

# Confessions of an Environmental Warrior

## Jan Schlichtmann

**Dr. Gayle Hutchinson, Dean of the CSU, Chico School of Behavioral Sciences:** Thank you for joining and good afternoon everyone, it's my distinct pleasure to introduce our guest speaker today, and it's a special day for Chico State indeed. Jan Schlichtmann has flown all the way here from Boston to be with us today, and I have to tell you that he hails from the North shore, it's one of the most beautiful places in Massachusetts, so if you have an opportunity--please Google the North shore, one of the most painted pictures, I think in the world, is Rockport which is not far from I think where he lives. So it's absolutely beautiful and better yet, if you have the opportunity, please visit in person.

Mr. Schlichtmann is one of the nation's most visible and accomplished plaintiff attorneys. He graduated Phi Beta Kappa in 1973 from the University of Massachusetts Amherst and in 1977 he earned his law degree from Cornell. While at law school, he clerked for the United States Senate Judiciary Committee, and after graduation, joined the staff of the US House Specialist Select Committee on assassinations as special counsel. Mr. Schlichtmann vaulted into national prominence in the 1980s, for his representation of 8 Woburn Massachusetts families against W. R. Grace and Beatrice Foods for the contamination of the city water supply. I happened to be in grad school in those days, and I distinctly remember watching this play out in the newspapers. This case is chronicled in Jonathan Harr's best-selling nonfiction book, a Civil Action, and then the movie by the same name. In addition to the book and the movie, Mr. Schlichtmann's groundbreaking work in the Woburn case, has been the subject of a number of national and international television and radio shows, press reports and in magazine stories, including "60 minutes" and "Nova" as well as articles in legal and scientific journals and books.

Today, Mr. Schlichtmann's specializes in the area of complex civil legation including consumer environmental product, toxic and mass tort litigation. He is one of the nation's leading environmental lawyers and opponents of corporate wrong doing and unchecked power. It is particularly fitting to host him at CSU, Chico because of our reputation as a leading Green University. He is strong and courageous. He is a strong and courageous voice for sustainability and Green policies. Please join me in welcoming Jan Schlichtmann.

[Applause]

**Mr. Jan Schlichtmann:** Thank you I appreciate it, Thank you, yeah, thank you. I think I'm all hook up. Hopefully, I won't blow up, alright, here we go. Listen, thank you so much. And I had a real pleasure just a little bit ago of talking to a group. Maybe there're a couple of you who were participated in that event. And I really appreciate that opportunity to share some thoughts about how this experience I went through changed me and my thinking as a lawyer. And I'd like to go to kind of a more personal level during my chat here, my little time here to share some thoughts of where I was and where I am and how my thinking has changed. But first of all, I want to thank you for inviting me to this beautiful place.

As I told the group earlier, I just—it's such a beautiful sight here to see how you have this place where, you know, nature and you are embraced, you know, this beautiful campus, creek running through it and

just nature all around you. And I've heard from Professor Gibson who kindly extended the invitation about how you have really pioneered sustainability and are really a model for others to follow. And you should take great pride and pleasure with that--having that as a distinction. So it's an honor for me to be invited by you to come here and kind of talk about things.

I know you didn't invite me here to talk about that, you invited me here 'cause you want to know, what it was like that John Travolta play you. As I discussed with the other group, alright, I understand that, and as I told the other group that I thought my mother had the best answer who is asked by woman who is little and old and Jewish they said "You know Travolta." My mother said "Well, you know, a handsome Italian boy, He played a nice Jewish boy, you know, what's not to like? It could have been Danny DeVito or Joe Pesci. And, you know, I know how difficult it was for Travolta just playing this part, you know, 'cause I know when he read the script and, you know, he jumped on one of the jets and he flew out Burbank. Now you guys know Burbank, right? Just around the corner and, you know, they have that Dwarfs Building, you know, and they have those dwarfs and they're their 70 feet tall, little menacing when they were at that size and anyway you got up to this 7th floor and you just lay it down to the Disney folks "So look, I can't play this Schlichtmann guy. He's too greedy, too materialistic." He said "Hmm, how about 20,000,000 dollars?" "Okay, I'll try." All I know is he made a hell of a lot more money playing me than I ever made playing me, one of little ironies of life.

One of the great pleasures of going through this experience is having this book written by this very talented man Jonathan Harr and then having a movie in which the book and the story was shared with really millions of people around world and it's great experience and I urge all of you to have that experiences. It's very therapeutic. You know, people read the book or they see the film or they hear the story and they, you know, they think about, you know, who and what you are. A number a reviewer said "Oh he's a humorless vulpine." I don't think I'm humorless. And I have to look vulpine up. Now, you're all educated folks and here's a vulpine is, a "having a characteristic of an endangered predator." So I'm on somebody's list, it appears. But you have to be confronted with what you did and you have to think about it, and reading Jonathan Harr's book is in many ways, you know, very therapeutic. And it took me a long time to kind of, well to understand this experience.

For a long time I ran away from the experience. It was nothing but pain and failure and I pushed it away and when I did that pushing away, I was, you know, not connected for a long time and it wasn't until I embraced it and understood that I really learned something from it. It was an enriching experience in many ways. And when I appreciate it and embrace what I've learned, things changed and my thinking changed. And I kind of like to share it with you and if you, you know, bear with me how it did change me and I think the best way to do is to tell you this story. And if you mind I'd like to go up here and it help do you? I think it all help make a point. Is that all right? Alright! I'm not trespassing? Alright.

You see, not too long ago there came this day and there was a day you see I've been a lawyer and when you're a lawyer, you know, you have these days where--well, it bring ups all that toxic sludge from the bottom, you know, because being a lawyer, it gives you all these reasons to want to put your hands around the throat of another person and really express to them how angry you are and the law seems to give you all these opportunities to go and do that.

