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Use the ‘architecture of time’ during this pandemic as an opportunity for growth and change

By Marshall S. Zolla

We find ourselves suspended, in an interval of space defined by Abraham Joshua Heschel as an “architecture of time” unfamiliar to us, suspended between embedded years of routine normality and the certainty of a profoundly changed future. As lawyers, we are trained to examine facts, uncertainty is unsettling. We are goal oriented, so future ambiguity is disturbing. If we are able to meet the moment to embrace growth and change, we have an opportunity to create a new personal and professional paradigm from this bridge in time.

A time of crisis can lead to instability and vulnerability, or it can be accommodated as a time to re-evaluate values and priorities. To use the eloquence of a Shakespeare quote, “It is not in the stars to hold our destiny but in ourselves.”

This country’s response to times of crisis has been the subject of thoughtful review (“Justice Brennan and Civil Liberties in Times of Crisis,” 95 Calif. Law Review 2197). We already have a published appellate opinion (*Ayala v.*

Superior Court of San Diego County, 2020 DJDAR 3984) dealing with the California emergency orders adopted by the Judicial Council pursuant to the governor’s executive order (Government Code Section 8571) in the current COVID-19 pandemic. What will our response be? Will the removal of our comfortable status quo lead to despondency, or will it lead to opportunity? To remain relatively steady in a crisis is not merely to seek to reclaim past stability, but rather to convert the searing discomfort of the crisis into an opportunity to grow and learn and change. Complacency of the status quo often blindly leads to mediocrity.

Good trial lawyers thrive and succeed in a crucible of stressful uncertainty. Good citizens have an obligation to contribute constructively to the public good in times of crisis, including support of the independence of and respect for our judicial system.

What then can and should each of us do? We, as lawyers, must prepare to do our part in fostering stability and confidence in the rule of law. A significant part of an orderly transition out of an

unprecedented closure of the courts will be up to us. As officers of the court, we are responsible in large measure for the quality of justice. Let us start by familiarizing ourselves with the expanded standards of Rule 3.3 of the California Rules of Professional Conduct dealing with the obligation of counsel to be scrupulously honest with the court.

We can and should consciously elevate the civility of our discourse and communication with clients, opposing counsel and the courts. Discovery extensions should be granted. Settlement should be encouraged and promoted. Use this time wisely. If the law evolves on a case by case basis, so too can we contribute to a much-needed healing of disorientation and divisiveness by our own personal interactions on a day-to-day basis.

Much work lies ahead of us. Informed by our respective journeys to this space in time, we can acknowledge and accept the challenge, embrace the opportunity and constructively honor the obligation with the raised eloquence of our words and the enhanced professionalism of our deeds. Let us use this

architecture of time in which we find ourselves to refocus our priorities and our values and return to our practices with a renewed sense of commitment, appreciation... and fulfillment. ■

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