

# Presentation of William J. Brennan Jr. Defense of Freedom Award to Barbara W. Wall

*Former Gannett general counsel Barbara Wall was awarded MLRC's highest honor, the William J. Brennan Jr. Defense of Freedom Award, at our annual Gala Dinner November 10. The following are excerpts of the speeches from the ceremony.*

## Address by George Freeman

I thought I'd start by describing why Barbara belongs among the giants and well-known names in our field who are previous winners of this award: Daniel Ellsberg, Tony Lewis, Fred Friendly, Floyd Abrams, Ted Turner, and Justices Blackmun and William Brennan, for who our award is named.

Why this diminutive, soft-spoken woman should be so honored. And regarding Woman, I'm proud to say that in the 30 years MLRC has been giving the Brennan award, Barbara is the first woman to win it!

That's right, the first woman to win it in her own right - a few years ago Maria Ressa accepted the award, but as a symbol of persecuted journalists globally – we were a few years ahead of the Nobel Committee who just last month awarded Maria the Nobel Peace Prize ...

... The inscription goes on to give praise to “her exceptional strategic and practical skills as a FA lawyer.”

Barbara is quite simply the savviest, cleverest, but most subtle and diplomatic lawyer I've ever seen. All with her characteristic modesty and understated way.

And she has used those skills to full advantage. Often she has fought vigorously to uphold a strong First Amendment position. But when appropriate, she has soft-spokenly, skillfully and strategically negotiated and compromised, to get pretty close to what her original goal was.

And always practical. As a speaker on panels for decades, Barbara doesn't abstractly dissect a recent decision of the Idaho Supreme Court or the 10<sup>th</sup> Circuit, but rather, far more usefully, discusses what practical steps to take when a subpoena or certain type of Complaint hits your desk.

We haven't included in her plaudits that she was chosen as COO of Gannett at a crucial time for the Company, when its future was at stake. While that's quite a coda on the list of her

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achievements, I mention it more because its Board – made up, I assume, mainly of old white men – decided that of all people, Barbara, with the characteristics, skills and abilities I have just described, was the person to lead them at that critical time. This only confirms the views all of us have had about Barbara for years, and why we honor her tonight.

Finally, the inscription praises ” her steadfast promotion and support of women in the media bar.”

I won’t embarrass anyone by asking you to raise hands, but I bet there are scores of people, men and women in this room, whose careers were enhanced by something Barbara did for them.

As an example, on numerous occasions when an oral argument was approaching on one of her cases, and the presiding grayhaired partner was assuming he would do it, Barbara intervened: No she said, why don’t we let young Ms. Associate argue: she wrote the brief and knows the case best. Her getting those young female lawyer to take that role in court catapulted one after another of them to successful careers, if not stardom.

She recognized talent, made a point of not letting her or anyone else be limited by the usual stereotypes, and in so doing advanced the position of women in the media bar.

In short, Barbara not only talks the talk, she most assuredly has walked the walk...

## Address by Charles D. Tobin

In the decades since Justice Brennan wrote the Supreme Court’s decision in *NYT v. Sullivan*, generations of strong lawyers have built the body of case law we rely on in defending journalists throughout the United States.

Early on, most of that case law was built by white men. But as our bar matured, as lawyers came to understand that diversity, equity and inclusion makes us stronger, many superb women lawyers and lawyers of color have joined in this important work. We have made progress. But we still have so much more work to do.

Tonight, I will make the case that the practice of media law would be far less successful, far less diverse, far less widespread – and far less fun – without the efforts of tonight’s recipient of the MLRC’s William J. Brennan Defense of Freedom Award, my dear friend and mentor Barbara Wall.





As George mentioned, I had the privilege of working as Barbara’s direct report for 8 years at Gannett, in the 1990s. Since then, she and I and our families have remained close, and I have been privileged to continue to serve Gannett’s newsrooms as one of its outside counsel.

