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William and Mary Law School Diploma Ceremony [Speech]

Lucy H. Koh

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William and Mary Law School Diploma Ceremony
Williamsburg, Virginia, May 14, 2017

Good morning. Thank you for the kind introduction, Dean Douglas. Thank you, Class of 2017, for inviting me to share this joyous occasion with you and with all those who have made this day possible: family, friends, faculty and staff. It is inspiring to be at the nation's oldest law school, that trains its students to be citizen lawyers who lead for the greater good.

Happy Mother's Day to all the mothers. Thank you for your decades of love and support for your families.

This occasion is a cause for both celebration and reflection. Let's please reflect on some of the people who have been the most influential in our lives who've made this day possible. For me, those people are my grandmother and parents, and they have some meaningful ties with Williamsburg and William and Mary Law School.

My mom is a very quiet and private person. It was not until my family visited Colonial Williamsburg when I was in college, that my mom first told us that she fled North Korea at age 10. She said walking Williamsburg's lush green landscape reminded her of that trip, where she walked for two weeks over mountains to South Korea and got yellow fever. It was illegal to leave North Korea, so whenever my mom saw any military officers, she would jump to the ground and start playing jacks like a local kid. We were shocked. I'm not sure how you should feel about the fact that your town reminds my mom of North Korea.

My family would not have come to America, and I would not be here today were it not for the brave Americans like Lewis B. Puller Sr., who grew up in a rural town in Virginia, but traveled half way around the world to defend South Korea on frozen ridges at Christmasⁱ. Not only is he the most decorated Marine in the history of the United States Marine Corps,ⁱⁱ but he is the father of one of your proud graduates and the namesake of your Veterans Benefits Clinic, Lewis B. Puller, Jr., who won the Pulitzer Prize, two Purple Hearts, and the Silver Star.

Halmoni

My grandmother took care of me until I went to kindergarten. Many immigrants learn English from Sesame Street. My grandmother and I learned English from Days of Our Lives. She would lie on the couch. I would drape myself over her like a small blanket. We would watch soap operas all day long. My husband says it explains so much about me.

My grandmother was a person of utmost cultural traditionalism yet sheer feistiness. When my grandfather passed away at nearly 95 years of age, he had never stepped foot in a kitchen, poured himself a glass of water or ate leftovers. To say my grandmother pampered him is the understatement of the millenium. Never eating leftovers sounds really good, doesn't it?

Even though she never had dreams for herself, she had dreams for others. Once I asked her for whom she voted, she said, “The Women.”

She was passionate about her dreams for society. One of her dreams was that South Korea would become a democracy. When I was about 3 years old, she took me to a democracy march that my dad organized in Washington, D.C. and insisted that we walk the entire march. When I grew tired, she carried me on her back the rest of the way.

Towards the end of her life, she was in a nursing home. She had such a large and steady stream of visitors, that the nurses asked us whether she used to be a movie star.

Abuchi

No one ever mistook my dad for a movie star even though he was gregarious. My dad loved history and current events. He was a passionate advocate for democracy in Korea. Daily he read three newspapers and watched morning, lunch, dinner, and evening local and national news with CNN in between. He had a steel trap memory, so he knew the leaders of all countries at all times. My husband’s relatives in Mexico were shocked by how much he knew about the Mexican revolution. He tried to visit every U.S. presidential library and boyhood home and would drive long distances and stand in the rain to see U.S. presidents or their funeral processions. As fate would have it, he sold slurpees and beef jerky in Columbia, Maryland, then wigs and po-boy sandwiches in Vicksburg, Mississippi, then insurance and real estate in Norman, Oklahoma, but his dream job would have been teaching high school history or government.

He was a gentle person and parent. One example is that in first grade I went to an all African American elementary school in Mississippi, where a couple classmates teased me a lot for being Asian. One day I decided to drop out of school. My dad said OK, let me watch cartoons all morning, then at lunch time he said, “Let’s go.” He drove me the 45 minutes to Port Gibson. We ate cheeseburgers together at a restaurant then he dropped me off at school. We didn’t speak the whole time, and we never spoke about this incident until I reminded him about it before he died. Unlike the North Koreans in our family, our father had a gentle and understated way of resolving disputes, and in instances like this, it was perfect.

My dad also had some delicious inconsistencies, which is a parent’s prerogative, at least that’s what I tell my children. He couldn’t eat carrots because they were too hard for his teeth, but he never missed a chance to eat peanut brittle. He couldn’t drink milk because he was lactose intolerant, but ate a bowl of ice cream every night.

