

Lifetime Achievement Award
LPS Speech
November 5, 2015

I. Thanks

A. I want to thank Rick for his gracious and generous introduction, it is especially appreciated because of his stature in the legal community and more so because of our friendship.

B. This is a very happy day for me and my family.

When I received the call on this award, the first thing that I thought of was my wife Dee and my family. I called Dee and sent out e-mails to others, and my family is here and I'd like to introduce them.

First, is Dee, my rock, my inspiration and best friend for 44 years, and she has been fully supportive of me as I have gone through my career. She has a lifetime of achievement in her own right (she was a nun for 9 years, graduated Coif from law school, was a prominent attorney herself, a Judge, a Criminal Magistrate, and Chairman of the State Parole Board).

Next are my two great sons, one a scientist and the other a philosopher. The scientist is Dr. Lawrence M. Simon, an eminent physician in the Lafayette area. The philosopher is my son Paul, who is earning that same stature in the legal field as an attorney with Gordon Arata McCollam Duplantis and Eagan.

Then there is Zeke Mouton, Dee's Godson and a rising scholar-athlete, who is like a third son to me. He lives with us and enriches my life.

Also here are Ralph Linn and his wife Amanda from Austin. Ralph is my nephew, but more importantly, I am Parrain, or Godfather, to him, which is an important relation in South Louisiana. Ralph handles a significant stock portfolio for the Texas Teacher's Retirement Fund.

I am honored that you are all here and appreciate your love and support.

II. Humility and Thanks

A. Turning to the event and celebration at hand, I must say that Lifetime Achievement in Energy Litigation is "a mouth full." I certainly thought of the wonderful lawyers who have received this award before me and that in itself was - and is - humbling, especially because I have admired so many of them, such as Rick Carrell, Shannon Ratliff, Pat Lochridge and the two from Louisiana who received it previously, Gene Lafitte of my own firm, Liskow & Lewis, and John McCollam of the Gordon Arata McCollam Duplantis and Eagan firm. All of these lawyers are great people and the kind of lawyers we all want to be. As you can tell, I feel I am walking in tall cotton today.

B. 1. So I am still feeling a little sheepish about receiving this award, not from false modesty, and not only because of the prior recipients, but because of the knowledge that it truly is a shared honor, and there are many people to thank. In particular there is my firm, and our clients. I feel that our careers are all about the people with whom we work and the people for whom we work and strive and try to act as both

zealous advocates and counselors at law. This is particularly true of the lawyers with whom we have been in the trenches, and on both counts – firm and clients – I have been a very fortunate man.

2. First, my firm, Liskow & Lewis – We never know where life will take us. It is an adventure and full of surprises. If I had known enough and been smart enough to hand pick a law firm when I came out of law school, I could not have done better, and of course, I neither knew anything nor was very smart about such things, just amazingly lucky. In trying to find a job as I prepared to graduate from law school, I sent out 25 resumes to the New Iberia and Lafayette area. I only got one response, and it was a rejection. When I was finally fortunate enough to get an interview with Liskow & Lewis, I received a job offer. I promptly went down the street to see my Uncle Warren, who was a lawyer in New Orleans. He asked how the interview had gone, and I told them that they had offered me a job, so he asked “what did you tell them?” I said that I wanted time to think about it, as I was discussing an opportunity for a scholarship to Aix En Provence for a year of study to obtain a LLM. Uncle Warren looked at me and said “you turn around, and go back to that office and get on your knees and thank Austin Lewis and tell him that you accept the offer.” He was very serious, so I did. As a result, I ended up with a group of lawyers who had created a culture of excellence, hard work, camaraderie and cooperation that fit perfectly what I wanted in the practice of law. And to a person, they were lawyers of great integrity and held by lawyers and judges in high esteem. When I was hired in 1972, there were three of us who joined the firm and we made up the 17th, 18th and 19th lawyers in the firm. The lawyers in my firm are the lawyers with whom and from whom I learned my craft and what it means to be a professional – an attorney and counselor at law. To work with such great lawyers was and is a wonderful privilege.

