

# **Summit Update: From Blueprint to Action**

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**Carole A. Wagan**  
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Carole A. Wagan is the Director of Advanced Legal Studies, Center for CLE and Academic Conferences at Suffolk University Law School in Boston. Prior to coming to Suffolk in 1992, she was a Program Attorney at Massachusetts CLE for 6 years. Before her career in CLE, Carole was the founding Director of the Legal Advocacy & Resource Center and a law reform attorney for a community action program representing low income people in housing, energy and welfare issues. She is a past President of ACLEA and served on the Executive Committee from 1995-2001. She has presented at numerous ACLEA meetings. She was the chairperson of the ACLEA Mid-Year Meeting in Charleston in 1998 and was the Chair of the ACLEA Member Services committee for two years. Carole has participated on many ACLEA workshops and in the ACLEA revue. She was on the Planning Committee and served as a breakout reporter for the ALI-ABA/ACLEA Critical Issues Summit. Carole now serves as the Chair of the Summit Initiatives Committee. She accepted an appointment to the newly formed Conferences Committee of the American Bar Association Section on Legal Education and Admission to the Bar. Carole is a past chair of the Continuing Legal Education Section of the Association of American Law Schools and has served in leadership positions on that Section as well as coordinating and participating on Section panels. Carole has been a member of the Board of Directors of the Legal Advocacy & Resource Center since 1988. She was a member of the Board of Directors of Congregation Ahavas Achim. For many years she was a member of the Joppa Jazz Dance Company and President of their Board of Directors.

**William E. Connors**  
State Bar of Wisconsin PINNACLE  
Madison, WI

William E. (Bill) Connors has been the State Bar Wisconsin's Director of PINNACLE™ (formerly CLE Director) since July 2006. He presently serves as co-chair of ACLEA's Executive Leadership SIG. CLE is Bill's fourth career, depending on how you count them. Before joining the State Bar of Wisconsin, Bill was the city administrator of a small city in southern Wisconsin. Before that, he served as the Director of Tax Increment Financing Division of the Office of the Minnesota State Auditor. Earlier in his career, Bill served as a legislative fiscal analyst in the Minnesota House of Representatives. Long ago, Bill practiced law with Fredrikson & Byron in Minneapolis, primarily representing debtor businesses in Chapter 11 bankruptcy reorganizations. Bill received a B.A. in History, an M.A. in Public Policy and Administration, and a J. D., all from the University of Wisconsin-Madison.

**Sandra R. Geller**  
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Sandy Geller is a graduate of Dowling College and Hofstra University School of Law. She practiced law in New York before joining PLI in 1978 as a Program Attorney. Ms. Geller was appointed Director of Programs in 1989 and was promoted to Associate Director in 1992. She currently serves as Vice President. She is a frequent speaker for the Association for Continuing Legal Education and has served as a member of the American Law Institute - American Bar Association Committee on Continuing Professional Education.

**Elizabeth H. Loftus**  
Leo Cussen Institute  
Melbourne, Victoria

Elizabeth Loftus is the Executive Director of the Leo Cussen Institute, an independent not for profit organisation which provides pre admission training for law graduates as well as continuing legal education. She holds qualifications in Arts, Law, Commerce, Business and Education and Training. Prior to joining the Institute in 1988, Elizabeth held positions as a lawyer in both private practice and government and was a part time lecturer in law.

Elizabeth is a past Chair of the Australasian Professional Legal Education Council (APLEC) and continues as the Secretary of that organisation. She is also a member of the Law Admissions Consultative Committee (LACC) and is a past Chair of the International Committee of ACLEA.

On behalf of APLEC and LACC, Elizabeth coordinated the development of the National Competency Standards for Entry Level Lawyers which now form the basis for post graduate professional legal training and admission in all Australian jurisdictions.

**Raymond C. Ruppert**  
North Carolina Bar Association Foundation  
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Ray Ruppert is the Director of Continuing Legal Education for the North Carolina Bar Association Foundation. Ray assumed his current position in 1998 after a distinguished military career. He manages an office of thirteen people that produces approximately 80 live CLE programs and 300 video replays each year. Ray's office received numerous awards for CLE programming, marketing and public service. He is a past president of the Association of Continuing Legal Education (ACLEA). Ray was born in New York City, New York and graduated from Fordham University, in New York City, in 1968, with a Bachelor of Science Degree in Secondary Education. He received his law degree from the University of Oklahoma in 1976. Ray is an active member of the North Carolina State Bar, a former member of the Oklahoma Bar and a retired member of the New Jersey Bar. He is also admitted to practice before the United States Supreme Court and the United States Court of Claims. He has written for the *Oklahoma Law Review*, *Military Review* and *The Army Lawyer*.

# **“Preparing Lawyers for Tomorrow’s Profession: The Future is At Hand”**

**Documents from the North Carolina Bar Association Mini – Summit**

**Document # 1 – “Themes From The September 10, 2010 Summit Conference”**

**Document # 2 – “Bar President’s View of the Summit – Opening Remarks**

**“Preparing Lawyers for Tomorrow’s Profession: The Future is At  
Hand”**

By

Raymond C. Ruppert

Director of CLE

North Carolina Bar Association Foundation

Cary, North Carolina

*Presented at:*

ACLEA 47<sup>TH</sup> Mid Year Meeting

January 22-25, 2011

San Francisco, CA

# **“Preparing Lawyers for Tomorrow’s Profession: The Future is At Hand” \***

**A Report on the North Carolina Bar Association’s mini – “Critical Issues Summit”**

## **The Summit - Background**

Recognizing the national discussion on the current and changing state of legal education and professional development, as reflected in last year’s ACLEA-ALI-ABA “Critical Issues Summit,” the leadership of the North Carolina Bar Association (NCBA) called for a statewide summit on September 10, 2010. The purpose of this summit was to “foster meaningful dialogue on how lawyers are trained and the skills needed for success in our increasingly demanding profession, now and in the future.”

This invitation-only conference brought together the leaders of North Carolina’s legal profession. Invitations went to all of the law school deans, members of the judiciary, the State Bar, Legal Aid of N.C., presidents of major statewide voluntary bar associations, state government, managing partners of large firms, representatives of medium, small and solo firms as well as young lawyers.

The driving force behind this summit was recognition by the NCBA’s leadership that several distinct but related factors are impacting the legal profession. Our weakened economy forced the normal sources of entry-level hiring – law firms, government agencies and non-profits – to reduce or delay hiring and lower salaries. Law firms challenged to meet increasing client demands, particularly those associated with lowering costs, must also meet their mentoring and training obligations to new attorneys. Law schools face the need to train their students to handle real world legal problems yet they must do so with a student population that lacks significant skill in writing fundamentals. Law students struggle with heavy burdens of student debt yet face a shrinking job market with lower pay.

Believing these challenges are not temporary but reflected permanent changes to the profession, the summit convened.

## **The Summit – Format**

The format for the summit was typical for meetings like this one. After opening remarks, a plenary session convened with a keynote address by Thomas S. Clay, a principal of Altman Weil. He spoke on “The Changing Dynamics of the Legal Profession: an Overview.” He was followed by a panel discussion on “Bridging the Gap Between Law School and Law Practice: Perspectives from the Front Lines.” The panelists consisted of an associate justice of the state Supreme Court, a vice president-legal of a large corporation and two managing partners of law firms. Deborah Epstein Henry, founder and president of Flex-Time Lawyers LLC, followed the panel. She spoke during a working lunch on “Law and Reorder: New Models of Legal Practice and Career Paths.”

*\* Author’s note: this paper was originally prepared for publication in ACLEA’s “In the Loop”*

The afternoon was devoted to breakout sessions. One session addressed “Challenges for Law Firms and the Profession.” Another group examined “Challenges for Law Schools.” The third group considered “Challenges for Law Students and Young Lawyers.” A group leader, assisted by two co-reporters, led each breakout session. Group leaders and co-reporters were selected because of their background and familiarity with the topic. Thus, the dean of a law school chaired the breakout session on “Challenges for Law Schools.” His co-reporters were another serving dean and a former dean of a law school.

After the breakout sessions, attendees reconvened for another plenary session to hear reports from each of the sessions. The summit concluded with a discussion on how to proceed to address the issue raised during the day.

## **The Summit – An Overview**

While space limitations do not permit listing all of the discussion points raised by the summit, several “themes” were developed and reported during the final plenary session.