Sadly, my dad was diagnosed with cancer on March 1, 2012. His stomach and spleen were removed four days later. Weak and in pain, he was in and out of the hospital for the next 7 months. He never spent a night at the hospital alone because members of my family or I always stayed with him. Incidentally, my dad was told that he had a few weeks to live on the day of the 2012 *Apple v. Samsung* jury verdict.

Umma

Balancing career and family can be impossible at times without a lot of help. When our two children were born, I worked at a law firm, and my husband did not have law school tenure. Not only did my parents provide long hours of child care, but my mom brought each child to my law firm to nurse twice daily then later once daily for about a year because I could not pump. My daughter always came to the office with a big smile. My colleagues said she was the only one who came to work smiling. One male colleague said, “I would be smiling too if that is why I was coming to the office.” When my husband worked in Washington, D.C. for almost two years, I stayed in California with our children. My parents were crucial in providing even more child care and transportation to and from pre-school.

From a career that my mom began as a high school chemistry teacher in Korea, she came to America, earned a Ph.D., and became a professor at a historically African American college in Mississippi. In addition to raising 3 kids, she always worked almost full-time at my dad’s small businesses. She styled most of the wigs at the wig store.

I was the only one in my family born in the United States. My family used to tease me by saying I was found in a garbage can in Washington, D.C. I would respond that my real family was more beautiful, smart, and rich. Immigrants born in Korea, like my grandmother and parents, could not become U.S. citizens until the Immigration and Nationality Act of 1952, which was partly motivated by the Cold War and the 1950-53 Korean War.

All of us have these special people and special stories in our lives. Today, as one eventful chapter in your life comes to a close and another begins, let’s pay tribute to all of them. Each of you will be or are these special people for others and will provide the special stories in their lives.

In the chapter of life you begin today, you join the ranks of lawyers — those to whom the law is entrusted. As you prepare to live this part of your story and to honor that trust, I want to reflect on some of the challenges that your generation of lawyers will face in the coming years. I see the beginnings of some of these in the litigation trends in the Northern District of California.

First, the types of technology cases are changing. Last year our district’s patent filings were at a five-year low.ⁱⁱⁱ The first quarter 2017 patent filings are at a six year low. This possibly could change depending on the U.S. Supreme Court’s decision in *TC Heartland v. Kraft*.^{iv} However, while patent filings are down, trade secret, privacy, and data breach breach filings are up. My

first data breach case was filed in 2013. Since then, data breaches have become more frequent and more massive in scale.

Second, old laws are being applied to new technologies. For example, the California Public Utilities Commission, the successor to the California Railroad Commission, is using its authority to regulate stage coaches to regulate Uber and Lyft. Similarly, privacy statutes, which were enacted to regulate conduct related to telephone communications and even mention “switchboard operators,” are being applied to never envisioned technologies.

Technology will continue to outpace the law. For example, next year companies intend to launch two tourists around the moon for a week^v or to take commercial passengers to space,^{vi} but Congress has not reached consensus on whether and how the U.S. government should regulate commercial space activities.^{vii}

Similarly, although self-driving cars are on the road, only 13 states and the District of Columbia have enacted legislation related to autonomous vehicles.^{viii}

Third, there will be more technology-related cases in the future. Some of you may say that I have a distorted view that places too much significance on technology because I am from Silicon Valley. That may be true, but between 2004 and 2012, employment growth in high tech outpaced private sector growth by a ratio of 3:1.^{ix} Jobs in science, technology, engineering and math (STEM) outpaced job gains across all occupations by a ratio of 27:1. *Id.* Employment predictions anticipate the demand for high tech workers to increase 16.2% from 2011 to 2020. *Id.*

A variety of studies show that immigrants will contribute significantly to that job growth. For example, according to the National Venture Capital Association, over the last 20 years, immigrants have founded or helped to found 25% or 88 out of the 356 public U.S. companies backed by venture capital investors, including many of the biggest tech companies.^x

We will continue to see the evolution of the types of cases brought and technology outpacing the law. For example, the Federal Aviation Administration estimates that 2.5 million drones were sold in 2016 and 7 million may be sold by 2020.^{xi} Drones and self-driving cars can harvest a tremendous amount of data and may present challenges related to hacking, national security, data breaches, privacy, torts, Fourth Amendment, and other issues.

While technology, automation, and artificial intelligence will create some jobs, they may destroy others. Since 2000, 5 million factory jobs have been eliminated.^{xii} Self-driving cars may eliminate between 4.1 and 5 million jobs in the next 10 to 20 years.^{xiii} This could devastate families and communities across the country. Last November I visited Oklahoma, where I went to high school, I saw no less than 3 large businesses where you can sell the plasma in your blood for \$50 a day, \$100 a week or \$300 a month. The legal profession itself has not been and will not be immune from these changes. How we manage these difficult transitions will be one of the

most important challenges of our time. That's where you, William and Mary trained citizen lawyers, will lead for the greater good.