A group of my partners are here today and I salute them and thank them for being here and want them to know that after 43 years – except for my faith and my family, and maybe duck hunting – my association with Liskow & Lewis is the most important part of my life. I am still inspired every day by my colleagues to try to become a better lawyer.

3. The Clients – And now for the people who are the reason for our being here at all, any of us, our clients. After Dee and some of my law partners, I particularly thought of a group of in-house lawyers, who have meant so much to me as colleagues and friends. We have sweated and fought together, been scared as heck and overjoyed with success. These are people with whom I have forged deep bonds of loyalty, affection and friendship. Some of these folks have been some of my best friends for over 30 years and I have shared many difficult and wonderful moments with them. To all of them – past and present – I say thank you.

4. Others – And I must include in this group to whom I would give deep thanks, my secretary and her predecessor and some of the paralegals with whom I have worked. Also, the expert witnesses on whom I so heavily rely and the jury consultants who go with us on the battle field and guide so many of our efforts. So many of whom are good friends of mine as well. All of them I salute and thank.

5. I have enjoyed the trip and I still do. And that last point is significant, especially when they call it a “lifetime achievement.” The “lifetime” continues, at least for a while. I still like what we do and enjoy it. I tell Dee that I will quit when it quits being fun for me, health and Liskow & Lewis permitting.

III. Reflections on Lifetime

A. I would like to reflect on the “lifetime” part of this award for a moment. One realization that I had on “lifetime achievement” is that my professional career actually began long before my lifetime. I am the descendent of lawyers and three generations of judges, one of whom was on the Louisiana Supreme Court. My father and one of his brothers were lawyers, and his other brother, my Parrain, was also on the Supreme Court (which means there were 4 direct generations of judges, two of whom were on the Louisiana Supreme Court).

But it was from my father that I first learned about being a lawyer. I never practiced law with or even saw him practice. He died about 9 years before I became a lawyer, but I know from reputation what an exceptional lawyer he was, especially as a tenacious trial lawyer.

1. But while I did not see him in Court, what I did see was his commitment to his craft, and the hard work that he put in to be a successful practitioner. I would come downstairs in the middle of the night sometimes to get a drink of water and he would be at the kitchen table scribbling notes to himself regarding a cross examination that he wanted to conduct the next day or a piece of evidence that he wanted to be sure it got into the record. And he was a proud student of the law.

2. There was also his commitment to the law, and to the importance of the role of law in our society, and to the ideals of “freedom and justice.” As an example, as a young lawyer, he been an Assistant DA, so he was very familiar with criminal law and particularly loved practicing criminal law. We lived and my father practiced in New Iberia in South Louisiana, on the Bayou Teche. In about 1949, a black man killed a white man in our town. At that time, the defendant black man could not afford an attorney, and he had no one to act in his defense. My father stepped up *pro bono* and represented him, when I understand no one else would. They were successful in receiving a lesser offense verdict from the jury. As a post script, about 1 month later, my father received a delegation from the NAACP (or an affiliated group) who sent 4 people out of Washington D.C. and New Orleans to visit my father in his office and to thank him. They had coffee together, and they delivered their message to him. My father always remembered and was very gratified by their gesture, and felt that was important for him to have undertaken this defense and that he had only done what a lawyer should.

3. Finally, there was his commitment to the profession, and to the bench and bar. And lawyers and judges seemingly responded to his bon ami and camaraderie. I did not see him in his office or in the courtroom, but it was very common when he had a trial in New Iberia or St. Martinville that at the end of the trial, and most of these were bench trials, my father would bring home the opposing counsel, his co-counsel, and the judge to the house and they would sit on the back porch, tell stories, swap lies, drink whiskey, and eat my mother’s good food until well into the night. And

the bar and the judiciary appreciated this camaraderie and bon ami for when he died, all the Judges of the Louisiana Supreme Court, the Judges from the Court of Appeal of our district, and our District Court Judges as well as the Bar Association members formed a cortège behind the hearse to accompany it from the church to the graveyard. I don't think there has ever been in Louisiana such a gathering to honor a lawyer. That association – that common bond – among lawyers and judges is what I thought the practice of law was and would be like when I went to law school. It is still what I think it should be and what I try to make it in my own small way.