Themes concerning law schools included the observation that the “interests of law schools and the profession are not always aligned.” Practicing attorneys participating in this discussion expressed concern that “too many lawyers are entering the legal profession in North Carolina now, and that this trend will worsen.” Participants noted that there is no one “stakeholder” who sees itself as the “gatekeeper” to the legal profession in North Carolina. As reported, “No one has the resources or wants to take the responsibility for deciding who can become a lawyer.” Other themes relating to law schools included: concern over the writing skills of new lawyers; whether law school provide new lawyers adequate training on professionalism; and is legal education too focused on “theoretical analysis” and not focused on the practical skills needed in the North Carolina legal marketplace.

Discussion concerning law practice and law firms raised the question of whether it will still be the primary job of “a new lawyer’s first employer(s) to provide the apprenticeship that our profession takes for granted?” A major theme arising from this discussion group concerned the writing skills of new attorneys. For example, it was noted that: “Although legal writing courses are taught in law schools, law school courses are typically graded on the basis on content, not writing skills.” The same observation was made about bar exams.

Another major theme to come out of the summit was professionalism. Concern was expressed that generational differences may cause differences of opinion on what “professionalism” means. Whether law firms are mentoring young attorneys sufficiently on the concept of professional became a topic of discussion. Even the question of whether “professionalism may be at risk in this new economic environment” was raised as lawyers and their firms seek to survive in the current economy.

## **The Summit – A Summary**

The goal of the summit was to start a dialogue among the various elements of the legal profession in North Carolina. With the focus on discussion, there was no intent of framing an action plan to address the multitude of complex issues facing the profession in North Carolina. The bar's leadership recognized from the outset that a list of recommendations and "next steps" would have to follow the summit. The key was to get the "stakeholders" together and talking to each other. Goal accomplished.

What is striking about this mini-summit on the state level and the ACLEA- ALI-ABA "Critical Issues Summit" that took place last year is the similarities between the two events. Both summits convened out of a recognition that the legal profession is changing. Both conferences were successful because they brought together a very diverse group of people with a common interest – addressing today's issues in the legal profession so that tomorrow the profession would be better. Both events raised similar if not identical issues – one on the state level, the other on either a national or an international level.

Both meetings recognized that at the end of the summit, the hard work was just beginning. It is one thing to convene a meeting and a very different challenge to distill from the meeting the critical items that can be addressed in a meaningful fashion. Just as the Summit Joint Steering Committee representing the leadership of ALI-ABA and ACLEA convened a strategic planning session on July 24, 2010, to develop goals and action items for implementing their summit's recommendations, so too the NCBA is taking its next step by meeting with various bar leaders throughout the state to develop a list of recommended next steps.

The work goes on.

## Document # 1

### THEMES FROM THE SEPTEMBER 10, 2010 SUMMIT CONFERENCE

#### I. Themes About Law Schools

- Dialogue among the law schools and the profession is important, and we need to continue it.
- The interests of law schools and the profession are not always aligned. Law schools, for example, produce revenue for the educational institutions of which they are a part. This is an incentive, in the short term, to enroll students without regard to their future employability. Ultimately, however, both law schools and the profession need to be healthy and have a solid relationship with each other so that both can thrive. Trying to separate responsibilities for the future well being of the profession isn't helpful.
- The law school debt burden is a significant concern for many young lawyers.
- Changes arising from the economic upheaval of the last several years that affect the legal profession are real and here to stay.
  - Jobs are more scarce and compensation has been reset at many firms. There is no sign that this situation is changing in the near term.
- There is a concern among practicing lawyers that too many lawyers are entering the legal profession in North Carolina now, and that this trend will worsen.
  - Law school enrollment in North Carolina law schools appears to be rising.
  - No one "stakeholder" sees itself as the "gatekeeper" to our profession in North Carolina. The misalignment of interests between law schools and the practicing bar (see above) contributes to this. No one has the resources or wants to take responsibility for deciding who can become a lawyer.
  - The profession may not be able to absorb an increasing number of lawyers or provide the traditional apprenticeship that has been a critical part of the transition from law school to practice for many decades.
- See the comment on writing skills of new lawyers, II below.

- See the comment on whether new lawyers are receiving adequate training on professionalism in law schools, III below.
- Legal education may be too focused on theoretical analysis and not focused enough on the practical skills needed by most lawyers in North Carolina.

## II. Themes About Law Practice and Law Firms

- The deluge of information from online publications, blogs, etc. about the challenges the profession faces is out of hand. The “noise” is often inconsistent with the facts.
- Technology is dramatically changing the way that law is practiced, and will continue to be a force that connects people more but also serves as a barrier to actual face-to-face contact.
- Will it still primarily be the job of a new lawyer’s first employer(s) to provide the apprenticeship that our profession takes for granted?
- Lowering the “delivery costs” of legal services will be a key to success for many lawyers in coming years.
  - Over the 25-year period leading into the recession, law firm profitability increased as billing rates increased.
  - Clients are now much more interested in the value a lawyer or law firm provides. Corporate clients are calling a halt to the substantial annual increases in hourly rates that characterized the last 25 years.
  - Commoditization of legal services is a powerful force, particularly affecting smaller firms and solo practitioners who rely on routine work for a portion of their practice.
  - Despite all this, clients remain highly satisfied, on the whole, with the counsel their lawyers provide. Character, integrity and judgment are the chief qualities clients seek in their lawyers.
  - Many clients in North Carolina seem willing to continue to help law firms invest in the careers of junior lawyers, as long as the price is fair,

especially if this helps avoid the attrition from the profession that costs clients more in the long run.

- The legal profession in North Carolina has become more “business driven” over the past couple of decades.
  - On the whole, however, North Carolina’s larger firms have not experienced the same volatility as the “AmLaw 100,” and the effects of the recession seem more muted here.
- New lawyers have inadequate writing skills.
  - Although legal writing courses are taught in law schools, law school courses are typically graded on the basis of content, not writing skills.
  - Bar exams are graded on the basis of content, not writing skills.
  - New lawyers are used to communicating in “bursts” via texts and e-mails, not in nuanced or modulated prose.
- Many firms are replacing lockstep advancement systems with “core competencies” models.
- Small firms are not being affected by the same dynamics (e.g., the globalization of business) as are larger firms and need to be looked at in a different way.

### **III. Themes About the Profession and Professionalism.**

- Professionalism may be at risk in this new economic environment.
  - “Professionalism” itself is open to varying definitions, so there may not be a shared understanding of what it means.
  - Are students receiving adequate training in law schools about professionalism?
  - There may be insufficient mentoring by law firms around the ideal of professionalism.
  - Nevertheless, there is a sense that professionalism remains an important value in North Carolina.

- Generational differences between newer lawyers and those who began practice as recently as 10 years ago are changing the face of our profession.
  - Many law students may be in a “prolonged period of adolescence” and do not actually interact much with “adults”.
  - Young lawyers are generally accustomed to communicating in more informal ways and not with the care and precision traditionally expected of lawyers.
  - Young lawyers are often very skillful at using technology and rely on technology to a greater degree.

## Document # 2

### REMARKS

By GENE PRIDGEN

### “PREPARING LAWYERS FOR TOMORROW’S PROFESSION: THE FUTURE IS AT HAND”

September 10, 2010

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#### Purpose of Summit Conference

Collectively, law schools and the legal profession share a mutual interest in how best to guide prospective young lawyers into the legal profession. Traditionally, we have continually replenished our “pipeline of talent” by attracting bright capable people to law schools; locating funds for their education; teaching them legal methods and doctrines and introducing them to applied legal methods; certifying and licensing them; and finally inviting them to law firms and other legal employers where they are provided further highly practical training and mentoring so that they emerge as competent and successful members of the legal profession. A crucial concern for all of us is whether this “pipeline” is now at risk.

And we should simply say up front that while we share mutual interests, we each also face different and sometimes conflicting pressures. For example:

- Law firms and their clients face severe economic pressures, pressures that may have been building over time but are exacerbated by the current economic recession. And their attempts to deal with these pressures put law firms and their clients at odds with one another to some extent. After all, “legal spend” has a different look if you are a law firm or its client.
- Law schools face growing pressures from law firms to provide more practical education through clinics, simulation courses and other small class settings, all of which are especially expensive and only add to the cost of a legal education. And the *US News & World Report* rankings provide additional pressure for law schools.
- Prospective law students thus see a world of rapidly escalating law school tuition costs, greater debt burdens, fewer jobs at lower pay and other uncertainties and wonder where or if they fit.