These questions about space, self-driving cars, and drones will be your questions to answer. They remind us how different the world is today from the one my grandmother and parents were born into, an ocean away. But in other ways the world hasn't changed so much. We learn not only from Socratic dialogues in the classroom, but also from the lives led by those we love. We hope to learn from mistakes, stand back up after failures, and remember that we are here because of those before us who helped build a more secure family, a more perfect union, and a better world. We look for common ground -- as Lewis Puller, Sr. did with the Koreans that he stood by 67 years ago -- and like you will need to find with other Americans who might have different dreams or ideals but share the same fate. We are defined not just by our goals or skills, but by our relationships that center us, help us reconcile ambition with humility, and remind us to stay true to the values and commitments we hold dear.

Before you begin your life as a lawyer, I invite you to write down for safekeeping a list of your values and commitments, identify what you hope to achieve, identify what lines you are not willing to cross, identify when you will speak up or speak out, and identify what your responses will be if you are put to the test. Over the course of your career, in a year, five years, fifteen and thirty years, reflect back on your list, reflect on whether you were tested and how you responded, and reflect on whether your list has changed and why.

Today you have achieved a huge milestone. I look forward to seeing you contribute to the development of the law, lead the legal profession, and advance justice. Congratulations!

ⁱ LEWIS B. PULLER, JR., *FORTUNATE SON: THE HEALING OF A VIETNAM VET* 4 & 30 (1991).

ⁱⁱ *Id.* at 15.

ⁱⁱⁱ From a High of 261 in 2012 down to 186 in 2016.

^{iv} *TC Heartland LLC v. Kraft Foods Group Brand LLC*, U.S. Sup. Ct. Case No. 16-341 (March 27, 2017 United States Supreme Court oral argument).

^v Irene Klotz, *SpaceX to Send First Paying Tourists Around Moon Next Year*, REUTERS, Feb. 28, 2017, <http://www.reuters.com/article/us-space-spacex-tourists-idUSKBN1662HJ>.

^{vi} Phoebe Weston, *Richard Branson Says Tourists Could Go into Space with Virgin Galactic NEXT YEAR, but It Will Cost You £200,000*, DAILYMAIL.COM, Apr. 3, 2017, <http://www.dailymail.co.uk/sciencetech/article-4374866/Richard-Branson-s-space-plans-Virgin-Galactic-open-2018.html>.

^{vii} Marcia Smith, *Should Commercial Space Activities Be Permissionless?*, SPACEPOLICYONLINE.COM (March 14, 2017, 2:20 AM) (discussing Space Subcommittee of House Science, Space and Technology Committee March 8, 2017 hearing), <http://www.spacepolicyonline.com/news/should-commercial-space-activities-be-permissionless>.

^{viii} National Conference of State Legislatures, *Autonomous Vehicles/Self-Driving Vehicles Enacted Legislation* (May 1, 2017). After this speech was given, the National Conference of State Legislatures updated the number of states that have enacted legislation related to

autonomous vehicles, besides Washington D.C., from 13 to 15. See National Conference of State Legislatures, *Autonomous Vehicles/Self-Driving Vehicles Enacted Legislation* (May 19, 2017), <http://www.ncsl.org/research/transportation/autonomous-vehicles-self-driving-vehicles-enacted-legislation.aspx>.

^{ix} Laura K. Donohue, *High Technology, Consumer Privacy, and U.S. National Security*, 4 AM. U. BUS. LAW REVIEW 11, 30 (2015).

^x National Venture Capital Association, *American Made: The Impact of Immigrant Entrepreneurs and Professionals on U.S. Competition*, 6 (Jan. 1, 2006), available at http://www.contentfirst.com/AmericanMade_study.pdf.

^{xi} Federal Aviation Administration, *FAA Aerospace Forecast: Fiscal Years 2016-2036* (March 16, 2016), available at https://www.faa.gov/data_research/aviation/aerospace_forecasts/media/FY2016-36_FAA_Aerospace_Forecast.pdf.

^{xii} Steven Greenhouse, *Autonomous Vehicles Could Cost America 5 Million Jobs. What should We Do About It?*, L.A. TIMES, Sept. 22, 2016.

^{xiii} *Id.*; see also Shawn Langlois, *Hello, Self-Driving Cars, and Goodbye to 4.1 Million Jobs?*, MARKETWATCH, Sept. 15, 2016 (Wolf Richter on Wolf Street Blog asserts the 4.1 million job loss number).