

Suffolk University Law School
Suffolk University
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Honorary Degree Speaker
Joshua Koskoff, JD '94

JOSHUA KOSKOFF: I had no idea. [LAUGHTER] No idea. I thought I'd be on sort of second-to-last, and nobody would say anything, and I could get out of here. [LAUGHTER]

Congratulations. Wow. Congratulations. Come on. Give it up for yourselves. [APPLAUSE] What an accomplishment! I barely got through law school, but you guys are killing it, I think. (Sorry, I actually passed handily.)

When do you start studying for the bar? Any time soon?

[LAUGHTER] No, forget it. Don't study for the bar. It's over-rated. [LAUGHTER] But you should take time.

One thing I've been thinking about a lot lately, about my own life and about things that I've reflected back on, is that the world's obviously moving at a much faster pace, and so is the legal profession. So there's less time in between jobs and cases, and there's less time to feel like you've actually completed something. And it's a hard job. You know, you don't always win everything and get the exact result you want.

So when you complete something, you should marinate in it, you know? Three years of law school, take a couple of weeks off.

[LAUGHTER] Seriously, yeah. [APPLAUSE] And bring that into your life, your professional life before it's too late.

I have, I just, the lovely introduction, the mention of Uvalde—this coming Friday is the two-year anniversary of the Uvalde shooting, and I realize that I have some wristbands from my families down there, the children that they lost, nine, ten, eleven year olds. And I'm very proud to have them on here, because there's no way I'd ever be involved in a case like that, that means so much to so many people, but for Suffolk. And I never imagined myself as anything close to being a lawyer that handles gun cases or anything really that significant.

I tried to fail pretty hard. [LAUGHTER] You know, my dad, my dad was a lawyer, a trial lawyer. My grandfather was a trial lawyer. My grandfather was a great and legendary trial lawyer of his day, but my dad was better. My dad was better. And my dad and my grandpa, they worked together for 22 years until my grandpa died. And my dad died about five or six years ago, and I just did the math, and I worked with him for 22 years.

But the thing is that it was never going to work if I was trying to be like them. And the fact is that I didn't, I didn't want to be a lawyer. It's not that I didn't want to be a lawyer. I

wanted to be a lawyer, but I was too afraid of being a lawyer. When I graduated from college, I went to live in New York to try to *not* be a lawyer. And because I was afraid, actually. The real reason is I was afraid. My dad and grandpa were such successful lawyers, and they did so much for so many people. My grandfather was a larger-than-life guy—and he was also really a large guy. And so he was a real character.

And he was a businessman early in his career. After World War II, he ran a munitions factory that sold munitions to the government. But unfortunately for him—but fortunately for the rest of the world—the war ended, and he had to decide to do something else with the small factory he bought. So he started to make collapsible rakes. [LAUGHTER] Rakes! You know—like the ones that you, like, rake leaves with. This was a long time before the iPhone, so you've got to give the guy some breaks.

[LAUGHTER] And they started selling these collapsible rakes, him and his partner, and they did collapse, only not when intended.

[LAUGHTER]

So my grandfather started hustling cases. He had gone to law school, and he decided he would start to hustle cases. And he went around to the local courthouse, and he would trade cigars. He'd go to a lawyer and [ask], "What's your worst case, I'll try

it." And so people started handing this guy, Ted Koskoff, their worst cases. And he tried 50, 100, 200 of these cases. And he lost the first 30 or 40. He won some and lost some of the next 40. And then he ran the table on the 40 after that. He won them all. This shit isn't easy. [LAUGHTER]

And I'm raising this to you because you know, I've been sitting where you're sitting and listening to commencement speakers, and I've been thinking, I'll never be like that person. And I could never do that. And it's intimidating, and I was intimidated early on by the success of my granddad. And then my dad who joined him, came right from law school. He didn't seem to have any anxiety whatsoever.

He started with my grandfather, and early on in their career my dad and my grandfather participated in these famous trials in New Haven, representing Black Panthers. [APPLAUSE] Yeah. They represented a guy who was alleged to be an insider in a racketeering crime that led to the murder of, by a Black Panther, of somebody who they thought was an informant. And they tried the case before an all-white jury. And there was not ever a chance of an acquittal for this guy, but they did get him the lowest sentence. And the feeling was that he got a really fair trial.

