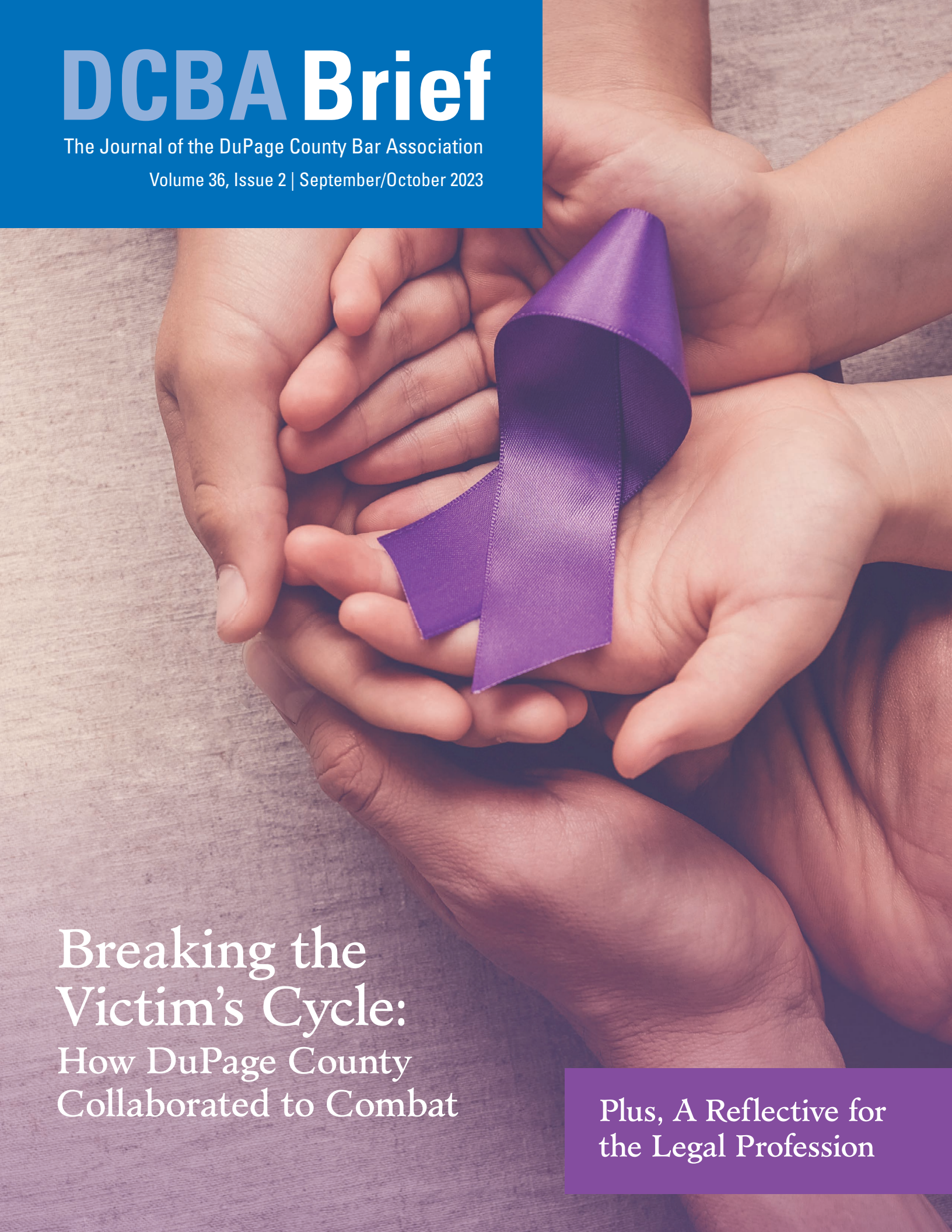


DCBA Brief

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Breaking the
Victim's Cycle:
How DuPage County
Collaborated to Combat

Plus, A Reflective for
the Legal Profession

Perspectives

An Inflection Point for the Legal Profession

By Lauren Stiller Rikleen

“The legal profession is at an inflection point. We have to learn to deal with these issues.” Those were the words spoken to me by a bar association executive after my presentation before a distinguished group of lawyers that included challenging comments from a member of the audience.