So, with both our mutual interests and our divergent pressures in mind, let me summarize our basic thinking about the need for this conference:

- The legal profession is facing profound, and accelerating, change. We have heard about “profound change” for years, but the economic downturn has made

it evident to all of us that the changes we have seen in the last few years are for real, and they are probably here to stay.

- None of us understands the full implications of these changes, but each “stakeholder” needs a better understanding of how other “stakeholders” in our profession are affected.
- We are, ultimately, all in this together, all dependent on the continuity of that “pipeline of talent” into our profession and on the general health and well being of the legal profession. We are all deeply affected by the changes that are occurring.
- We all have an important obligation to the legal profession: to be sure we are good stewards of what we inherited and to leave our profession better than we found it.
- We at the Bar Association felt that our ability to understand and react to these changes would be enhanced by bringing together the best minds of the academy and profession. To share our own somewhat different perspectives about these changes. To have the opportunity to question and perhaps even prod each other, but, most of all, to understand each other.
- There might be positive and proactive things that we should be doing, individually or collectively, to influence the direction of these changes.

### **My own comments and thoughts**

I believe that, from my own perhaps narrow perspective, we are at a critical juncture in our profession. A time that challenges the traditions and ideals of our profession in a way that I certainly have not experienced in my own 30 plus years. Here are a few of the interrelated questions that I ask myself.

- Is our traditional law school model of teaching flawed? What special pressures do law school face? What should law firms be able to expect of first year lawyers? Should law schools continue to emphasize their traditional strength - - development of students’ “critical thinking” skills - - or move towards more practical training? Should law students be taught more about the “business of law”?
- Are too many lawyers being produced for too few jobs and jobs with too little salary for too much debt? Who should be the “gatekeepers” of our profession? Should there be “gatekeepers” at all? Do law students have unrealistic

expectations about the practice of law? Or do law firms have unrealistic expectations of new lawyers?

- Is our traditional law firm model flawed? Do law firms provide opportunities for appropriate mentoring and development of young lawyers? Who should “pay” for the training of young associates? How well do law firms address work/life balance? Diversity? Pro bono?
- Why do our young lawyers, and some old ones too, seem so disappointed with the practice of law? What part do generational differences play? The pressure of the economics of law practice? The effect of technology: connecting but isolating.
- In the midst of all this uncertainty, how do we continue to attract the “best and brightest” talent to our profession? What do prospective law students see when they look at our profession? What happens to our profession if we face a severe “brain drain”?
- Have our relationships with clients fundamentally and irrevocably changed? Is it because of the service we provide? The fees that we charge, either the amount or the method of charging? The move away from long-term relationships? Competition in the marketplace?
- Do the revolutionary changes in information technology fundamentally change the way we practice law? What about the commoditizing effect? The isolating effect?
- Are we too much about the “business” of law and too little about the “profession” of law? Or is it vice versa?
- How is globalization affecting our profession? Should there be regulatory restrictions across jurisdictions (both for states in the U.S. and for countries worldwide)? Outsourcing of legal work? Global needs of clients?
- What is the appropriate role of lawyers in our society? Has it changed?

To understate it, these changes cut across all aspects of our profession.

### **What we hope to accomplish at the Summit Conference**

Three things:

- **First**, we want to begin the dialogue and see where it takes us. Simply sharing our views has real value. We are not aware of other bar associations holding

these types of summit conferences, but we expect there will be more and more of these. We hope so.

- **Second**, we expect to capture today's discussion, as best we can, in a form that can be shared with you all. Standing here before you now, it is not clear to me that we will arrive at any definitive conclusions or come up with ways to "fix" the problems our profession faces. If only we could. These are complicated issues with uncertain answers. Today is much more about discussion rather than framing an action plan.
- **Third**, we hope that the leadership of the NC Bar Association, in conjunction as appropriate with various "stakeholders", will be able to develop a list of recommended next steps.

## **Serving the Underserved – A Brief Summary of PLI’s Pro Bono Activities**

submitted by Sandra R. Geller,

Executive Vice President, Practising Law Institute

Recommendation 16 of The Critical Issues Summit – Equipping Our Lawyers: Law School Education, Continuing Legal Education, and Legal Practice in the 21<sup>st</sup> Century begins by stating that “acknowledging our professional responsibility, the legal community should continue to develop programs that will prepare and encourage law students and all lawyers to serve the underserved.” To aid in the discussion of implementation of the summit recommendations, Carole Wagan, Chair, Summit Initiatives Committee and Member, Summit Implementation Committee asked me to discuss how PLI is implementing Recommendation 16. What follows is a brief summary of PLI’s Pro Bono activities. It is hoped that this summary may be useful to others in implementing or enhancing their activities.

Enabling lawyers to practice law “competently and ethically and to fulfill pro bono responsibilities” is part of PLI’s mission statement and an important part of who we are. Our activities in this area predate the summit by many years, although our goals are the same.

A cornerstone of our pro bono activities is developing and presenting programs in areas of interest to those who practice public interest law or take pro bono cases. In 2010, we will have presented over 25 programs to help lawyers who serve those in need. (See Exhibit A for a list of these programs.) Our pro bono curriculum is developed on the basis of this need. Some programs are presented annually and address ongoing areas of concern, while others are developed on very short lead times to address pressing problems and may be offered free of charge. Examples of two fast-track free programs are “The Aftermath of Terrorism: Confronting the Legal Issues” presented in 2001 and “Rebuilding After Katrina” presented in 2005. Other free programs we have offered recently are: “Crisis in Haiti: Addressing the Legal Issues,” “Protecting Constitutional Rights in the Digital Age” and “Fulfilling Your Sixth Amendment Duty Under *Padilla v. Kentucky*.” “Slaying Goliath: Fighting Fraud and Contesting Standing in Residential Foreclosures in Judicial States” is a new program that will be presented in January 2011.

Our scholarship program goes hand-in hand with our programming. Scholarships are offered to individuals facing financial hardship or who are unemployed, as well as to students, professors, those in government service or doing pro bono work, judges, law clerks and retired members of the bar. In 2009, we granted more than 9,000 scholarships and have already exceeded that number this year.

Pro Bono Privileged Memberships are also offered to enable attorneys in the law departments of non-profit organizations, legal services organizations and government agencies to access our on-demand programs free of charge. We currently have over 125 Pro Bono Privileged Members.

In addition to the services mentioned above, PLI's California Center in San Francisco also offers development assistance and hosts live and live-webcast Pro Bono programs.

PLI collaborates with The State Bar of California, Public Interest Clearinghouse, the Legal Aid Association of California and others to identify legal aid staff attorneys and pro bono attorney professional development needs. Effective needs assessment from the trenches assures that the programs are well attended. Eight programs were reinstated after the normal one-year expiration because of continued customer demand in California and elsewhere across the nation. Two great areas of unmet need are family law and mortgage foreclosure. A number of programs in these two practice areas have been presented over the last two years. Legal Services staff attorneys have benefitted from these programs and the number of pro bono attorneys taking these cases has increased.

PLI also publishes books that assist the pro bono community. Our most recent publication in this area is "Pro Bono Service by In-House Counsel - Strategies and Perspectives." Edited by David P. Hackett, a partner in the Chicago office of Baker & McKenzie LLP, this multi-authored volume provides a guide to corporation seeking to establish pro bono programs, provides examples of successful programs, discusses how to measure the success of such programs and how to collaborate strategically.