Now, that should be a given, to get a really fair trial in America. But in 1970, to try a Black Panther in front of an all-white jury was no given. And they were believers, my dad and my grandfather, big believers in the fairness of the system.

And this is something, guys, that you should think about: Is law a profession? Is it a trade? Is it a service? Is it a business? Is it some of all those three things? I think the thing that I would suggest [is that] you think about your legal careers as being more of a service than anything else. Why? Because the legal profession is premised on service of your client. And it is only your client's interests that you should be considering. So if you're thinking about business, you're not thinking about your client. And if you make decisions because of business, they may not be the best interests of your client. And my grandfather was sort of proud that he was such a bad businessman, I think, for that reason.

And it's also a bit of a trade. There's going to be some pain when you guys get out there in the real world. Believe me, I've been there.

When I was in New York, before I became a lawyer, and I was trying to think of how *not* to become a lawyer and risk the chance of torpedoing the family name and the family firm, I was trying to do other things, but I couldn't think of anything in time until it was clear to my father that I needed a little bit of a kick in the pants. So he came to me, and he said, I need to talk to you. He said, "You're kind of not really going [anywhere], doing very much in life." And I said, "What do you mean? I work at a restaurant. I had a client. I had a client. We called him Mr. Number Two Breakfast." [LAUGHTER] Mr. Number Two. And I didn't really appreciate the message there. But this was a guy who came in every day, and he would ask for me to serve him. And I did. I served him his number two. And like clockwork, he counted on me. And we had this attorney/client relationship.

But I was afraid. And you know, when you're afraid of something, it stops you from being, reaching your potential. It just does.

I was really afraid that if I, that I couldn't continue this intense tradition in my family of being successful lawyers who were—everybody *loved* these guys. I loved them, too, but come on. I mean, there's a lot of pressure. And I was worried that I was not going to succeed. I was worried I wouldn't even get into law school.

Of course, I knew I could, but so my dad said, I'll tell you what. He goes, "Why don't you think about going to law school?" And I said, "OK. I'll think about it." And he's like, "When I say think about it, you know, you should probably apply." And I, he must have seen the anxiety in my eyes, because he said, "You know, apply, and you can always drop out." I was like, "Thanks, Dad, for that vote of confidence." But those were stakes I felt like I could handle.

So I still think I was reluctant, though, because I wasn't sure I would ever hold up. And so I applied to two schools. I don't know why. I know why I picked Suffolk, because my aunt went here, and my grandfather actually got a Doctor of Law degree here as well. And I'd always heard great things about it.

I don't know why I applied to the University of San Diego.

[LAUGHTER] I was thinking—I still can't remember what I was thinking. I think I just, I'd never been to San Diego.

[LAUGHTER] But I don't, this was going to be my one half-hearted attempt to go to become a lawyer and go to law school.

And the first response I got from San Diego was, you'll have to find another time to come out and visit. And I was like, "OK,

this is it. I tried." My dad can't, you know, he'll know I tried. And see, I failed. I proved to him I failed. And then a week later a package came to my home. My mom called: "There's a package here from Suffolk." And I was like, "They must have got the wrong address." I was certain I wasn't going to get in, I was thinking, "Was there a mistake at like back at the administration office?" And as it turned out, I got into Suffolk.

Now, that's a long meandering story to tell you that, had that not happened, I wouldn't have been a lawyer. I just wouldn't be a lawyer. And if I wasn't a lawyer, of course, I wouldn't be standing here. (Or if I went to San Diego, I guess.) [LAUGHTER] And also, if Suffolk hadn't made that decision, somebody back in the home office at Suffolk, Incorporated, I wouldn't be wearing these bracelets of these children down at Uvalde. And it's funny how little things like that end up defining you and your career.

When you get out, guys, it's like when you get your license. Yes, you're technically allowed to drive. But it doesn't make you a great driver, OK? So when you get, you know, you pass the bar, and you get licensed in the state, you've still got a pretty steep learning curve. And nobody appreciates that. Like, nobody else is like, oh, nobody takes a break on you, really.

