cameras in the Court, with the subtitle "Enhancing Transparency in the New York State Judiciary." Now, don't get me wrong. I believe in transparency. But my hesitancy on this score is personal.

As a few of you may recall, I was the trial judge for United States v. Autumn Jackson. Ms. Jackson was convicted, of trying to extort \$40 million from Bill Cosby by claiming to be his illegitimate daughter. At sentencing, she was six months pregnant and the babies' father had cooperated against her at her

trial. She apologized and she cried. After much thought, I sentenced her to 26-months –and I cried.

The next day, my picture – my standard picture – was on the front page of the New York Post with the headline “Justice Cries.” I had a bad reaction. I was mortified. Jim Gill, who many of you will remember, called to confess to me that his first reaction to the headline was to make a joke about me-- but that upon reflection he decided to comfort me, telling me not to fret – that it just showed I was Irish and empathetic.

Had there been cameras in the courtroom, they would have shown my tears. – Perhaps, now years later I can imagine that it might have been good for people to see those tears -

I want to conclude with a subject that I hope we will all focus on in the next few years. And that is the vanishing criminal jury trial. When Mary Jo and I were Assistant United States Attorneys, 15 percent of criminal cases went to trial; 85

percent were resolved by guilty pleas. In fiscal-year 2022, in the Southern District of New York, four percent of cases were resolved by trial and 96 percent by guilty pleas. Nationwide, the trial percentage is 2.5 percent. In Vermont, there were 135 criminal cases in 2022 and 134 – 99.3 percent – were resolved by plea. Young lawyers often say, “I want to be a prosecutor to learn to try cases.” If so, don’t go to Vermont.

But there is a far more serious point here. Trials keep the criminal justice system honest. They keep police officers and federal agents honest. They keep prosecutors honest. John Adams famously wrote that “trial by jury is the heart and lungs of liberty.” As a trial judge for 18 years, I’m with John Adams. The causes of vanishing trials are complex. But unless groups dedicated to justice, like the Fund for Modern Courts, make it their issue, we will lose as a nation.

That is my plea tonight. I thank you for this treasured  
award.