## Exhibit A

### 2010 Pro Bono Programs

1. Diversity in Law Practice: Strategies and Best Practices in Challenging Times
2. Current Developments in Federal Civil Practice
3. 12<sup>th</sup> Annual Supreme Court Review
4. Federal Civil Practice Update: A Practical Guide to New Developments, Procedures & Strategies
5. 27<sup>th</sup> Annual Section 1983 Civil Rights Litigation
6. Financial and Reporting Issues for Nonprofit Organizations
7. Adoption Law Institute
8. Ethical Issues in Pro Bono Representation
9. Advising Nonprofits
10. Basic Immigration Law
11. 10<sup>th</sup> Annual Municipal Law Institute
12. 13<sup>th</sup> Annual Children's Law Institute
13. Prison Law Institute
14. Defending Immigration Removal Proceedings
15. 43<sup>rd</sup> Annual Immigration and Naturalization Institute
16. School Law Institute
17. 22<sup>nd</sup> Annual Elder Law Institute
18. Negotiation Workshop for Lawyers
19. Presentation Skills for Attorneys
20. Employment Discrimination Law and Litigation
21. Winning Strategies for Managing Your Career in Difficult Times
22. Judges' Pet Peeves: Tips from the Bench on Trial Practice
23. Crisis in Haiti – Addressing the Legal issues
24. Protecting Constitutional Rights in the Digital Age
25. Fulfilling Your Sixth Amendment Duty Under *Padilla v. Kentucky*

## **Exhibit B**

### **2010 San Francisco Pro Bono Programs**

1. Same Sex Marriage in California
2. 300 Things You Can Do With a Law Degree
3. Redlining and Predatory Lending
4. Protecting Domestic Violence Survivors and their Children Part II
5. The Essential Components of a Chapter 7 Bankruptcy
6. Defending Unlawful Detainers: Training Pro Bono Attorney to Help Families Avoid Homelessness
7. Eviction Defense in San Francisco for Pro Bono Attorneys

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## Lawyers serving the public good.

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## **Implementation of Summit Recommendations in Wisconsin**

In Wisconsin, the Board of Bar Examiners (BBE) is responsible for administering the bar exam and regulating continuing legal education. CLE is mandatory in Wisconsin. All lawyers who actively practice law in Wisconsin must join the State Bar of Wisconsin (SBW), but the SBW has no role in CLE regulation or lawyer discipline.

The BBE recently asked the SBW to enter into discussions about the possibility of establishing a mentoring program for new lawyers and special mandatory CLE requirements for new lawyers. Interestingly, the request was not made by the BBE's CLE Committee, but by its Bar Exam Committee. The Bar Exam Committee is concerned that the Wisconsin bar exam, an essay exam on Wisconsin law, is not a particularly effective means of determining the competence of a lawyer to practice law in Wisconsin, and consequently the committee is looking for alternatives.

Relatively few people take the Wisconsin bar exam, because graduates of the two law schools in Wisconsin, the University of Wisconsin and Marquette University, are admitted to the Wisconsin bar without taking a bar exam by virtue of a "diploma privilege." The Supreme Court of Wisconsin recently rejected a petition to repeal its rule that grants the "diploma privilege." Consequently, the BBE's Bar Exam Committee is not concerned about the competence of University of Wisconsin and Marquette University law school graduates to practice law, at least if they are employed by a law firm or government or corporate law office.

The Bar Exam Committee expressed an interest in establishing a mentorship program as a voluntary alternative to the bar exam. Based on the initial conversation, the mentorship program might assign to the mentor the responsibility of grading the mentee's performance during the mentorship program.

I had sent the BBE's director information about the summit's recommendations and the Equipping Our Lawyers website several times before this meeting, and I was heartened to observe during the meeting that the handouts distributed to the BBE's Bar Exam Committee included an article about the Georgia mentorship program from the Equipping Our Lawyers website. Hence it appears the post-summit support of the summit's recommendations is having a positive influence in stakeholders in Wisconsin.

In addition, the Bar Exam Committee is concerned about the competence of new lawyers, including graduates of the University of Wisconsin and Marquette University law schools, who embark on solo private practice straight out of law school. Due to recent economic conditions and the shortage of positions in law firms and government and corporate law offices, more new lawyers are embarking on solo private practice straight out of law school. The Bar Exam Committee is concerned that law school does not provide new lawyers with all the training and skills needed to be successful in solo private practice. Based on the initial discussion, it appears the Bar Exam Committee is considering

recommending to the Wisconsin Supreme Court that the mandatory CLE requirements be modified to include special requirements for all new lawyers, even though their concern is focused on new lawyers entering solo private practice.

At the request of the Bar Exam Committee, I prepared and distributed at the meeting a suggested outline of a continuing legal education curriculum for lawyers fresh out of law school. For the subjects included in the suggested outline, I drew heavily upon a competency model developed in Canada. The outline provided that that certain topics would be mandatory for all new lawyers and that they should be allowed to choose among electives to complete their specialized mandatory CLE requirement. New lawyers would be allowed to complete this specialized CLE requirement during their first CLE reporting period (in Wisconsin, the first CLE reporting period is at least two years long), and completing it would fulfill part, but not all of their mandatory CLE requirement for their first reporting period. During the meeting, the members of the Bar Exam Committee members asked me questions about the outline and indicated they would consider it.

After the meeting with the BBE's Bar Exam Committee, I briefed the SBW's CLE Committee about the meeting and asked if the CLE Committee wanted to engage in promoting the ideas expressed by the BBE's Bar Exam Committee or any of the summit recommendations. The SBW's CLE Committee showed little interest. Specifically, the SBW's CLE Committee expressed that it would prefer not to impose special mandatory CLE requirements on new lawyers, except possibly for specialized ethics programming. They supported providing specialized CLE programming for new lawyers or lawyers new to solo private practice, but only if it were voluntary.

While the response of the SBW's CLE Committee was disappointing, it does not mark the end of the road for implementing the summit recommendations in Wisconsin. At most, it serves as a cautionary tale about how challenging it might be to persuade rank-and-file lawyers to support the summit's recommendation. This is something that bar association leaders would be well advised to keep in mind and plan to address when they consider how to encourage implementation of the summit's recommendations in their jurisdictions.

We have a second meeting with the BBE's Bar Exam Committee on this subject in January, shortly before this ACLEA conference. We in the staff of the State Bar of Wisconsin will endeavor to assist the BBE in finding resources to help the BBE shape the changes it will implement and the recommendations it will make to the Wisconsin Supreme Court regarding how to better prepare, and measure the competency of, lawyers to practice law in Wisconsin.

## Law Schools

### A Sampling of Significant Curriculum Reforms

December 20, 2010

Law School	Course	Students	Description
University of California - Irvine School of Law	First year course focusing on the legal profession	1L students	Course looks at life in firms, prosecutor offices, judiciary, legal aid, etc. Draws from history, economics, politics in addition to legal studies in order to learn about everyday roles and ethical issues. Source: <a href="http://www.law.uci.edu/registrar/curriculum.html">http://www.law.uci.edu/registrar/curriculum.html</a>
University of California – Los Angeles (UCLA) School of Law	Special LLM program for recent law school graduates	Recent alumni	“Transition to Practice” program: designed to give recent graduates the skills that first-year associates would learn at law firms Source: <a href="http://www.law.ucla.edu/home/News/Detail.aspx?recordid=2183">http://www.law.ucla.edu/home/News/Detail.aspx?recordid=2183</a>
City University of New York (CUNY) School of Law	Liberty Equality and Due Process	1L students	1Ls required to take course providing legal and historical perspectives on liberty and equality by examining the law's impact on racial and gender equality and sexual orientation. Source: <a href="http://www.law.cuny.edu/academics/curriculum/Required1stYear.html">http://www.law.cuny.edu/academics/curriculum/Required1stYear.html</a>
University of Colorado Law School	Legislation course requirement and 1L spring elective	1L students	Legislation and Regulation course now mandatory and added spring semester elective, shrunk Civil Procedure and Property to one semester each to accommodate. Source: <a href="http://lawweb.colorado.edu/news/showArticle.jsp?id=610">http://lawweb.colorado.edu/news/showArticle.jsp?id=610</a>
University of Dayton School of Law	“Lawyer as a Problem Solver” program	Every student	All students must take a course in ADR, an externship, and clinical or capstone course based on real-life simulation in order to graduate Source: <a href="http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202433612463&amp;Realitys_knocking&amp;slreturn=1&amp;hbxlogin=1">http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202433612463&amp;Realitys_knocking&amp;slreturn=1&amp;hbxlogin=1</a>
University of Detroit-Mercy	Environmental Law	Upper level	- Environ Law Clinic handles DOJ enforcement actions