Well, it's one of those days, you know, when I came home and well my wife and my kids they hadn't left me, but they have gone visiting and I was left with my own devices which is a very bad thing for someone like myself to be left to. But I came home and I was very disturbed so I looked I went to get my mind off things. So, you know, I started to read the paper. I don't know if that was a bad idea. And I was hungry, so I looked around for food, you know, and I ended up, you know, digging in freezer like folks like me usually end up doing, you know, and I found them, you know, the frozen chili dogs and I defrosted them, I ate them, and things were just not working so I went to bed. You know, I try to go bed and then, you know, you think about the world's problem and your problems, and the chili dog and then all of a sudden, boom! You wake up, and there it is, it's dark. It's that time of morning where, you know, it's so dark. You think, you'll never see the light, you know, those mornings? And you get up--I got up and I was, you know, I was parched. You know, and I felt like was suffocating, you know? And well, I did what anybody would do in such circumstances. You see I reached over for some water, you know, oh, I drank it, you know, and the water was good, you know, like water can be, you know.

I had to breathe though so I went over to the window and I opened it up and, oh, the air came in like the air can be, you know. But I have to tell, the walls were coming in. I was felling claustrophobic. I had to get out, you know, feel the earth under my feet. So I did. I went out and started to walk and then of course I came to that place and I could hear the angry roar of the ocean, you know, below. And now my anger became, it replaced with my fear, you see, and I had to feel my way along the edge and then I felt it, the gnarled bark of a friendly presence. And in that presence I felt assured and so I decided to sit down and think about things.

You know, I remember looking out and there the dark form of the sea and the dark form the land. And I thought, you know, there came that moment, you know, like a thought can come, you know, and before there's nothing and then there's something. And this thought came and it filled the sea with the color of life and then the sea of color then it felt the land with the color of life. In this life then it breathed oxygen to a whole another kind of life. You know, and then the trees came of course and they grew in all the directions that trees can.

And then it came that time where the, you know, where the earth became frozen like a mind can become frozen. But over time there was the melting and with the melting the, you know, the seas came back and the land came back with the color of life and trees, and this didn't happen once but several times. And then there came that last time, you know, where the ice came down and scoured, you know, that part of the world down to its bedrock soul. And then it retreated and then trees came and they grew in every direction and then of course the folks came and I thought about it, you know, when they came--first they came and they trudged so softly on the earth they left no presence. But then there came--some folks came in and they wanted to build things. And in order to build things they have to chop things down so they chop the trees, you know, as far as they can chop them.

And there came this time where there was this man in, you know, my neck of the woods, and he became very disturbed, you know he wanted to go where the trees had not been chopped. So he went as far as he can go in this country, and still be in this country. He went to a place dominated by a mountain and he said he went on that mountain and then he looked out across this vast green expands

and he said he saw the ponds and they shimmered like a thousand pieces of shattered glass. And then he said he walked down into the valley where--where life looked down on him. He said the ponds were like God's eye. And in that place, he had this thought, this wildness, this wilderness. It's his salvation. It's our salvation and had this thought and he shared it with us. His name was Henry David Thoreau, and he said, "You know, we have to think about life and then thinking about life will find our salvation." Now some people heeded his thought, you know, and they preserved this place in its wildness.

You know, I remember it because it came a time when I was stumbling around in my wilderness and I came to that spot. And I was, well I came to this spot and I met a man who would spend his life in the wilderness trying to learn from it. And he saw that I was, you know, lost and confused and a little afraid and he offered me something. He said, he thought I could use this piece of advice and said, "You know, the secret to a life in the forest is death in the forest, okay?" You see, you know, I wasn't getting it. He said "come with me." So he took me to the spot in the wild, he came to a tree and the tree had, you know, falling over to one side like trees can, you know, and he said, "Now come on over, I want to show you something." He said, "Look at that base of this tree. You see the bears have been pawing at the bark to get at the ant eggs that they love. And look along the bark, you know, the birds have been pecking at it to get the insects that they love, you know, and this tree is dying, yeah, but tree, it's giving life. Now there's going to come a time when this tree is going to fall like all trees, great and not so, it's going to fall to the forest floor and when it does all the life inside is going to burst for it and this will become the soil for the generation of the whole new kind of tree.

You know, I remember there was this time where this was this man in America's heartland and he heeded Thoreau's words, you know, and he thought about life. He loved life, he love going out into nature, he loved shooting it and he said there was this time where he went on what called was the mountain rimrock and from that rimrock he looked down and he saw a wolf so he shot him. He said later he held his prey in his arms and he watched as the fierce green fire died in her eyes and he was troubled by a thought that maybe the wolf in the mountain knew something he did not. You know, in this thought it troubled him and then he had another thought he said, "Well, wait a minute maybe, maybe it's not enough to think about life". We got to think of like life. We got to think like the mountain, we got to think like the river, we got to think like the sea, we got to think like the tree.

You know, I remember that there came a time after his time that there was this woman and she heeded Thoreau's words, she thought about life, and she heeded his words, Aldo Leopold's words and she thought like life and she had a thought to look in all the places that life takes root you know, the air, and the earth, and the water, and she went there and she looked at those places and she found things in those places that didn't belong there and these were things from the growing of things, and the making of things, and the testing of things. And she said there was chemicals and radiation, and these were forming a sinister partnership and that we needed to take heed. Her name was Rachel Carson, her book was "Silent Spring" and she said we must take heed of the sinister partnership because this is going to eat away the fabric of life and if we do not take heed this tattered fabric could become like a shroud over our future.

You know, I remember sitting there and thinking that her book came out, Rachel Carson's book came out the very year that well, that Woburn, the city Woburn opened up two new wells GNH to welcome, you know, new neighbors and new industry. And among those neighbors was Anne Anderson and her family and life was good in the 1960s, and then there came this time in early 1972 February when Jimmy the youngest had not gotten over the latest round of fluid that had gone through the family and Anne became concerned, and so she took Jimmy to the local doc and he became concerned and he sent him down to the Mass General Hospital where Anne learned to her horror that her son Jimmy had a disease she'd never heard of before, Leukemia.

The horror of this diagnosis gave away to the roller coaster ride of remission and relapse and she would go to the waiting room, while Jimmy was getting his chemotherapy and it was in the waiting room she was disturbed by something. You see there was a mother there with a child being treated and this was a mother from down the street. Another mother who's child was being treated and this was a member of the church, and another mother with a child being treated and this is a mother from the supermarket, and well, this just didn't seem right, and so Anne took a courage and it did. She walked across the waiting room floor and she sat down with these mothers and they shared with each other what they knew.