And no Dee, I assure you I am not threatening to bring home a bunch of people one night for you to have to cook.

But, I grew up thinking these 3 commitments were very important: a commitment to our craft, to the law, and to our profession.

B. Hiding Sins:

Another thing that I thought about when dealing with the term “lifetime achievement” is that when you think about it, it is a great way to hide my sins. If in hearing of this award a client who is not particularly pleased with my work or an opposing counsel thought to himself or herself that when I was against him this guy was not so good, they would at least then have to think well if its lifetime achievement, maybe he had a bad day with me and he was really good all the rest of the time.

C. Morés:

“Lifetime” also marks the many changes in social mores over the period of my practice, and these have been impressive. The practice of law has not changed greatly, but the appearances of it have changed enormously.

I started practice when the Oil Center in Lafayette really was “the Oil Center.” Our office was in the Oil Center, so when I got a case in, I would simply walk out the door, walk across or down the street to the client’s office and meet with the landmen who had negotiated the lease or the contract and who had all the plats and documents there that we could review together to understand the case. Then in the ‘80’s everything collapsed into Houston, where it still is, but now it is being dispersed again; this time on the internet.

For the first 25 or 30 years, I wore a suit, with tie, every day. We got to the office at 6:30 in the morning – really! - because clients such as landmen looking for curative work on titles began coming to the office at 7:00. And if you went to a meeting back in those days and there were 10 people at the meeting, all of them would be male, 7 or 8 of them would be smokers, and 9 – 10 of them would have an adult beverage to drink at lunch. And there was no such thing as “personal electronics.”

Today, 4-6 of the people would be women, almost no one would smoke, and no one would drink at lunch. And all 10 now have cell phones!

One thing that has not changed is my regard for and close friendship with so many attorneys, including some whom I regularly oppose. And neither have the attributes and virtues of a good lawyer. A good lawyer then would be a good lawyer now.

D. Spanning 4 Decades of Law.

But “Lifetime Achievement” obviously means much more than these transitions in our personal history. It is especially important to me for 2 reasons:

First, it comes from the Institute of Energy Law, which is a preeminent organization, and in a sense is **our Energy Bar Association**. The people who received the award before me show that; and,

Second, because it represents a body of work over a person’s professional career, so for me, it has great weight.

In that regard, the waves of litigation and developments in the law over these past 4 decades are important indicators of the passage of time through which I have worked.

I started with the royalty litigation, primarily in gas, in the 1970s, worked through the intricacies of the NGPA of 1978, battled in the take-or-pay wars of the 1980s and early-1990s, including the litigation concerning royalty on take-or-pay, and then went into the significant struggles of the 1990’s concerning royalty and tax issues affecting both oil and gas, in State and Federal Courts, including the Qui Tam cases.

During those several waves of litigation, the issues that I seemed to deal with most often and are most noteworthy to me now are:

a) Royalty cases, which included the market value case in Louisiana, *Henry v. Ballard and Cordell*, where as a young lawyer, I carried the brief case of Gene Lafitte, who tried the case. I knew going in that it would set precedent for the State on this important issue. A big case, I thought! What surprised me was how simple the trial was – 1 ½ days. 1 plaintiff witness and 2 defense witnesses, as I recall;

b) Class actions, where with John McCollam we established the law regarding class actions on royalty under the Mineral Code;

c) A significant case dealing with the invocation of contractual *force majeure*; (Bob Jorden supplied the insight for the principal argument that won the case. He said “Larry, this is what you argue.” and of course he was right.)

d) The law regarding the scope of the authority of the Commissioner of Conservation in Louisiana (like the Texas Railroad Commission), such as *Trahan v. Superior* in the U.S. Fifth Circuit, and the *Nunez* cases, one of which was decided in the Louisiana Supreme Court; and,

e) More recently was the *Gatti* case concerning the exclusive method or procedure for challenging the authority of the Commissioner.