School of Law	Clinic - Law Firm Program	students	- Law Firm Program: students work in “departments” handling complex litigation and transactions like in a firm. Source: <a href="http://www.nationaljurist.com/content/most-innovative-law-schools">http://www.nationaljurist.com/content/most-innovative-law-schools</a>
Duke University Law School	First year course focuses on examining different legal careers and various ethical issues in legal profession	1L students	“Dean’s Lecture Series” program: year long course brings in practicing attorneys to teach on various real-life situations Source: <a href="http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202433612463&amp;Realtys_knocking&amp;slreturn=1&amp;hbxlogin=1">http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202433612463&amp;Realtys_knocking&amp;slreturn=1&amp;hbxlogin=1</a>
Georgetown University Law School	- “Week One: Law in a Global Context” program - “Curriculum B”	1L students	- Week One: one week course at start of spring semester having 1Ls work on complex int’l problem together - Curriculum B: one section of 1Ls does separate tract of non-traditional classes focusing on political theory, history, economics, & legal history. Sources: <a href="http://www.aals.org/documents/curriculum/documents/GeorgetownWeekOne.pdf">http://www.aals.org/documents/curriculum/documents/GeorgetownWeekOne.pdf</a> <a href="http://www.aals.org/documents/curriculum/documents/GeorgetownCurriculumB.pdf">http://www.aals.org/documents/curriculum/documents/GeorgetownCurriculumB.pdf</a>
Gonzaga University School of Law	Capstone Clinic or Externship	3L students	Third year students are required to serve real clients either in a clinic or externship under attorney supervision Source: <a href="http://www.law.gonzaga.edu/academic+program/curriculum/default.asp">http://www.law.gonzaga.edu/academic+program/curriculum/default.asp</a>
Harvard Law School	Courses in legislation/regulation, int’l law, & legal problem solving	1L students	Adopted in 2006, first changes in 100 years; then-Dean and now Supreme Court Justice Elena Kagan helped spearhead Source: <a href="http://blogs.law.harvard.edu/palfrey/2006/10/10/curricular-reform-at-harvard-law-school/">http://blogs.law.harvard.edu/palfrey/2006/10/10/curricular-reform-at-harvard-law-school/</a>
Howard University Law School	Legal Method/Civil Rights course	1L students	1Ls take 2 credit course studying landmark Supreme Court civil rights decisions in order to teach students basic skills like interpreting statutes and briefing cases, but also how history and morality affect legal decisions. Goal is also to educate on Howard’s role in civil rights progress Source: <a href="http://www.law.howard.edu/law_school_curriculum">http://www.law.howard.edu/law_school_curriculum</a>

Indiana University Maurer School of Law	First year course focusing on legal profession	1L students	“Legal Profession” course: year-long course focuses on ethics, competencies, and economics of the legal profession, inspired by Carnegie Report Source: <a href="http://www.law.indiana.edu/degrees/jd/curriculum">http://www.law.indiana.edu/degrees/jd/curriculum</a>
University of Missouri Kansas City Law School	Intro to Law Course	1L students	Each course also includes smaller workshop on skills Source: <a href="http://www1.law.umkc.edu/academic/Fall2010/schedule.pdf">http://www1.law.umkc.edu/academic/Fall2010/schedule.pdf</a>
University of Montana Law School	Pre-trial Advocacy	1L students	Full year course focusing on client interviewing, counseling, pre-trial motion drafting, discovery, ADR, etc Source: <a href="http://www.umt.edu/LAW/acadprog/pretrialadv.htm">http://www.umt.edu/LAW/acadprog/pretrialadv.htm</a>
University of New Hampshire School of Law	Perspectives Course	1L students	In 1L spring, students choose 3 credit course from Fundamentals of Law Practice, Fundamentals of IP, Legal Philosophy, or Public International Law Source: <a href="http://law.unh.edu/curriculum/intro.php">http://law.unh.edu/curriculum/intro.php</a>
New York University Law School	Spring Semester courses	1L students	In spring, 1Ls take classes on legislation/regulation, written and oral advocacy, and lawyering. Most traditional 1L courses are in one semester only Source: <a href="http://www.nyls.edu/academics/jd_programs/j_d_course_of_study/sequence_of_courses">http://www.nyls.edu/academics/jd_programs/j_d_course_of_study/sequence_of_courses</a>
Nova Southeastern University Shepard Broad Law Center	Lawyers Skills and Values	All students	First year students take course in each semester learning how to research and also lawyer skills; upper level students continue these classes with a focus on litigation, transactions, or general practice Source: <a href="http://nsulaw.nova.edu/students/current/lsv/lsv.cfm">http://nsulaw.nova.edu/students/current/lsv/lsv.cfm</a>
University of Richmond Law	Lawyering Skills I & II/ Spring 1L elective	1L students	1Ls take full year course on critical lawyer skills like writing, oral advocacy, counseling, etc. 1Ls choose a spring semester elective from Family Law, Corporations, Environmental Law, or IP Source: <a href="http://law.richmond.edu/academics/first-year.html">http://law.richmond.edu/academics/first-year.html</a>
Santa Clara University School of Law	Required courses in Advocacy and Legal Profession	Upper level students	Upper level students are required to take course focusing on the special role of being an attorney, and also course focusing on being an oral advocate Source: <a href="http://law.scu.edu/academics/jd-degree.cfm">http://law.scu.edu/academics/jd-degree.cfm</a>
Seattle University Law School	Professional Formation Portfolio	2L & 3L Students	Matches up lawyer skills w/ courses & activities geared toward student’s subject interest. Source: <a href="http://www.nationaljurist.com/content/most-">http://www.nationaljurist.com/content/most-</a>

			innovative-law-schools
Thomas Jefferson School of Law	Remedies course	Upper level students	Upper level students are required to take this course on Remedies, focusing on legal and equitable relief and various measures of damages
Touro College Jacob D. Fuchsberg Law Center	Public Advocacy Center	All students	School leases space to public interest legal services in exchange for them using students. Source: <a href="http://www.nationaljurist.com/content/most-innovative-law-schools">http://www.nationaljurist.com/content/most-innovative-law-schools</a>
Vanderbilt University Law School	Regulatory State 1L course	1L students	Introduces 1Ls to modern administrative state & law. Source: <a href="http://www.aals.org/documents/curriculum/documents/VanderbiltCurricularReform.pdf">http://www.aals.org/documents/curriculum/documents/VanderbiltCurricularReform.pdf</a>
Washington & Lee University of Law	Mock clinics	3L Students	Courses put students in mock situations simulating fictitious clients and situations instead of a traditional 3L program. Program is optional with roughly 2/3 of students participating. Sources: <a href="http://law.wlu.edu/thirdyear/page.asp?pageid=650">http://law.wlu.edu/thirdyear/page.asp?pageid=650</a> <a href="http://www.nationaljurist.com/content/most-innovative-law-schools">http://www.nationaljurist.com/content/most-innovative-law-schools</a> <a href="http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202433612463&amp;Realitys_knocking&amp;slreturn=1&amp;hbxlogin=1">http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202433612463&amp;Realitys_knocking&amp;slreturn=1&amp;hbxlogin=1</a>
York University Osgood Hall Law School (Canada)	Ethical Lawyering in a Global Community	1L students	Full year course for first year students focusing on professional ethics and also introducing students to international and comparative law Source: <a href="http://www.osgoode.yorku.ca/jd/first_year_courses.html#public_law">http://www.osgoode.yorku.ca/jd/first_year_courses.html#public_law</a>



## **Critical Issues Summit**

*Equipping Our Lawyers:  
Law School Education, Continuing Legal Education,  
and Legal Practice in the 21st Century*

# **STRATEGIC PLAN FOR IMPLEMENTATION 2010**

## **Introduction**

In 2007 ALI-ABA Continuing Professional Education (“ALI-ABA”) and the Association for Continuing Legal Education (“ACLEA”) began planning a cross-disciplinary summit to examine the current state of lawyer education and professional development. The goal of the Summit was to develop recommendations on how current practices across the “continuum” of a lawyer’s learning life (to borrow a concept from the highly influential 1992 MacCrate Report) could be improved for 21<sup>st</sup> century practice. For such an effort to be successful, technology in all its forms—and in all its paradigm-changing manifestations—would have to be dealt with. In addition, all the key constituencies in lawyer professional development—law schools, CLE providers, MCLE regulators, law firm professional development, the bench and the organized bar—would have to be part of the discussion.

Thus was born the Critical Issues Summit, “Equipping Our Lawyers: Law School Education, Continuing Legal Education, and Legal Practice in the 21<sup>st</sup> Century,” held on October 15-17, 2009. To result in meaningful recommendations, the Summit was designed to be highly participatory. Its opening plenary featured two expert panels, one on the future of the legal profession and the other on the use of technology in lawyer education and development.<sup>1</sup> These panels were intended to inform the subsequent Summit discussions. After the plenary, conferees met concurrently in six assigned working groups organized by subject area. These six working group discussions, each with its own leader and reporter, formed the heart of the Summit. In them, conferees representing a range of constituencies reviewed assigned discussion questions and made recommendations for best practices or actions in the areas under review. From these many recommendations, each working group selected three key recommendations, which were subsequently debated in plenary session, where they were distilled into the Summit’s Final Recommendations.