Now Anne's head was filled with questions, you know, what causes Leukemia? This disease I've never heard of before. She talked to the doctor. The doctor says "Oh, scientists don't know." But, you know, some think there's a virus and Anne is thinking, "A virus?" You know, the water it smells bad, it taste bad, people have been complaining about it for years. What--well, maybe there's a virus in the water making the children sick. You know, she talked to her husband about it. "Oh, no way! Wait, if that were the case, well, the authorities would have told us." Oh yeah--well, no she calls him up. "Oh no, no, the water is safe. It passes all the tests." "Oh, oh okay."

And it was like that for several years until one morning Anne woke up to read in the paper that the water that she was told was safe was not safe but contaminated with chemicals she never heard of before used by industry in the making of things. Trichloethylene, trichloethylene, benzene, these were chemicals, solvents that the paper said when fed to rats and mice involuntarily in huge quantities was making them sick giving them cancer and for Anne this was like a light bulb going on. She went to the mothers, she organized the mothers, what did they do? They went to this new agency, the Environmental Protection Agency that just been formed and they asked them, "Would you please come to our community and help us answer the question who and when?" And she did something else, her and the mothers, what did they do? They went around to their neighbors knocking on the door, asking question, a simple one, "Do you have a child, does the child have cancer, is it leukemia?" And if the answer was yes, it went down on a list, they were not 6, they we're not 12, 24 cases of children with these disease in the 12-year period in a small community, too many.

So she went to the Center for Disease Control and she asked the simple question, "Our water is contaminated, would you please come to our community and help us answer the question, is the water responsible for the children's disease?" And the agency to their credit went there as did the EPA and they did their work. And after sometime, they came back, they called the community together and they

announced the results of their work. You see EPA said, "Look we tested the water, the waters are contaminated, we can't tell you who, we can't tell you when." The Center for Disease Control said, "You know, we've counted the numbers of children with this disease, they are too many but we cannot tell you if the water is responsible." At the end of that meeting, you know, everybody left except the mothers and they all sat around talking and this just was not a satisfying evening and they had a thought. I know you'll find it very bizarre, they decided to "Get a lawyer! Get me." That maybe if they, "Get a lawyer! Get me", they'll be able to get an answer to their question.

You know, I remember sitting here, looking out and thinking about that moment in my office when they told me their story. I remember telling them "No, no you don't seem to understand, I'm a lawyer, it doesn't work that way." I don't answer people's questions. They come in with a problem, if I can make a case out of it, I can help, but if I can't, I can't. Now in order for it to be a case, I could have a wrong doer. Now, you know, there's got to be a wrong, obviously, poisoning wells, that's got to be a wrong somewhere I'm sure in the books, I'll find some laws that says "It's not good." But I got to know who did it. Who did it? Oh, the authorities don't know. I'm thinking "Oh, authorities don't know." Well, how much time and money am I going to spend to find out who and after I find out who, will they have to what to make it all worthwhile?

I explain to them something else I learned, in law school, you'll see between a wrong doer and a wrong and an injury, there's got to be a thing called causation. Did any of your doctors tell you that the water was responsible for the disease? Oh no, no. The doctors don't know. Oh, the doctors don't know. Now I'm thinking, well let's see, is there a doctor? Is there a scientist in the world I could get to testify and after I sober them up, what kind of witness would they make? No, no, no, no, no, I can't do this, I'm too young, I don't have the experience, I don't have the wisdom, I don't have the resources and I told them that I was an honest guy. And they--they wouldn't take no for an answer, I said "Okay, I'll go knock in the doors of those with more experience in wisdom and resources." And I did and you see and they told me they're busy. So I went back to the families. I told them the truth. I said "I can't help you." You know what they did? The mothers, they held up their children to me. They said "Don't you get it, our children are choking to death on the lies. We need the truth!" I remember standing there in the room when they told me that they need the truth. They're talking to a lawyer. The truth? The truth, let's see, I learn about that in law school, that's something I got to go and take. The truth? That's something I got to go and get. Well, in order to do that I have to go invade the land of the thing makers, you know, and I have to go in their property and they'd be too, you know, well, I thought about the challenge--let me think about it.

I did my own little investigation, you know, the way that lawyers do. You know, I looked at the signs and all the signs, well, they pointed to--well the two of the largest corporation in the world at that time, W.R. Grace and Beatrice Foods and now I went back and started thinking like a lawyer thinks, you know, I sat there. I'll give you a little insight into lawyer thinking. You know, I thought about the children of course and the need, yes, and the challenge and the treasure. I want to do this thing. I went to my partners I said "Hey, this is what I want I to do." And to their credit and said, "Hey, all for one and one for all." And we decided to join the families on their journey and this was a journey. You know, this was a journey into science and into medicine. It was a journey into law, into legal system for sure, but like all

great journeys, it was a one that I had to also do on a personal level and I was to find a spiritual one as well.

But before I got to that, I had another interesting experience, you see we wanted that we've have to bring the case that nobody ever brought before. So, we have to go do things that nobody ever done before. You see, we went to experts and one led me to another and another one to another one and to another one and it became very confusing, and so we decided do something nobody had ever done before. We decide to bring them together at a place like this and in a place like this there was a hydrogeologist and a geologist and a toxicologist and an immunologist and a neurologist and a psychiatrist, mostly from me and my partners, you know, and there was all those ologists in the room, and they were, you know, it was the first time that all of these scientists had been brought together at one time and one place, never before by a corporation or the institution of higher learning or governmental agency had never brought those folks together at one time and one place, to answer a simple question, can these contaminants in water make children sick, give them cancer? And in that discussion, they have to talk a language to each other, they can all understand.

