

NCBP Plenary Session – The Future is Here: NCBP Futures Conference

Notes from the NCBP Midyear Meeting Breakfast Roundtable Discussions

Saturday, February 7, 2015

Moderator:

Frederic S. Ury, Member, ABA Commission on the Future of Legal Services

Speakers:

Toby Brown, Chief Practice Officer, Akin Gump Strauss Hauer & Feld

Gregory W. Coleman, President, The Florida Bar

Paula Littlewood, Executive Director, Washington State Bar Association

Judy Perry Martinez, Chair, ABA Commission on the future of Legal Services

Public Access to Courts/Access to Justice

Are there innovations/success stories that address the needs of the poor? Middle class? Rural citizens?

- Using public libraries/librarians to help provide legal resources
- Louisiana's Legal Education and Assistance Program (LEAP) provides forms, on-line resources, "how to hire a lawyer" information
- Atlanta Voluntary Fund; Atlanta Foundation
- Homeless clinic in St. Louis
- Pro bono counselor for abused women.
- Chicago's pro bono program for the poor
- Self help desks, managed by a volunteer attorney to answer questions, help with forms
- Debt forgiveness to enable young lawyers to help the disadvantaged

How do we deal with the high cost of civil litigation?

- Summary jury trials – one day, very limited discover, no depositions
- South Carolina: "Fast Track" gets used
- Electronic filing helps, but can be a barrier as well
- Funding for court reporters; translators
- Early mediation, take your adversary to lunch

What is our experience with unbundled services? How do we educate the public and lawyers about the possibilities?

- Successful adoption requires forms, clear court rules, procedures on how lawyer terminates the limited representation, education for lawyers, clients and judge
- Lawyers worry about malpractice exposure
- Make affordable counsel available to people of modest means
- Will be wave of the future; flat fee pricing; stop paying by the hour
- Missouri has had unbundling in Family Law, still developing – uncontested divorces

Do user-friendly online tools, content help address an information/service need?

- Online forms – simplified for use by university legal clinics

We can't ignore pro se; how can we help work it out?

- Court-based resource centers staffed by volunteer lawyers
- Have legal aid lawyers do clinics on forms for pro se
- Appoint masters to assist with forms
- University legal clinics

Future for Today's and Tomorrow's Lawyers

How do we bridge the gap between law school and practice?

- 3rd Year of Law School – internships (just like MD's)
- Partnerships between law schools and bar associations, including mentoring programs
- Constant networking allowing deans' seats on the bar association board
- Law students serving on bar association committees
- Make the 3rd Year of law school all practical training in public service programs run by the law school
- Loan forgiveness for legal aid lawyers
- Greater training in business of law practice, including effective use of technology and other practical aspects of running a practice

Can we match seasoned attorneys with new attorneys?

- Web sites – content for new lawyers
- Creation of CLE tracks in particular subject areas with nuts and bolts training for young lawyers
- Bar association “speed dating” mentoring
- Dallas Bar transition law practice program where mentors and new lawyers attend sessions together
- Informal mentoring
- Development of a networking section

Mentoring: who is responsible for mentoring?

- Supreme court mentoring program, with CLE credit to mentor
- LOMAP programs (Law Office Management Assistance Projects) funded by bar dues and providing law practice management advice to members of the bar
- Mutual mentorship – young lawyers also teach senior lawyers about technology
- Law Schools – 2 years of Law school plus one year of practical experience; mold simulations throughout legal education

Are there ways to use technology to increase efficiencies and value?

- Dedicated pages on bar websites for young lawyers
- Webinars online
- Accounting software; timekeeping; networking/strategic (including knowledge management); awareness of e-discovery/predictive coding; better training in basic software skills and social media
- Have a director of emerging technology
- Uniform e-filing

Discuss rebranding the profession to focus on client value: what does this look like?

- Flat fee rebilling, hourly if you go to trial
- Using technology to immediately respond to clients questions
- Outside forces will change how the profession works, structures will change and this will have to be re-branded. How does this look?
- No need to re-brand; get the word out about what to do
- More transparency regarding the value that lawyers bring to the market ; branding the profession as helpers who solve problems
- Less artisan craft; more standard forms

Economic Viability of Today's Law Firm/Practice Model

What is the impact of globalization on practice for U.S. lawyers?

- Seeing more members with global practices
- Outsourcing: e-discovery
- Allow non-lawyers to share the profits
- Virtual receptionist: bar provides for a fee and members and clients can use facilities

How do we make using a lawyer worth the cost? What is the real value of lawyer provided service?

- Two legal worlds: regular people and big business/the rich
- Matching the client with right lawyer is a challenge
- Counsel clients zealously

Is the Licensed Paralegal model an answer to providing access to legal services to those that cannot afford an attorney?

- Counter intuitive when we have unemployed young lawyers
- Paralegals are already out there; bring them into our regulation
- Open to idea of licensed paralegal model ONLY if they are supervised by a licensed lawyer; cannot practice on their own
- Better solution: pricing adjustment to allow new lawyers to fill in this need ("low bono")

What can we learn from alternative business services, in other professions as well as in the legal profession?

- If corporations are people (Citizens United), then why can't they practice law?
- Pricing model for lawyers must meet needs of population
- Lawyers monitoring legal access
- Concentrate on lawyers and providing legal services and not get into unrelated areas

Changing Demographics and Economics of Profession

How can we reduce the cost of education and the fallout from student debt?

- Reduce law school from three to two years; adopt Canadian model: apprenticeship
- Financial management training for students
- Revamp accreditation requirements to keep up with the times and reduce costs to law schools
- Required debt counseling
- Early admission model
- Reduce faculty size
- Fewer Socratic classes (greater lecture format)
- Use more online training
- More experiential learning

How does falling law school enrollment affect our concerns with the marketplace? With a diverse legal profession?

- More difficult to define diversity
- More likely a proportionate reduction in diverse population with overall population
- Less qualified candidates; lower bar passage rates

Are there opportunities for licensing reform that would allow a more competitive legal system and benefit clients and lawyers alike?

- Licensing of specialists is definitely coming and will further place strain on traditional formats
- Create better delivery to clients with attorneys (like unbundled legal services) rather than create pseudo-attorneys with licensing

Should we make it easier for lawyers to move/practice from one state to another?

- Limited concern except for military spouses and cross-border competition
- Does it benefit the public or the lawyer?
- Generally yes, but mechanisms must be in place to ensure competence with admitting states' laws

Questions for the Commission

1. What is the purpose of regulating the profession?
2. What is meant by "access"?
3. How do we deconstruct the system to promote the services we need?
4. How do we address the fact that ABA accreditation requirements are out of touch with real legal education needs?
5. Solicit views on licensing non-lawyers to do work in courts, and other areas which are now the exclusive preserve of lawyers.