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<sup>1</sup> Both panels were recorded and may be viewed at the official site of the Summit: [www.equippingourlawyers.org](http://www.equippingourlawyers.org).

Details about the Summit and its Recommendations can be found at [www.equippingourlawyers.org](http://www.equippingourlawyers.org). In addition, the Recommendations themselves are reproduced in the Appendix to this document.

ALI-ABA and ACLEA were committed from the outset to continuing the work begun at the Summit. As part of that effort, both organizations created a Summit Joint Steering Committee<sup>2</sup> at the executive level to pursue implementation of the Recommendations, as well as an advisory Summit Initiatives Committee<sup>3</sup>.

The Summit Joint Steering Committee convened a strategic planning session on July 24, 2010, to develop goals and action items for implementing the Summit Recommendations.<sup>4</sup> In advance of the strategic planning session, seven working groups of volunteers, drawn largely but not exclusively from the Summit Initiatives Committee, were formed to contribute their ideas for implementing the Recommendations. The reports of their deliberations focused on:

1. The key entities or individuals that should be brought into the process of implementation;
2. Information about existing or planned initiatives, from any source, that complement or expand upon the Recommendations; and
3. Specific suggestions for implementation based on the working group members' own experience.

This strategic plan is based on those reports as well as on the planners' own contributions. The plan has been approved by the Summit Joint Steering Committee representing the leadership of ALI-ABA and ACLEA.

For further information about Summit implementation efforts and achievements, visit [www.equippingourlawyers.org](http://www.equippingourlawyers.org) or contact either of the executive directors of ALI-ABA or ACLEA.

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<sup>2</sup> Composed of the executive directors of ALI-ABA and ACLEA, the president and president-elect of ACLEA, and two ALI-ABA staff members.

<sup>3</sup> The members of the advisory Summit Initiatives Committee are: Carole Wagan; Julene Franki; Sari Fried-Fiori; Cheri Harris; Holly Hitchcock; Kent Hopper; Jim Leipold; Myles Lynk; Rick Matasar; Erica Moeser; Donna Passons; Maury Poscover; Lalla Shishkevish; Chuck Turner; Scott Westfahl; Paul Wood. Ex Officio: Leslie Belasco; Chuck Bingaman; Mark Carroll; Lisa Deane; JoAnne Epps; Tom Hayward; Pat Nester; Vince O'Brien

<sup>4</sup> The session was facilitated by Summit Reporter Chuck Bingaman and attended by: Leslie Belasco, Mark Carroll, Lisa Deane, Julene Franki, Elise Geltzer, Kent Hopper, Sydnie Kuhre, Jan Majewski, Pat Nester, Vince O'Brien, Angela Parks, Donna Passons, and Carole Wagan.

**LAW SCHOOLS**  
**(Covering Summit Recommendations 1-4)<sup>5</sup>**

- 1. Examine teaching methods and curricula.**
- 2. Examine curricula to insure it covers the career-long development of lawyer competencies described in Model Rules, MacCrate Report, etc.**
- 3. Refine core practice competencies based on stage of education and practice areas.**
- 4. Transitional training programs beginning in law school and continuing into first few years of practice.**

<b>Goals</b>	<b>Timeline</b>	<b>Action Items</b>
Formally submit Recommendations to the Accreditation Standards Review Committee of the ABA Section of Legal Education and Admission to the Bar.  <a href="https://www.abanet.org/legaled/committees/comstandards.html">https://www.abanet.org/legaled/committees/comstandards.html</a>	October 2010— December 2010	<ul style="list-style-type: none"> <li>• Summit group to review both Recommendations and draft revised ABA standards to see where they dovetail and to comment upon their similarities; urge adoption</li> <li>• Appear personally before the committee?</li> </ul>
Have updates on progress of Recommendations placed on conference agendas of AALS and ABA Section of Legal Education and Admission to the Bar.	October 2010- November 2010 and every six months thereafter	<ul style="list-style-type: none"> <li>• Organize collaborative sessions at both organizations to demonstrate how Recommendations fit in with the ABA Standards</li> <li>• Law review article on the Recommendations</li> <li>• Reach out to state judges—get the Recommendations on their organization’s agenda</li> <li>• Include SALT and Association of Law Deans as recipients of updates</li> </ul>
Communicate personally with selected law school deans and key faculty members about the value of the Recommendations.	November 2010— February 2011 and as needed thereafter	<ul style="list-style-type: none"> <li>• Create list of deans and faculty members who are focused on curriculum changes</li> <li>• Call/contact deans and faculty on the above list</li> </ul>
Create more mechanisms for cooperation between the academy and the bar.	January 2011— December 2011 and as possible thereafter	<ul style="list-style-type: none"> <li>• Investigate local law school/bar organizations, where much work similar to Recommendations may already be underway</li> <li>• ALI-ABA and ACLEA may sponsor meetings in various parts of the country, inviting firms, large corporations, and bench to discuss how to collaborate in training new lawyers</li> <li>• Find and publicize implementation models, such as UNH.</li> </ul>

<sup>5</sup> See the Appendix for the full text of the Recommendations.

**BAR ASSOCIATIONS/LICENSURE  
(Summit Recommendation 5)**

**5. Restructure one-time bar examinations into phased examinations over time.**

<b>Goals</b>	<b>Timeline</b>	<b>Action Items</b>
Encourage mandatory mentoring programs. [Given the technical nature of this topic, the planners felt that the most that could be accomplished by the Steering Committee was this goal, which in some ways could be seen as expanding the requirements for licensure.]	February 2011-January 2013	<ul style="list-style-type: none"> <li>• Research Georgia, Utah, University of New Hampshire, and other models of mandatory mentoring.</li> <li>• Support mandatory mentoring before NABE, Conference of Chief Justices.</li> <li>• Develop a “how to create a mentoring program” resource.</li> </ul>

## MCLE REGULATORS AND CLE PROVIDERS (Summit Recommendations 6-10)

6. **Develop communications frameworks for understanding MCLE rules.**
7. **Develop appropriate accreditation standards for all varieties of distance learning.**
8. **Accredit training in content or skills necessary for law practice even if not directly related to substantive law.**
9. **MCLE regulators and CLE providers work together to implement means of measuring effectiveness of CLE offerings.**
10. **Provide law firms with same opportunities to gain accreditation as CLE providers.**

Goals	Timelines	Action Items
<p>Assist in establishing communications frameworks in a dozen more MCLE jurisdictions. Such frameworks will include regular meetings of parties involved in CLE/MCLE to discuss issues, new developments, rules changes, and accreditation of specific types of content.</p>	<p>November 2010-September 2012</p>	<ul style="list-style-type: none"> <li>• Survey all MCLE jurisdictions to determine where such activity is already taking place.</li> <li>• Select a dozen jurisdictions where it is not, and offer to assist in organizing such meetings.</li> </ul>
<p>Establish a national communications framework of parties involved in CLE/MCLE to review issues, new developments, rules changes, and accreditation of specific types of content, including but not limited to (1) the development of a model rule for use in accrediting distance learning; (2) the development of model terms and definitions for distance learning formats; (3) dealing with perceived differences in the accreditation of law firm in-house training; and (4) the development of model terms [or a model rule?] for accrediting training in content or skills necessary for law practice even if not directly related to substantive law</p>	<p>October 2010—March 2011</p>	<ul style="list-style-type: none"> <li>• Schedule a meeting by Fall 2010 of ACLEA, CLEreg, and ALI-ABA leadership to discuss what a national framework would look like and how it would operate.</li> </ul>

## COMPETENCIES (Summit Recommendations 11-12)

11. All parties to determine next steps toward competency models.
12. All parties: develop model competencies.

Goals	Timelines	Action Items
Create a competencies resource.	November 2010— March 2011 and ongoing through website	<ul style="list-style-type: none"> <li>• Gather all competency information/models available, review to determine how they might be synthesized, and publish them and the synthesis in an online forum</li> <li>• Identify the areas of confusion (e.g.: define benchmarks v. competencies)</li> </ul>
Multidisciplinary project to develop model competencies, including what training needed for attorneys to achieve them.	January 2011— December 2013	<ul style="list-style-type: none"> <li>• ALI-ABA and ACLEA bring together heads of ACLEA, PDC, NABE, NOBC, ALDA, CLEReg, bar associations to plan this project, as articulated in Rec. 11. (Will also deal with related parts of Rec. 12)</li> </ul>
Encourage law firms to share their competency models with law schools.	December 2010— September 2012	Find law firms willing to volunteer their models

## LAW FIRMS

### (Summit Recommendations 13-14)

- 13. Improve effectiveness of in-house training through client input, adult learning theory, partnering with other constituencies.
- 14. Provide support and training for a range of professional paths for lawyers.