You know, we learned lots of stuff, you know, while they were talking, we learned about, you know, the making of things. We learned about when you make things, you make waste. We study the chemical constituent of the waste. We--understood what they did with that waste at the end of the day, where they put it and where it went and what happen to people when it got there. You know, we learned things like well they said that this wa--you know, water was just too small, you know, to the quantities were just too small in the water, it couldn't really hurt anybody. But, you know, a study showed that it wasn't the drinking of the water, these chemicals are volatile and from the showers and the dishwasher and the toilet, the water being brought in to the home, these chemicals would volatilize and actually the levels of the exposure in the home. It was--the worst exposure was living in the home, not drinking the water. And another thing we understood about these chemicals, that these chemicals, you know, the--they are in tiny quantities in the water but not so tiny that the body does not recognizes them and want to get rid of them. And then the act of getting rid of them, it breaks that strand of life and in that broken strand, a tumor can take a root.

I remember the dazzling experience of putting all these pieces together and I became intoxicated, because I realized we could bring the case that no one ever brought before and we did bring the case that no one else had brought before. You see, we brought it against these two companies and we got to do something that the law allows us to do, you see, we got to--the law, it gives you a lot of power, we took that power and we got the right to go on their property. And we went on their property and I discovered something on their property that I'd never really experience before, pits, I learned about pits.

Pits there--well that's the thing, that people dig in order to bury things, you know, and I learned something about pits. Well, they're dark and their dirty and their dangerous and something else about a pit and digging up things in the pit, you know, when you start digging a pit, you end up digging your own. A couple of things about pits and digging, I understood that, you know, you can go on someone else's property and dig pits, looking for things and they usually return the favor, invade your land, start digging in your pits looking for things and finding things and with all that invasion, there's conflict with all that

conflict, there's war. And war is the only way to express it. See this was a war like any other war and the book does a really beautiful job and the movie are pretty good job of talking about that war and this war was like all wars, it took everything, didn't give back as much as it took. And this war like all wars, it ended like any war, the only way a war can end in exhaustion. You know, and this war has things like, well, like every war, war stories and I have a couple, I'd like to share one or two with you.

You know, there came that time, when we brought in Al Love, he used to work at W.R. Grace. And we brought him in and we put pains on one side and penalties on the other, you know, things I was taught in law school and they are with pains on one side and penalties on the other, I examined, Mr. Love in his deposition, you know, demanding, you know, what chemicals did you used, and what you do at them at the end of the day, I wasn't getting anywhere. Went on for a while, finally there was a break, I went and back there with my partner, Kevin, he said "Jan, we're not getting anywhere." "I know." And he says "Well, I have a thought, Al, he lives across the street from Anne Anderson, he's got a big family, why don't you ask him how he feels about the water and the health of his children, Kevin that is the most ridiculous... Okay, maybe." And I went back and I ask the question of Al, and when I did, the lawyers with Grace and for Beatrice, they started to laugh. But Al, he wasn't laughing. He said he got a headache. He said he got a headache that did go away until he walks across the street to Anne's house and he shared with her what he knew and then he came to me and then we went to the--US attorney and shared with him what we knew and then they brought out of an indictment to W.R. Grace, the first time a Fortune 500 company ever been indicted for lying to the EPA.

There also was another thing that happened, you know, there came that time where we had that they summoned our chief ologist, probably the best way to express it, to where the—to the lawyer for Beatrice Foods, he was the best. And you know, we examined them with the pains and penalties of perjury and he asked them question after question, do you about the studies and why he says that this water can make the children sick. And then he had the big question, he said, "Doctor, answer me this question and we're done, name the study, name the study that shows that children who drink these chemicals and water can make him sick, can give them cancer, can you name one? I remind your doctor, you're under oath!" Well, the doctor, we didn't need reminding said "There were none, but ask me this question in a couple of years," "Why so?" "This will be the study." And I remember sitting there in the room thinking, is that study going to come out before or after the trial?

You know, and then there was that time when I--well, there was the case, you know, and well we had our victories and our defeats as we talked about in the book but at--at the end of the case, it went on appeal against Beatrice. And something happened on appeal, you see the ternary of both the contract sent all the employees home, close the ternary down. And I remember being in the kitchen of a ternary employee who months before in my office under the pains and penalties wasn't talking. But in his kitchen he was talking because he was dying of leukemia and he told me things, shared with me things that made me angry. You see, and I put things together that--well, he led me to places that showed that this was evidence, the evidence has been withheld. And this was evidence that evidence had been destroyed and this was evidence that evidence had been--of false testimony, perjury! And I took these shining things, you know, when I stuffed them in my pocket, and I confronted the lawyer for Beatrice Foods, he was the best.



I remember that moment when I confronted him, you know, and I demanded from him. "Where's the truth?" "Oh, the truth? You want the truth?" "Yeah, it's this--go in that pit over there. It's in there. We bury them there, at the bottom of that bottomless one." So, I push my partners aside, I jumped into that pit, you see and I--I dug and I dug and I dug, trying to get to the bottom, not an easy thing to do. Finally, I had to rest, you know, from my exhausted state and, you know, I couldn't get to the bottom but there was this shiny things of lying and perjury and withholding and destruction and I put them in my pocket shiny, silvery, gold like things, you know, and then I went to the--to the judge, you see and I emptied my pockets and all this glittery stuff, you know, and, and I laid it before the judge. Now this was a federal judge, you know, and I just want to tell you those who know about that federal judges. These federal judges can get angry. And this federal judge, after I laid it all in the table, this federal judge got very angry. In fact, this federal judge got so angry, he got as angry as a federal judge can get and I'm telling you and he can get pretty angry. And I was ready when I was telling him story, with all the stuff in the table I was ready for the pains and penalties to be inflicted against them. And he did, but not against them, against me for digging it all up. I remember running from that place with his words burning in my ear, it's too late for the truth, too late for the truth.

Well, of course, I went and did things like lawyers can do and knock on doors that lawyers try and knock on to get a change, you know, and to no avail like I say it made for pretty good, a really great book, and a pretty good movie. And then, there came that time where, you know, it was over, no more knocking, no other place to go and I had to go confront reality, you know, like I--I went for the car, it was gone. I went to put out my clothes, it was gone. I went from my--from my colleagues and my career and it was all gone. Yeah, all around me was no-thing-ness. And, and I--well I--all I can think about is how did this happened to me? And it was nothing but pain and failure and I have to tell you, I did what any self-respecting in human being would do in such as circumstance, I got the hell out of town.