Attendees had just been sworn in as members of the U.S. Supreme Court Bar. For most of us who have taken that special oath in our career, it is not because we harbor plans for an appellate practice before the highest court in the land. Rather, it is to participate in a ceremonial and solemn process before the Supreme Court Justices in a majestic setting that inspires and reminds us why we entered the profession.

The presentation that followed included a discussion of the barriers that the judges highlighted in the book, *Her Honor – Stories of Challenge and Triumph from Women Judges*, faced and overcame. The book’s featured judges, who faced institutional barriers of racism, sexism, homophobia, antisemitism, and other abuses of power, used their own influence once on the bench to create a more equal and accessible justice system. In the words of Justice Ruth Bader Ginsburg, they became “path markers,” in a long road that depends on others to also continue the march towards equality.

Drawing parallels to the challenges we face in this country today, I also described how Lawyers Defending American Democracy—a nonpartisan, nonprofit organization working to galvanize lawyers to protect the Constitution and the rule of law—was created to respond to this time of threat. For example, the ongoing and baseless attacks on our electoral system have undermined faith in the integrity of the voting process, a bedrock principle of democracy. Other examples included the erosion of hard-fought rights taking place in the courts and state legislatures, attacks on marginalized communities, and governmental intrusion into what can be taught in the nation’s secondary and higher education systems.

The critical point to this audience of lawyers was this. Since the formation of our country, lawyers have had a special role in defending the underlying Constitutional values and norms of political behavior on which our democracy depends. And in this time of peril, lawyers, including our legal institutions, have an obligation to do more.

Then came the inevitable “whataboutism” challenge from the audience member, essentially arguing that “both sides” have done wrong and that my identification of specific rule of law principles under attack did not include all the harms of the “left-wing.” I was spared a response from a bar leader

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in the audience who redirected the discussion back to the judges in the book. Afterward, the bar executive offered his assessment of the profession's inflection point, further observing that bar associations cannot continue to sidestep these grave challenges.

I have thought about that audience member's comments often because I know my response was inadequate. Out of respect for the occasion of their swearing-in, and my fundamental obligation to the host organization, it was not the appropriate forum for a debate or a challenge to his remarks. But here is what I wish I had said.

Lawyers have a special obligation to use the analytical skills they have honed over years of education and law practice to distinguish between direct attacks on our democracy and the more normative partisan disagreements that are inherent to the process of governing. What we are facing now is not normal. It is dangerous.

The recognition of this danger is essential to our ability to bridge typical partisan divides and emerge from this inflection point with our democracy intact. This can be done without

relinquishing our principles as to how complex problems of society should be solved. It does, however, require us to see that solving these problems depends on a joint commitment to the principles of our Constitution, including support for the norms and values that have stood the test of time for hundreds of years.

Even the strongest democracy can be breached by unchallenged assaults. What I also wish I had said to that audience member is that lawyers of all political views are especially suited to playing a key role in reversing the increased virulence of our public discourse, rather than reinforcing the dangerous notion that “both sides” are causing harm.

This is not about “sides.” It is about individuals who are placing their desire for power over the well-being of the American people and, in doing so, endanger us all.

Bar associations have an opportunity to offer their special status, skills, and convening authority to engage the profession and collaborate with civic and governmental leaders to restore civility and honesty in public discourse. They can engage their communities through symposia, public conversations, round-tables, and conferences, facilitating and modeling robust debate, while rejecting lies, threats, and intimidation.

In essence, lawyers have a job to do, right now, that matters to their clients, their families, and their communities: they must use their skills to protect our Constitution. If the profession can collectively step up to this challenge, the mission will be accomplished. □

About the Author



Lauren Stiller Rikleen, editor of *Her Honor—Stories of Challenge and Triumph from Women Judges*, is a board member and executive director of Lawyers Defending American Democracy. LDAD's *Democracy Commitment* encourages lawyers to use their influence to protect the rule of law. She is also president of the Rikleen Institute for Strategic Leadership. A former president of the Boston Bar Association, Lauren's roles included service on the Board of Governors.