And so, I just remember my, one of my first, my first time, actually, in court, there was a guy who was the father of another kid I played baseball with in Little League. And this guy on the sideline would never shut up, yelling at his kid. And that was one thing, you know? But he would also yell at me. And I can still hear him. "Koskoff, you pick up the ball!"

I didn't know this guy was a judge. [LAUGHTER] What the, of all the, I come into court. My first day in court, and I didn't even look up, right, because I was nervous. I was looking at my materials. All of a sudden I hear, "What do you want, Mr. Koskoff?" [LAUGHTER] Man. Of all the dumb luck. And he proceeded to pretty much humiliate me. Funny though.

I tried, I had lost a number of cases. I was on my way to setting a record. And every time I came back to the office, my dad's partner, main partner, Richard Bieder, would say, he would say, "How many, what happened?" I said, "I lost the case." He goes, "Eh, no big deal. I lost my first five cases." I come back, I lose another case. "How did it go, Josh?" "I lost it." Richard would say, "Eh, no big deal, I lost my first ten cases." [LAUGHTER]

My grandfather would say, every time that he would go into a trial, my grandfather would say, "It's like shooting fish in a barrel." And then he'd come out and lose, he'd go, "Nobody could have won that case." [LAUGHTER]

So anyway, my first—don't worry, this will come to an end at some point [LAUGHTER]. My first [cases], I was really struggling, to be honest. And I was feeling that pressure from both, really from within, but it was hard. You know, your worst critic is yourself. And I felt like I was on the razor's edge, and at that point I was thinking, maybe this really isn't for me.

And I ended up having a case where I represented a woman who had lost her husband in a malpractice case. And you're probably wondering, why did they give me this case? But I'm sure you're familiar with the principle of negligent entrustment. [LAUGHTER]

Anyway, I had, the good part of the case, it settled. So, we had already gotten some compensation for this woman, and that's why the senior partner turned the rest of the case over to me. And I tried to talk her out of [going to trial]. And she said, "Well, are they offering any money?" And I said, "No, but just, can we just withdraw the case?" And I was trying to take an off-ramp.

I was trying to take an off-ramp. And you can never get to your true north if you keep taking off-ramps. I was, and I realized, you know, that's what I was trying to do by not going to law school. That's what I was trying to do in this case. And she said, "No, actually, we understand it's a hard case. But we want to try it."

So I tried it in front of that judge. And you know, all of a sudden, things started going well in that case. And I was like, "Hmmm, touché, Judge." And they went well, and here's the case I tried to give away, because I was so worried about losing. And we got a verdict, and it was the highest verdict in the history of Bridgeport, on a case that I tried to give away or drop because I was too scared.

And you know, when the Sandy Hook families came to me, I had this pull in that direction—the fear that I might fail and let them down. And along the way, I realized I was looking for a lot of these off-ramps. But I had to keep steering back onto the roadway. And there were so many times where I might not have followed through, but something broke.

We're wired to be risk averse. We're wired to take shortcuts. We're wired to give up. And your legal careers are going to be faced with a lot of these moments where you might be offered a settlement that you know [is] not enough, but you just, you're worried about losing. You want to take that off-ramp. You don't want the responsibility.

But once you learn to live with some losses and imperfection, you can get through that. And when you go out and go into your legal careers, stare risk in the face. Stare fear in the face. They will bury you in this profession. But if you can overcome that, you will bury them. And you will be the lawyers and the people that you want to be.

I just want to talk about one case really quickly. I know I'm running out of time, but because it's about Harvard [LAUGHTER] I just can't resist, because I'm in Boston. And I got my Suffolk people behind me. Alright. [APPLAUSE]

About a year before my dad died, he came into my office with one of these twinkles in his eyes, and he had a grin on his face. And he loved a good story. And he was an optimist. And you have to be an optimist in this job as much as possible. And he believed that if he believed in something, then it would be

true. And sometimes if the facts didn't help us out, we would just, we wouldn't make up facts, but we would just kind of ignore them.

But this is, he came with an incredible story. A woman named Tamara Lanier, who was a retired probation officer from Connecticut, had contacted him with an epic tale. It turns out that in 1850, Harvard had hired as its leading scientist a racist man named Louis Agassiz. And Agassiz in his day was as well-known as Charles Darwin, who thought, and correctly, that Agassiz was a racist crackpot.