I went as far as you can go in this country and still be in this country, Hawaii, not a bad place to go if you're having a mid-life crisis and when you have yours, I urge you to you go there. It's a beautiful place, a therapeutic place. And in that place, I had nothing but pain. I couldn't appreciate the beauty of that place. Now some things has happened while I was gone. You see, we have shared stuff with the EPA. And after the case was over the EPA looked at the stuff we had shared and then they did something unusual they brought the company to a place like this and they shared with them what we had shared with them and at the end of all that sharing, the company agreed to a 70 million dollar clean up. That will take 50 years, you know?

And that was--well, I decided that, you know, it was, you know, it was time to come home, it was time to make the trip home and I did. I made the trip home and, well, I came back to where live I got to tell you it's sort of like this place here. So you see it's on a granite headland cliff and it overlooks the ocean and when I came back to home I had to do what you do when you come home, I had to think about the past and when I did I was filled with nothing but pain and failure and I couldn't see what I have lost. I could only see what I've lost and not what I have gained. You see and in that state I began to stumble. Tumble, I tumbled all the way over the edge, you see, and flailing wildly I managed to grab hold the outstretched fingers of a branch, you know. But I couldn't see a way up and I couldn't see a way out, you know, and I

knew in a matter of, you know, with my exhausted state, it would only be a matter of time before I let go. So I close my eyes to accept my fate.

And I have to tell you in that long endless moment swinging between life and death that I realized something. I was holding something in my hand, something important, something valuable. And this thought, it made me want to live you see and I had the stock of a branch that leads to another and from a branch to the limb and from the limb to trunk and from the trunk to solid ground. I was so overwhelmed of my accomplishment, I just decided to just stay in this place, you know, and I stayed so long that I begin to take root, right here in this place and decided to make this place my home, I married. And 3 new reasons came out for me to want to stay, safely rooted right here in this place.

And then some other things happened, the book came out, and then the phone calls, always on a Sunday. "Hey, I hear Mr. Schlichtmann that you are this lawyer who give up everything for your clients including your sanity. Why you sound just like the lawyer for me. I'm like "No, no, no, I'm a little tired. But then there was a phone call, it was from a mother from Toms River, New Jersey, she said you know Mr. Schlichtmann we got wells that are contaminated here with chemicals like the Woburn and we got two large companies, it's always two large companies. Two large companies that may have done it and we also have a lot of children with cancer and we were wondering maybe you learn something and maybe--maybe you would mind coming down and sharing with us what you learned. So I did. I couldn't say no to that.

I went into that sacred place, the living room you see and there in that room--living room we shared with each other. And you know, we made an interesting decision. We decided to form a partnership between lawyer and clients to treat each other like partners. You know partners they look at problem solving or something you do together. And as partners they look at the--well, they all have limited resources and we all have to help each other with those limited resources in solving the problem and then we decided to do something else.

As partners we went and formed partnership with the local government and with the state government and with federal government and then we had a thought, maybe we'll go over and knock on the doors of the company's attorneys and I did. And who should answer the door but the lawyer who used to represent Beatrice Foods. Well, it's not like we didn't have something to talk about, you know? And so went to a place and at that place we talked, you know, like lawyers do and kind of shared some things with each other.

But something interesting happened after that little sharing we decided to form a limited partnership where we would meet and share to the extent we were willing to about the results of our mutual investigations and we did it. And it wasn't a month, it wasn't 6, it wasn't a year, 2 years, and at the end of that we decided to bring in a third party to help us. And after a year of that something interesting happened, we made a public announcement. We made an announcement that we as human beings had resolved this problem and we wrote it down in the document that gave the families the economic tools to dig out of the rubble of their experience.

Something else interesting happened. It was that summer. It was that summer and when--the ATSDR, that's the Agency for Toxic Substances and Disease Registry, that's an agency tasked by congress in the wake of Woburn to help communities determine if contamination in the environment is causing health problems in the community. And the ATSDR, one of the first that they did as they looked at the information we have shared with the state government and they brought the families together to a place like this and the community together to a place like this and then announced the results of their work and they said, "Your families were right." The study shows the children who were exposed to this water in utero had a 13 times greater risk at contracting the disease and those who are not in the study. The data was so powerful, so compelling that these government officials for the first in history announced that there was connection between contaminated water and this blight, this plague of leukemia.

Now I remember that night. I remember going home in the company of the families that night and there was not as many as when we first started out, yes it's been--what, 15 years since Jimmy Anderson died and many more years since the wells had closed. But I had a thought. I felt no pain. You see I felt joy of recognition of something, the truth. The judge was wrong. It's not too late for the truth. It's never too late for the truth. I remember that moment, I remember thinking about those things and then I found myself on that cliff again next to my friend, the one who've saved my life and I had this other thought just as the sun was coming up over the horizon and, you know, it's time to get on with the business of life, you know, maybe that's it maybe it's a simple is that, maybe it's as simple as well as accepting the lesson of life teaches us every day if we're willing to accept it.

The truth, it's not something you have to go and get. The truth is not something you have to take. The truth is not even something that you have to fight over. The truth it's you don't have to go and get it, it comes to you when you share experience. And we share experience, soil is created in which life takes root. And maybe, maybe, the key to our survival, our, as Thoreau says, salvation is to accept the fundamental ultimate lesson that life teaches. It's a simple one. When life is shared, life is given so, life can go on. And in that way, maybe we as humans as citizens, even as lawyers, will learn to live on and with this earth, together, thank you. [Background applause] Thank you. Thank you. Thank you. Thank you. I appreciate that. And I go to the--be cross examined now. So, appropriate to cross examine a lawyer. Anybody have any questions about the meaning of all that? Who would like to start it up? Don't be shy. Yes?