But the impact Barbara has made on my career is just a tiny example of the powerful and enduring influence she has had on the course and scope of our entire practice area ...

... Barbara worked steadily, for years, to train an entire army of great First Amendment defenders. We all became a part of the “Barbara Brigade.”

And she also introduced local media counsel to each other. She co-founded the annual conference of the ABA Forum on Communications Law. To bring this emerging talent together. To cross-pollinate ideas. To meet each other’s family. To build bonds on the golf course, by the pool, and around the bar. We owe much of the warm camaraderie we’re enjoying tonight to Barbara’s innovation.

And throughout her career, Barbara and the network of counsel she developed have enabled so much impactful local and national journalism. Here are just a few examples of the really important battles the Barbara Brigade won during her time at the helm of the Gannett Law Department:

The *Pensacola News Journal* persuaded the Florida Supreme Court to reverse an \$18 million jury verdict. And at the same time, Gannett killed false light as a viable tort claim in Florida.

The *Louisville Courier-Journal* litigated into the Sunshine hundreds of federal safety violations in Kentucky coal mines, and uncovered records on the deaths of infants under state agency care

Barbara and a team of outside counsel – and I was proud to be a part of that particular brigade – convinced a Birmingham judge to dissolve a prior restraint against *USA TODAY* barring publication of gas line safety plans for the city’s ancient and crumbling utility system.

Working with journalists and her inhouse peers, Barbara spearheaded the adoption of anti-SLAPP statutes along with improved or new reporter shield statutes.

Under Barbara’s leadership, *Detroit Free Press* reporters, for 11 years, battled a civil subpoena in litigation brought by a former U.S. Attorney – setting an important precedent in the Sixth Circuit, which had none.

And Barbara worked day and night to secure the release of *USA TODAY* reporter Clair Gillis when she was kidnapped and held 45 days in Libya.

And all through this wonderful work, Barbara has always prioritized and promoted the development of younger lawyers – not only, but especially, young women lawyers and lawyers of color.

I was in Barbara’s office in the 90s when our Marin County lawyer suggested postponing an important hearing because he had a conflict. Barbara said to him, “Well, what about that associate who has done all that great work on the case? Why not send her to argue?” The lawyer who went to court that day – and won – is Nicole Wong. And as many of us well know, she went on to prominence as a founding lawyer at Google and later an official in the Obama Administration.

As for me: I met Barbara while interviewing for a summer associate position at Gannett in 1987. She was my fourth interview that day. For all I know, I was her 10<sup>th</sup>.

She had a terrible cold. But she leaned into the conversation with a warmth and sincerity that I always try to emulate as I meet with so many young, wide-eyed student.

At one point in our meeting, Barbara told me, “I Have the Perfect Book for You!” – and she eagerly got up from her desk to reach for the bookshelf. I hadn’t even noticed until then that she was very pregnant, with her daughter Louisa.

Barbara grabbed a worn copy of a really thick tome and told me I could have it. She said that it would teach me much about this practice area I was hoping to join.

That book was the LDRC’s – the forerunner to the MLRC – 50-state survey of libel law. I lugged that tome back to law school at the University of Florida and kept it as a prized possession for many years.

That was my introduction to this bar and to Barbara’s terrific mentorship. I guarantee you, somewhere in your own origin story as a media lawyer, there’s a connection to Barbara.

From Great Falls to Sioux Falls, Greenville to Asheville, Montgomery to Marin, Hattiesburg to Honolulu, Bellingham to Boise – there is no one – no one – who has influenced more media lawyers, or enabled more important journalism, than Barbara.

Please rise and join me in congratulating our friend and colleague Barbara Wall, recipient of the MLRC’s William J. Brennan Defense of Freedom Award.

*Chuck Tobin was Assistant General Counsel at Gannett from 1993-2001. He is now the practice leader of the Media & Entertainment Law Group at Ballard Spahr LLP and is based in Washington, D.C.*

**Barbara has been the First Amendment backbone for literally thousands of local journalists.**