

## **Remarks of Matthew Diller**

### **Fund for Modern Courts**

**November 3, 2025**

Thank you Chief Judge Wilson. It is a particular honor to receive an award named for Fern Schair – I had the good fortune to work with Fern in a number of capacities – on the board of legal services of NY and at the Feerick Center at Fordham Law. Fern deployed her formidable skills, vast knowledge and boundless energy to make our legal system more accessible to those who need it most – the marginalized and vulnerable in society. She was and remains a beacon to all who knew her.

I am grateful to the Fund for Modern Courts both for this award - and much more importantly for its work over many years to improve the justice system in our state. The Fund plays a critical role in helping our courts meet people where they are. Its projects invariably focus on making the courts more effective in serving those who seek justice through law and in helping to extend the protections of law to those who have been left out.

These days, I am teaching the basic professional responsibility course for the first time. I am greatly enjoying exploring the intricacies of rules such as what conflicts of interest are imputed to whom. But as I am teaching, the times we are living in lead me to appreciate the standards of our profession in much deeper ways than I had before. I had long viewed our rules somewhat skeptically – as self congratulatory and self aggrandizing – as not very persuasive attempts to justify our monopoly on the practice of law. I still see some of that, but I am much more struck by how the values of the legal profession do in fact play a critical role in upholding our democracy.

Lawyers, of course, uphold the rule of law everyday when we counsel clients about what the law requires and advise them how they can comply. We uphold the rule of law when we represent clients in court, protecting their rights – particularly clients whose voices are shut out of the corridors of power.

As our nation faces threats to the rule of law that we have not seen in our lifetimes, I am struck by how many lawyers are rising to the defense of our democracy. Over four hundred suits have been filed in the past nine months challenging actions of the federal government – many of them on

an emergency basis. Public interest groups, small firms and state attorneys general have made sure that law breaking and constitutional violations are challenged directly and forcefully in the courts of law. So many of our federal judges have placed themselves at personal risk by issuing strong and compelling decisions that are met with *ad hominem* attacks and threats of impeachment. Bar associations are speaking out – undeterred by the risk of retaliation.

Lawyers for the federal government in particular have been trapped between the demands of the Administration and their professional obligations – their duty to seek justice, their duty of candor to the court, their duty not to use the law to harass and burden others, their duty not to use their official positions to further narrow political ends and their duty to exercise independent judgment. Rather than betray these obligations, many have left or been fired. Whole practice areas of the Department of Justice have been gutted including critically important bureaus focused on public integrity and civil rights. Many of these DOJ lawyers had served our nation for years – under administrations from both political parties.

Our profession has long claimed that lawyers need independence – in self-governance, in the structure of legal practice and in our representation of clients. I haven't always found all of these claims persuasive – is sharing a fee with a non-lawyer really so awful? Today, it is clear that the independence of the legal profession is indeed one of our nation's central barriers against tyranny. We are one of the vital institutions that mediate between government and civil society – along with a free press, religious groups and universities.

Our independence is being challenged in a number of ways – the Attorney General refers to DOJ attorneys as the “President's lawyers,” despite the fact that 90 years ago the Supreme Court underscored that their allegiance is to our nation, not to any individual or party. The Administration has sought to punish private firms for representing clients the President dislikes. It is prosecuting lawyers in retaliation for cases they have brought. It is seeking to terminate public service loan forgiveness for lawyers representing undocumented immigrants. It has barred judicial nominees from cooperating in the ABA's review of judicial candidates and it is threatening the ABA's status as the accreditor of law schools.

I am heartened that so many in our profession are standing up and pushing back. It is a reflection of how deeply the ethos of our profession runs within so many of us.

The tumult at the national level places even greater importance on states and the institutions of state government. At moments like this, federalism is also a key bulwark against tyranny. State courts have always borne the lion's share of the adjudicatory work in our country. Their work is more important as federal rights and federal law enforcement recede. So let me express my gratitude to the courts of our state and to the Fund for Modern Courts for working to enable them to more fully realize the goal of equal justice for all.

I have been privileged to learn from great colleagues and mentors in my career and in my life. I think of Judge Walter Mansfield for whom I clerked, my colleague and friends at Legal Aid – Janet Sabel and Lynn Kelly are here tonight. At Legal Aid I saw what creative and determined lawyers can accomplish on behalf of vulnerable clients. I took two messages from my years at Legal Aid that have stayed with me throughout my career – one is an appreciation of how our legal system fails many people who suffer as a result. The second is the realization that outstanding lawyers can make real differences in our communities and in the lives of clients.

I want to thank Dean John Feerick – who was honored by the Fund 25 years ago. John hired me at Fordham more than 30 years ago and showed me how a dean can set the tone for an institution. The tone that John set – and continues to embody – is the importance of valuing every individual. It is an honor to work with him and other great colleagues at the Feerick Center for Social Justice.

I have been blessed to have a loving family – my parents, Leonard and Juliet Diller who firmly believed I could do no wrong. My sister Wendy, my sons Michael and Peter, Michael's partner Carrie Plover and my own partner in life, Kit Kennedy – you each inspire me every day.