**Audience member:** [ Inaudible Question ]

**Jan Schlichtmann:** Yes. Right, how do you speed it up and make it all--you know, that's a beautiful question and you know, let's think about it. You know, we had the burning rivers, right and the blenching smoke stags and the littered beaches and all that and then we had--that was our metaphor and then we came up with these new laws, you know, with good names and now we're still fighting over whether those new laws should keep doing their good work. And you know, and in the meantime, you know, we're not just, we've gotten really good at things. It's not just cutting down, you know, one forest or one fishery now, it's doing things on a huge scale, it's not burning rivers, it's a burning planet. The scale of what we do. You know there's now fracking, you know, we know bring industrialization into

every home and every community in our country, you know, one well, one deep water well, an entire ecosystem, the most sensitive on the planet, the most bountiful on the planet is threatened with its existence and ours.

Think about it, one well in which there are what, 25 hundred deep water wells and more coming. The scale of it is frightening. And when I get up in the morning and think about the scale I get back into bed. Pull the covers over my head and hope that the next morning maybe I won't have such a disturbing thought. And you know, they'll always come--and then there comes a time when I get that kick, you know, in that place you don't meant to be kicked and out of the bed I got to go because you can't do it alone. You can't do it on your own and then when you think about that, you're going to end up bankrupt. I learned that lesson. You can't do it alone, you can't do it on your own. We got to do it only one way that's together. There is not enough time. We don't have any time to spare. We have no choice, we have to talk about it, we've got to talk about our experiences, we've got to documents the facts and we've got to encourage honesty in ourselves and in each other. That is the only way, that's the only way that I know at this point in my experience that works. And if anybody has a better idea I'd love to hear it.

Until and unless, we go to the place, the room, where we sit across the table, right, and do that transfer of information between human beings about what happened and what if anything should be done about it? Unless and until we do that, it ain't going to get solved. Human made problems, they're, going to, you know, are only solved by humans when they decide to solve them. And the only way they're going to decide to solve them is by choosing to solve them. The problem is the driver, and I believe there is now no choice left, we have no time left. Is it easy? No. May we fail? I don't want to think such a thought. I want to get up every morning, and I do get up every morning because there are others making me get up and every morning saying, "Hey, it's not just about you, it's about all of us."

So some mornings, we'll be depressed and some mornings we'll have no energy, and some mornings it'll just be too overwhelming but you know what, all of us at one time will not be depressed and all of us at one time will not be too innervated by the experience, they'll be enough of us who have the energy to remind us on that day when we don't that we all have a job to do. We got to get it done. So, we got no choice and the easy answer is, we got to do it. And the sooner we get people to respect each other enough to sit down and talk about things and we think of clever ways to get people together to talk about things is the sooner we're going to talk about things and solve the problem. And the longer we fight about it which we're really good at, the longer the problems are going to be put off.

I don't know, all I can say is when I come into a community that says, "Hey, you're that lawyer, please solve this problem." I say, you know, "I can't. I got enough of my own problems. I got my own community." You know, "I can't help you with yours, I got my own source," that's my grandmother's word. And I said but I do know, I do know somebody who can help you, I do know. In fact, I invited them here, because I can't do it. It's you, unless we do it, it ain't going to get done. Nobody else, not the government, none of you all, we have to decide to do it. That's the secret, it's that hard and that simple and I don't know any other answer. Again, if you have another idea on the point, I'd love to hear it but that's what we got to do. Yeah?

**Audience Member:** [Inaudible Remark ]

**Jan Schlichtmann:** Yes. But see, you know and if you would ask me of that question when I was younger with Dr. Harr, my answer back will be, well of course. There must be duress, there must be threat, there must be punishment or they're just not going to do it 'cause that's the kind of people that they are, they respond to that kind of stuff. But here's the problem, wouldn't it be wonderful if we had an institution of governmental power that would force people to do the right thing? Wouldn't that be wonderful? And that is the myth that we all tell ourselves that little bed time story, we tell ourselves to help us go to sleep. But in the morning, we'll got to wake up to the reality is it doesn't exist. If you don't--if you think otherwise, I have a great walk and a pretty good movie, I want you to read and see because the system has a problem with processing an abuse of power and I've come to appreciate that that's because the system itself is in many ways an abuse of power.

Now, how does a system that actually is itself an abuse of power deal with remedying abuse of power? Now I don't say those words lightly and maybe they do sound harsh but after 34 years as a lawyer, I have come to that disturbing conclusion and doing a little research about it. We talked about it earlier this afternoon but basically, we have an institution that is not tied to the people. It was just adopted whole cloth from Mother England and it was not tied to the people, not answerable to the people. It was based on a book, a notion of aristocratic elite who's--they would be independent of the king and they're independent as legislature and left at their own devices while they'll just make sure that the law, its legal principles are applied to the facts and they'll be justice in the land.

It doesn't happen that way for some reason because an institution as the anti-federalist, you know, found out is that, an institution that's independent of the people is an institution that's independent of heaven itself. It's an institution that is a power unto itself, it's ritualistic, it's secretive, it's hierarchical, it is not tied to the people. And one other thing about the system that I think is a fundamental problem that we need to fix. It looks at dispute resolution as dispute termination. It's a contest decider. It decides who wins and who loses, it does not as Chief Justice Burger said to his colleagues, startling them one morning in early of 1980s. "Hey, I've had a revelation, you got to be nuts to go with the litigation", that's the Chief Justice's mind. You would have got people's attention and he had this thought. He said "you know what, people come into us because they're sick". There's been a breach. You know the social public and we are--well, we're the healers, we have to heal the breach, we have to be healers of the law. And he--those words really started the so-called Alternative Dispute Resolution or Revolution, getting lawyers to think of their role differently as not problem makers, but actually problem solvers. A total different think for lawyers.

You know, had I thought of my role as a problem solver, not a problem maker, maybe I would have approached the Woburn case like I did approach the Toms River case which is not a case, Woburn was a case and there was no litigation over Toms River. We resolved that, you know, together and do the math. Woburn was 9 years, millions of dollars and Toms River was 3 years, you know, few hundred thousand dollars. And we got--and--and Woburn, because it was a war, this federal government could not do their studies, they had to wait 'til it was over and it was a long war. In Toms River, there was no war, we were working together and the government did the studies why we're doing and they

concluded like Woburn, they are now the second study to conclude that the families were right in Toms River that the children who were exposed in utero to these chemicals were it was responsible for the plague of cancer in that community. Now, there are 2 studies in which the truth has, you know, come out.