Goals	Timelines	Action Items
Focus on law firms that don't have established PD functions and determine (1) what resources they need and (2) how to meet those needs.	November 2011-December 2013	<ul style="list-style-type: none"> <li>• Collect information on developing and improving in-house PD</li> <li>• Create a resource center for law firms/law schools with information and tools needed for establishing and expanding PD</li> <li>• Consider breaking down information by firm size, locale, and type of practice</li> </ul>
Review and update adult learning models, particularly with regard to technology, to make them relevant to law schools and law firm PD.	November 2011-August 2013	<ul style="list-style-type: none"> <li>• Research existing models</li> <li>• Begin updating ALI-ABA's Teaching for Better Learning, with extension to law schools</li> </ul>
Develop career counseling resources for those law firms and legal organizations without them.	April 2011-January 2012 and ongoing through website	<ul style="list-style-type: none"> <li>• Resource center above to include information and models for career counseling</li> </ul>

## TRAINING THE TRAINERS (Summit Recommendation 15)

**15. Law schools, law firms and CLE providers to train instructors in teaching skills, effective use of technology, intergenerational communications issues, etc.**

Goals		Action Items
Create a collaborative CLE/law firms/law schools clearinghouse/resource center for training-the-trainer materials.	April 2011- January 2012 and ongoing through the website	<ul style="list-style-type: none"> <li>• Make sure training-the-trainer materials are differentiated by types of training to be done</li> <li>• Include a focus on how to use technology</li> <li>• Reach out to judges' groups (e.g.: NJC, NASJE), which have already created good materials</li> <li>• Create a certification system for those who undertake the training, and work to get this training CLE-credit certified</li> <li>• Tie in to adult learning goal under "Law Firms" and include tips and training for teaching lawyers</li> </ul>

## **SERVING THE UNDERSERVED**

### **(Summit Recommendation 16)**

**16. Legal community to develop programs to prepare and encourage all lawyers to serve the underserved.**

<b>Goals</b>	<b>Timelines</b>	<b>Action Items</b>
Create a clearinghouse of training materials for serving the underserved.	January 2011—August 2012	<ul style="list-style-type: none"> <li>• Collect and publish materials for training on how to serve underserved—get it from the lawyers who are already doing it now.</li> <li>• Contact LSC to make sure they know about what we have and how they can take advantage of it</li> </ul>
Increase the number of CLE programs devoted to training lawyers to serve the underserved	January 2011—December 2012	<ul style="list-style-type: none"> <li>• Survey ACLEA members’ pro bono efforts (start ACLEA’s Public Interest Committee) and share with all CLE providers.</li> </ul>

# APPENDIX



## Critical Issues Summit

*Equipping Our Lawyers:  
Law School Education, Continuing Legal Education,  
and Legal Practice in the 21st Century*

### Final Recommendations

Compiled and Edited by Charles C. Bingaman, Summit Reporter

#### Reporter's Introduction

The Critical Issues Summit (October 15-17, 2009) was sponsored by ALI-ABA Continuing Professional Education and the Association for Continuing Legal Education. It brought together CLE professionals, law school deans and faculty members, law practitioners, bar leaders, judges, mandatory CLE administrators, law firm educators, and other experts on lawyer professional education to study and respond to the challenges of equipping lawyers to practice in a rapidly changing world.

Working in groups, Summit participants generated a series of recommendations for improving the full continuum of lawyer professional development. The Reporter has edited these recommendations to reflect plenary session discussions at the Summit and post-Summit commentary by conferees and others.

In the course of developing these Final Recommendations, Summit conferees generated numerous other recommendations for improving lawyer professional development. These additional recommendations will be included in the Final Report of the Summit, to be issued shortly after these Final Recommendations.

More information about the Summit and its results is available at [www.equippingourlawyers.org](http://www.equippingourlawyers.org).

## Preamble

All members of the legal community share responsibilities to initiate and maintain the continuum of educational resources necessary to assure that lawyers provide competent legal services throughout their careers, maintain a legal system that provides access to justice for all, and remain sensitive to the diverse client base they must serve. These recommendations are offered as a blueprint for strengthening that continuum of educational resources and those values. The recommendations are presented in the chronological order of the legal education continuum—from initial law school education through legal careers.

1. Law schools should examine their teaching methods and the content of their curricula to ensure that their graduates are capable of serving as effective beginning professionals. Such examination might include:
  - a. Defining the learning outcomes they wish to produce;
  - b. Designing the curricula and engaging faculty to produce those outcomes;
  - c. Using proven teaching methods that will produce those outcomes, including the application of the latest research on adult learning styles and generational differences in learning; and
  - d. Evaluating their success at achieving those outcomes.

Reporter's Comment: Deans and other Summit participants noted that different law schools place differing priorities on scholarship and writing by faculty members as contrasted with teaching or preparing students for practice. Some participants suggested that a number of law schools place a low priority on their faculty members' developing research-based teaching skills for effective adult learning. This recommendation acknowledges the validity of law schools' different approaches to their missions while also placing a high value on preparing their students for legal careers.

Summit conferees who were asked to look at generational differences in learning style suggested that significant differences could largely be bridged if law schools, CLE organizations, and instructors considered relevant and new research and expanded their instructional approaches accordingly. As generational differences appear to be largely permanent and little change can be expected as people age, these differences in learning style should be taken into account when planning all educational programs.

2. Building upon the defined learning outcomes from Recommendation 1, law schools, the bar, and the bench should partner in the career-long development of lawyer competencies. In particular, law schools should initiate the continuum of legal education by integrating into their curricula the core practice competencies described in the ABA Model Rules of Professional Conduct, the MacCrate Report, the Carnegie Report, and the Canadian Centre for Professional Legal Education competency evaluation program in achieving their desired learning outcomes.

Reporter's Comment: While respecting the valuable diversity of law schools, participants in the Summit concluded that law schools that have not already done so should consider more rigorous efforts to help their students obtain the core competencies needed for practice.<sup>6</sup> One route to that end would be having a CLE department or at least an administrative officer whose responsibility would be to develop and coordinate partnering relationships with the bar and bench to facilitate training in core competencies.

**3. Law schools should continue to refine their lists of identified core practice competencies, recognizing that essential competencies will vary by stage of education and by practice area.**

Reporter's Comment: This recommendation refers to the core practice competencies referenced in Recommendation 2 above. Recommendations 11 and 12 below expand further on the need across the educational continuum to identify essential practice competencies as the basis for planning career-long learning objectives for lawyers.

- 4. Law schools, the bar, and the bench should develop and encourage transitional training programs (defined as ones that teach or improve practice skills) to begin in law school and to continue through at least the first two years of practice. Approaches to implement this recommendation might include:**
- a. Experiential learning opportunities in law school curricula, for example: practical experiences, clinical experiences, skills courses, internships, and mentorships;**
  - b. Post-admission supervised apprenticeships (similar to paid articling in Commonwealth countries) or other practice experiences such as working in legal services programs consistent with law graduates' financial situations; and**
  - c. Universal mentoring requirements for new admittees.**

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<sup>6</sup> Recommendation 2 refers to several important documents. The MacCrate Report, formally titled *Legal Education and Professional Development – An Educational Continuum: The Report of The Task Force on Law Schools and the Profession: Narrowing the Gap*, can be found at <http://www.abanet.org/legaled/publications/onlinepubs/maccrate.html>. The Carnegie Report abstract, entitled “Educating Lawyers: Preparation for the Practice of Law” (2007), can be found at <http://www.carnegiefoundation.org/publications/educating-lawyers-preparation-profession-law>. The ABA Model Rules can be found at [http://www.abanet.org/cpr/mrpc/mrpc\\_toc.html](http://www.abanet.org/cpr/mrpc/mrpc_toc.html). The Canadian Centre for Professional Legal Education competency evaluation program can be found at <http://www.cpled.ca/competency.html>. Also relevant in this context is a report of the Clinical Legal Education Association, “Statement of Best Practices for Legal Education” (2007), at [http://cleaweb.org/documents/Best\\_Practices\\_For\\_Legal\\_Education\\_7\\_x\\_10\\_pg\\_10\\_pt.pdf](http://cleaweb.org/documents/Best_Practices_For_Legal_Education_7_x_10_pg_10_pt.pdf).