It must be noted that in many of these cases, the ideas for how to try to the case or the theory of the case came from other lawyers in my firm (such as Bob Jorden, Kerry Massari, Joe Norman and Rob Theriot, to name a few). I just carried the water and tried to articulate many of their good ideas. Also, in *Gatti*, which was only a couple of years ago and was rendered by the Louisiana Supreme Court, I had the opportunity to work with such an excellent team of lawyers from all over the State and within Liskow & Lewis; some are here today, such as Nicole. There were 18 industry defendants, and just about as many lawyers. It was as impressive a group of attorneys as I’ve ever had the pleasure to work with, and best of all it included my son Paul. And of course, in MDL

1206 on royalty on crude oil, I had the best seat in the house for watching some of the best oil and gas litigation lawyers in the State of Texas. That was quite an experience.

IV. Lessons Learned

As I hope is clear, I have many to thank and lots of people to emulate from whom I have learned some important lessons over the course of these years. In addition to hard work and preparation, which we all know, I noted that the best lawyers were not only zealous advocates and good trial lawyers, but had good judgment, acted as professionals, and stayed creative and committed to the profession and the law and the enjoyment of practice, especially the intellectual challenges and the company of the great people with whom and against whom we will practice.

Finally, in looking at the people to whom I owe thanks, I want to include in that the Institute of Energy Law itself and its staff. I have been very active over the years in the Louisiana Bar and somewhat in the American Bar Association, and the American Judicature Society. But when I found this group and began my long association with the IEL, I knew I found MY BAR ASSOCIATION. These people – you Lawyers here – are the lawyers whom I am with and oppose every day in Court, in our offices or on the telephone. I take such great pleasure in working with this volunteer group of lawyers. And I am very appreciative of what the IEL has meant to me, the development of my career, and my understanding of our profession. If you are not a member, I urge you to join, I think that you will find it as rewarding as I have.

V. Conclusion

So those are my heart-felt thoughts. They obviously lean heavily on optimism, and the adventure and joy of living and practicing law. But I am not Pollyanna. I am always aware of the disappointments and defeats we suffer and the demons that we carry. We all have these and I am mindful of them in my own life as challenges to overcome and to learn from, but while they are part of me, they don't define me. And ultimately, this is not their day. It is A DAY OF THANKSGIVING AND CELEBRATION. In the grand scheme of things with all the problems of the world, this Lifetime Achievement Award will not gain notice outside our group, but in my corner of the world – in my life – it is enormous. I am truly and greatly honored by this selection. It is as high an honor as I could imagine receiving.

Of course, as with everything, it should be kept in prospective. Tomorrow will be no different than yesterday. Clients' and opposing counsel's expectations will not have changed. Nor will those of my family. Perhaps the best expression of this was when I called Dee to tell her about the award. She was as effusive and congratulatory as a person could be and as you would hope your spouse would be. Nevertheless, about 10 minutes later I received a call back from her, and I thought she would be calling to tell me that she had been thinking about it and she was overcome with joy for me. Instead, she says "Larry, I don't want to bring you down to earth too fast, but do you know where the hard-boiled eggs are that I have been looking for in the icebox." The hard-boiled eggs in the icebox are the really important things in our existence and every-day lives.

So today I will relax, celebrate and enjoy the day with my family. Then tomorrow I will wake up, continue keeping track of hard-boiled eggs, and strive to get better as a

lawyer, so that I can better earn the award that you have given me today. My sincere thanks to all of you, I deeply appreciate the honor and your being here to share it with me.