So I know there's better way, we got to figure out doing it, and the compulsion lie compelling people, it just does not work. And do not think for one moment, you know, that those in power thinks that this institution, you know, is not empowering to them, okay. They're very comfortable with the system and if you have any doubts again you have a book for you to read, but also how about reading Citizens United? And I think it gives great comfort, you know, Citizens United to folks who are concentrated power and wealth, right? And it does give a lot of discomfort to, you know, a bunch of other folks like ourselves who don't have so much power and so much wealth and a thought of ourselves is you know, we would have voters, we were the show. Well, now, we got to go share the stage now with concentrated power and wealth. Now, wait a minute you know, so I think we just have to appreciate that when we figure out the ways--the reason they will come and solve the problem is because of the problem. The problem will drive them to the table and once we figure out how to make them realize there is a problem and how to bring that to their attention, then the problem will drive them to the room. And in the room, the problem will drive everybody to try and figure out a solution.

You know, the denial of the problem is the excuse not to, you know, acknowledge the problem. And now, maybe sometimes, you have to file a law suit to get people's attention maybe, maybe, maybe, but maybe again, maybe not. And for most people, most of the time, we really want to live together, you know, make money together, have happiness together, we really want to, most of the time. And those who are really sociopaths, well they, you know, there are ways we can select them out of the system. But most of the time, most people, you know, would rather do it, you know, the right way rather than the wrong way. And we got to figure out ways to expose that you're doing it the wrong way and here are ways that you could do it the right way. And if that is not true, I am going to stay in bed tomorrow. I'm not going to anymore to these talks. I'm just going to stay in bed. I don't care how hard the kick is. What else, anybody else wants to, yes?

**Audience member:** [ Inaudible Remark ]

**Jan Schlichtmann:** What it looked like? Well, imagine a room and you know, with a table, it could be I used one, used furniture. A room with a table and some chairs and a door, and in the door comes people with a problem and one side--one side of table, they sit and the other people on the other side sit there and then imagine a person over here, he's not wearing a robe. When they come in to the room, nobody stands up out of fear. They stand up to welcome, "Oh thank you for, you know, spending some time with us" and they sit down and their job is not to decide who's right and wrong, but to say "Hey, what can we do to figure out what's going on here and, you know, what's going on? You know, how we get on? How can we work together in this thing?" And think about that, that's not very expensive and more information will be transferred in a few minutes in that room, in that system with no rules, okay. Except the wants of human beings treating each other with respect by sitting down and talking to each other, then years of litigation, it's that simple, it really is.

If any lawyer knows what I'm speaking of, that magical, wonderful moment, you know, where we--a client came in and we said "You're right, you know, that disease notion you have, keep it. And in fact it's so good, I'm going to disease myself with it and if I cannot go and disease as many other people as I can with this thing and I'll make so many problems for the other side that they'll want to solve your problem." Until we realized the math, problem plus problem equals more problems. Wait a minute, well, oh, I thought it was problem plus problem meant no problem. No, no. Problem minus problem is no problem, simple arithmetic. And when you engage in behavior in which you're making less problems for people, not more problems, you are going closer to problem solving.

I know this is very hard for lawyers to get. It took me many years to figure it out myself. And this room is not friendly, socially friendly to problem makers. A court room, if you're a problem maker, the door is wide open, come on in. And in fact, we like it so much, don't you dare talk to the other side. I don't want any of that going on here, okay? I don't want you talking to them, you talk to me, okay, who knows little or nothing about what the problem is. And I'll decide who's right and who's wrong. That's our system. And if anybody thinks that that is an efficient system for solving a problem, you haven't been practicing a law for more than 5 minutes. It's just not true, it's not true, it doesn't work and we've got to think about what does work and there comes that magical moment with the client who's been years toxified with your help, of course, and then for some reason, we're exhausted, we can't think of any take it any--and okay, gets resolved and then there's that moment.

In one moment, when the problem is solved, all of a sudden, the burden is lifted and they look at the other side, not as an enemy or a demon, but, hey, yeah, you know, the wife and kids are okay, and all of a sudden you begin to not fear them but to go on with your life and now because the problem is solved, you do not have to look at them in a way in which they are a threat to you or them to look as a threat. That magical thing where human beings actually say, "Hey, I don't have to worry about that person and that person doesn't have to worry about me, I'm go--I'm going to worry about other things in my life. That's the magical moment, the sooner we bring our client to that spot, we are solving their problem and the later we postpone it, we are doing them and our society, a disservice. Yes?

**Audience member:** [ Inaudible Remark ]

**Jan Schlichtmann:** Here, here is the problem, okay? We make it very easy to deny there's a problem. We have institutions as I say. Our institutions make people, allow people to invest in their position emotionally, financially, politically, socially, okay? What we need are institutions that do what? That make us better than we are, you know? Imagine, a place in town, okay? It's next to the courthouse. The courthouse is a museum, people come and visit while having--but the building next to it is the resolution institution, okay? Where you go in there in one door and people are there to help you talk about it, to see if we can figure things out and most of the time, most people go through that door, going to come out the other door in record time with a problem solved because people got people to talk to each other about it. It doesn't mean every problem and, you know, I'm not--but most problems, most of the time. It really is that simple instead of making them worse.

We need to have institutional support that makes it socially unacceptable to not come in to this room. And there's plenty of ways that we can make it socially unacceptable to do that. But we don't have institutional support and the thing that is--it ruins it. I love it when the courts has mediation connected to it. The problem with that is, this room is like a joke, why? Because the real action is at the center, the center is pulsing out the toxic notion that "Hey, don't worry, you can't figure it out here". If you think you have favor over here with the contest decider, no problem, and so this corrupts that. This, the fact that there is this contest decider to go through that you may think you have advantage and if you're a big corporation, you may have plenty of reason to think that, "Hey, I got some folks who got some juice or networks or whatever, you know?. You know, they seem to talk their language that the decider seems to understand. And whatever I feel more uncomfortable there, there's less reason to sit down and treat folks with respect. But if this is the center of the action, if this is the center of the action and all the institutions encouraging this behavior, most of the time, most people with that kind of social pressure.