But Agassiz was a legitimate scientist in other areas, and he came to America from Switzerland with great aplomb. And Harvard hired Agassiz because Harvard was paid \$50,000 by rich plantation, or cotton magnates here outside of Lowell, who were Harvard men. And they wanted Agassiz, and these Harvard men gave Harvard \$50,000 to hire Agassiz to head the first department of science. So he was basically planted. And Agassiz wanted to prove to a scientific certainty that Blacks and whites had separate origins, and that as a matter of science, Blacks were inferior.

And so what Agassiz did is, he curated human beings enslaved on plantation in Columbia, South Carolina, and he compelled them to be subjects in his study. And two of these individuals, these enslaved human beings, were an African man named Renty and his daughter, Delia.

This was all done with Harvard's complicity. And the conduct orchestrated by Agassiz with Harvard's full support was criminal. Renty and Delia were dragged against their will to a studio in South Carolina where they were stripped naked, and they were photographed from all angles. They would, of course, have had no ability to consent. And Harvard not only aided and abetted Agassiz' criminal conduct against Renty and Delia, but it celebrated Agassiz' accomplishments both during and after his life. It named buildings after Agassiz. It named a museum after Agassiz. And it took the images of Renty and Delia that came out of that study as its own.

History is written by the winners, and in the annals of history there have been no greater winners than the likes of Harvard. And the problem is that Harvard didn't count on something. It didn't count on the indomitable will that was clearly passed on genetically through Renty and Delia's descendants to a Connecticut probation officer named Tammy Lanier, who traced her

lineage back to these people. And she said to Harvard, "Those are my relatives. Those are my relatives. And I want to talk to you about the images."

Now, show of hands, how, was Harvard excited about this or not? Do you think that Harvard went out of its way to work with this descendant on these historic, these valuable, in the terms of their uniqueness, historic images, images they put in books, images they put on programs talking about their clean hands in dealing with the history of slavery? No. They ignored her. They dismissed her. They told her to basically pound sand.

And when she went to a symposium that Harvard was holding on universities and their ties to slavery in general, she walked in, and there was a picture. There was the image of her ancestor, Renty, a proud man, that Harvard was showing. And in the program they talked about the *anonymity* of the man [in the photograph, which] was taken by the famous scientist, Louis Agassiz, Harvard professor.

So she came in, and my dad said, "This is a great case." And I'm like, it's an incredible story. And I said, "Well, when did this all occur?" He said, "1850." I said, "I think the statute of limitations might have run [out]."

But he would not be denied. And he got sick during this, and he wanted this to be his last case. And we filed it. And about a month later, my dad died. And we took this case, it's on file in Massachusetts. The judge said, "This is above my pay grade." He saw the, and he ruled that those who take an image, the photographer who takes the image is always in possession of the images. And we lost.

But we took it to the Massachusetts Supreme Judicial Court, and here's what the Massachusetts Supreme Judicial Court said:

"Harvard's past complicity in the repugnant actions by which the daguerreotypes or the images were produced informs its present day obligations and responsibilities to the descendants of the individuals coerced into having their half-naked images captured in the daguerreotypes. Whether Harvard's response to Lanier's inquiries about the daguerreotypes resulted in a breach of basic community standards of decency cannot be evaluated without taking into account its historic responsibility for Agassiz' role in the horrific circumstances by which those very daguerreotypes were created."

Translation: Harvard, the plaintiffs will see you in court.

[APPLAUSE]

You have to stick your neck out. You have to believe. And even if there's a statute of limitations problem of 150 years.

I'm going to close with this. And it's a question my grandfather asked. He asked, "If you are a lawyer, what are you? If you are a lawyer, what are you?" If you are a lawyer, you stand between the abuse of government power and the individual. If you are a lawyer, you stand between the abuse of corporate power and the individual. And if you are a lawyer, you stand between the abuse of judicial power and the individual.

And if you are a lawyer—and you will all be lawyers pretty soon, after you ace the bar—if you are a lawyer, you are going to help to mold the rights of individuals for generations to come. Thank you very much. [APPLAUSE]

[END]

Thank you.

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