When we talk about things, the good and the bad and the ugly, when we bring the facts, you know, on the table and the facts are there and some are pretty ugly and you have to confront them, people do make amends. That is a social thing. That's what allows us to be social together. That's what we are forgetting and I do think it's that simple to institutionalize that as the apex, that's the hub, that's where all the action is. And this contest deciding is really reserved for those limited instances where really we're dealing with the sociopath who just does not want to integrate themselves into civilized living. And If we can't get that, I'm telling you, I got 34 years of experience and it's just me, you know, and maybe I just got a bad judge they say, you know? But I don't want justice to depend on, you know, good judge, bad judge. I think that any judge who goes to the system does a lot of bad thinking because it's an institution that doesn't think in problem solving, it has a different kind of set of thought.

I hope that this is not the place we're relying on because my experience tells me this is not going to be there for us and we don't have the luxury of time hoping that it will be what it's not. This is the only place where people talk to each other with respect and when we respect each other, we can begin to be honest with each other about what we did wrong and what we're going to change to make thing right. The only thing I know if there's another one out there, I want--I'm going to sit in the audience and have somebody else come up here and share their thought. I don't know any other way more effective than that one, the old fashion one, the way we talk to each other. Yeah?

**Audience member:** [ Inaudible Remark ]

[Laughter]

**Jan Schlichtmann:** No I've never--I've never met--very talented woman, you know, big admirer of our work. But no, I've never had--I've actually never had the chance to meet her. I saw the movie. I thought that was pretty good and yeah.

**Audience member:** [ Inaudible Remark ]



**Jan Schlichtmann:** Right. Well, at the--I'll tell you one that even frightens me more than you know, ANWR Exploration is the--is the North Pole, in the sea under the North Pole. Because of the fact that we've warmed up--turn the heat up in the planet, you know, and now we got all that ice out of the way, it's like, you know, a lot easier to get to the spot and do deep well drilling and we know how successful that works, you know, how good that was for the Gulf and now want to bring all that good stuff up there to the most pristine, you know, untouched, you know, environment that we have that is actually a really rich with marine life and now we want to, you know, start slicing that one up into you know, and start strip mining the ocean bottom there for its minerals. And that is a very frightening to me and we have some great organizations, you know, Sierra and plenty of others that are really fighting, you know? Earthjustice and others are fighting there to do the studies that are necessary before we start lying claim to this pristine area.

You know, this is the struggle we have, and the only way, you know, I'm not saying that you know, people are going to sit down because they want to. I'm saying the people, we have to figure out ways to make it impossible for people not to sit down whether they want to or not. We got to do that. We got to think about ways of having that discussion. And I'm not saying it's easy, it's not, and I get involved in these problems in which we spend a lot of time thinking how can we make it impossible for people not to sit down and talk about things. And sometimes the magic works and sometimes, you know, it doesn't, we got to go figure some other way to do it, but many times it does work. And when we do get people to sit down, it is amazing how other things, you know, take over.

We need to encourage public discussion about it, we need to be informed about it, and you know, we need to know about it. So the answer is, we have an extractive metaphor an extractive, you know, the extraction imperative in which we have to go out and extract, you know, we--unless we, you know, clear away the air, the earth and the water for this thing, we don't--somehow we don't value it. Hopefully, soon, they'll come a thing where we'll--the thing that we keep ex--we keep--we have to extract for will actually see that is a sustainable thing. You don't have to extract to get the thing for energy. Actually, you can, you know, receive energy in a sustainable way. You don't have to extract and kill and destroy in order to energize. You know, you just don't have to.

When we free ourselves from that extracted metaphor which God willing is going to happen very shortly, what you say, next 10 years? Sure why not. Hydrogen revolution, something in which we can think of energy in a different way than we have to, you know, clear cut or strip mine in order to get this energizing, you know, element. When that happens, I think we will have a chance to go into the next century, this century in a way that is going to be more sustaining. But until we free ourselves in the extractive metaphor, I fear for our future.

**Moderator:** [ Inaudible Remark ]

**Jan Schlichtmann:** Sure, who--do you want to pick--pick the lucky person, right? Alright, who is the guy? Is it you? Yeah.

**Audience member:** [Inaudible Remark]

**Jan Schlichtmann:** You know, it's funny, the first question my wife asked me every morning. Are you a lawyer? And the second, question I asked myself, "What would I have done if I had not been a lawyer?" And so far, I have not given either good answer to my wife or to myself. And I didn't become--I came to lawyering late--I did--so and I'm not quite sure why except I thought that you know, I had an experience actually in the Rhode Island, American Civil Liberties Union in which I saw lawyers going into court in front of a great Federal Judge, Judge Pettine and I was spoiled. It was a great judge and he listened to lawyers and they made wonderful arguments based in the constitution and fighting for people's freedoms so we had no power and no influence and this judge would make these decisions that were, it would make people say "We got to change this." Or you know, "This person needs to have first amendment right to protest and in the rotunda of the state house", and things like that, I began to think, wait, lawyers they fight for people and they, you know, and they get this power to, you know, make things right that are wrong and that was an intoxicating notion.

So that kind of inspired me and then I went from that thing and decided late in life to become a lawyer, of course I then found out that well, it doesn't always work that way but it's been fun, I have to say. I wouldn't, you know, people say "Well, if you had to do it all over again, would you?" And I think the answer back is "I am doing it but not the way I used to" and that's the only way that in which I can retain some joy in, you know, what I'm doing. My joy comes from when we actually solve the problem and when we do that, that is a joyful moment. I think all lawyers really do relish that moment when the client, you know, its problem gets solved like a doctor who heals their patient. That is a joyous moment for the lawyer. It makes it, you know, all worthwhile. It's just we get a lot of, you know, false starts and wasted time along the way that I think we could speed up the healing process. Anyway, that--I really like having exhausted the topic for probably each other, thank you all very, very much. [Applause]