Reporter's Comment: The main thrust of Recommendation 4 is to encourage building practice competencies into the process for determining readiness for bar admission. While it repeats some concepts found elsewhere in these recommendations, this recommendation emphasizes the importance of making lawyer education a true career-long continuum, rather than a disconnected landscape of only distantly related fiefdoms with few connected pathways or purposes.

A variety of real-world models exist for the mentoring envisioned by this recommendation, including law school internships, the articling process in some Commonwealth jurisdictions, and the State Bar of Georgia Transition Into Law Practice program.

5. **Regulatory authorities should consider restructuring one-time bar examinations into phased examinations over time, linked in part to attainment of legal practice skills, with some parts of the examination occurring as early as in the law school years.**

Reporter's Comment: While this recommendation proposes a significant change in the bar admission process in the United States, it was strongly supported by Summit conferees. Participants noted that initial testing in skills development during law school would result in an increased skills focus in law schools, protect the public, and provide valuable feedback for law schools and law students alike. It was also noted that phased examinations are already used for licensing in other professions, such as medicine. Summit conferees recognized that implementing this recommendation would require some fundamental changes in traditional law school and bar admission approaches, but believed that the process of consideration and experimentation would be a positive challenge.

6. **CLE providers, MCLE regulators, the practicing bar, and the bench should create communication frameworks for mandatory CLE rules to ensure that all parties share an understanding of the content of the rules, their needed evolution, and their effects.**

Reporter's Comment: The goal of this recommendation is to ensure that all interested constituencies participate in a dialogue about how to make the MCLE rules more effective in improving the profession and protecting the public it serves.

7. **MCLE regulators, in collaboration with CLE providers and the practicing bar, should develop appropriate accreditation standards for all varieties of distance learning CLE programs while also updating and improving accreditation standards for in-person CLE programs.**

Reporter's Comment: Distance learning encompasses a myriad of media, including but not limited to live and archived telephone seminars, live and archived audio and video webcasts, audio and video replays, and private and public uses of CDs. Over the past decade, distance learning has become an integral part of CLE, and its broad use and

unique characteristics demand consideration for appropriate accreditation standards. How much of a lawyer's mandatory CLE requirement should be met through distance learning? Some think that all lawyers should have to participate in at least some in-person CLE because of the inherent value of face-to-face interchanges. Others argue that well-planned and well-executed distance learning media can yield equally effective learning results and, therefore, should not have accreditation limits. Summit participants agreed that accreditation standards for more traditional, in-person CLE programs also need to evolve to reflect ongoing CLE experience and research findings on effective approaches to adult learning.

**8. MCLE regulators should accredit training in the content or skills necessary to effectively practice law, even if such content or skills are not directly related to substantive law.**

Reporter's Comment: This recommendation speaks to the not-uncommon mandatory CLE provision that denies accreditation to CLE courses on practice management, computer usage, or other skills lawyers need but that do not relate directly to substantive law. The rationale in some states for such limitations has been that CLE should encourage legal skills and knowledge, not practice management skills. Participants at the Summit argued that effective client service requires lawyers to be good managers of their time and offices, skilled managers of the financial aspects of running a practice, and knowledgeable in areas that do not necessarily involve substantive law. Several conferees involved in lawyer disciplinary matters noted that the percentage of cases involving lawyers' shortcomings in personal and practice management far outweighs the percentage of cases involving lack of substantive law awareness. This fact argues in favor of mandatory CLE rules that encourage lawyers to develop skills in practice management, practice development, client communication, and the like.

**9. MCLE regulators and CLE providers should work together to develop and implement means of measuring the effectiveness of CLE offerings.**

Reporter's Comment: Lawyers have traditionally been skeptical of testing in any form. And even the best-crafted evaluation forms are of limited value in substantiating the amount of learning taking place in CLE programs or in determining whether other approaches to learning might be more effective or efficient. Moreover, as was noted at the Summit, what really matters is whether the lawyer has the practice competencies needed for the work he or she is doing, not when or how the competencies were acquired. This argues for measuring competencies throughout careers, not by hours served in class.

**10. Recognizing that law firms and other legal employers are significant and regular providers of CLE, MCLE regulators should provide them with the same opportunities to gain accreditation of their programs as those afforded to external CLE providers.**

Reporter's Comment: Some jurisdictions deny or limit mandatory CLE credit for in-house training programs. It was the consensus of the Summit participants that lawyer

training should be encouraged in many settings as long as it meets the basic criteria of effective teaching and learning to produce better qualified and better performing lawyers.

11. **A post-Summit project should be initiated with representatives from law schools, the practicing bar, legal employers, bar associations, bar admissions, MCLE regulators, CLE providers, and in-house professional development to determine next steps toward achieving some or all of the following goals:**
  - a. **Designing a model approach to competencies;**
  - b. **Designing a model approach to bridge-the-gap transitional training programs;**
  - c. **Creating technology-enabled sharing of information and resources among providers and users of legal education;**
  - d. **Building support and getting input from local and regional constituencies on the project's recommendations and actions to address the recommendations; and**
  - e. **Developing mechanisms through which solo practitioners, small firms, and public interest organizations can access and benefit from developmental resources, training, and mentoring created by law schools, CLE providers, bar associations, and legal employers.**

Reporter's Comment: The early years of the 21<sup>st</sup> century have seen a rapid rise in the number of law firms, corporations, and government offices scaling up in-house professional development programs for their lawyers and in the number of full-time in-house education officers of such organizations. Key reasons for the increase in such programs and personnel have included hoped-for cost and time savings as compared with sending lawyers to outside training and the expected benefits of tailoring lawyer training to the specific needs of the lawyers in the sponsoring organizations. This recommendation suggests that after this period of rapid growth, it is appropriate now to step back, assess what has been learned to date, and share and spread the lessons of effective in-house professional development.

12. **The project described in Recommendation 11 should create a rigorous, sophisticated approach to developing model competencies, including:**
  - a. **Assembling information about existing competency models;**
  - b. **Creating a research process for identifying and testing which competencies actually correlate with successful practice;**
  - c. **Designing a template for making competencies appropriate to different roles, career stages, practice areas, etc.; and**
  - d. **Designing model curricula, aligned with the model competencies, to support lawyers' post-law school development.**

Reporter's Comment: This recommendation expands on Recommendation 11(a) above. It seeks to encourage those responsible for developing lawyers (e.g., law schools, in-house professional development programs, CLE providers) to participate actively in the design of practice competencies that will serve the legal profession and in the development of educational strategies and opportunities relevant to teaching those competencies. The use of competencies to guide educational approaches will increase the value of legal education for all concerned, including those delivering and receiving legal services.

13. **Law firms and other legal employers should continue to improve the effectiveness of their in-house programs by:**
  - a. **Using input from clients to identify important practice skills that will help lawyers serve their clients more effectively;**
  - b. **Applying adult learning theory and approach when designing programs; and**
  - c. **Partnering with law schools, clients, and CLE providers to share resources and to identify and apply the best content and teaching approaches.**

14. **Law firms and other legal employers should recognize a range of possible professional “paths” and provide or support training that assists lawyers in setting and achieving their individual professional goals.**

Reporter's Comment: The old model of all young lawyers eagerly seeking to work as associates in order to become partners in law firms is no longer the sole existing professional model, if it ever was. Rather, lawyers today choose among a wide range of career models. This recommendation simply urges that 21<sup>st</sup> century reality be taken into account so that lawyer training is based on realistic assumptions about lawyer career paths and is more likely to fill the felt needs and wants of lawyers and the organizations for which they work.

15. **Law schools, law firms, and CLE providers should train their instructors in: teaching skills, effective uses of technology to enhance learning, inter-generational communication issues, the communication of professional values and identity, and the design of effective clinical experiences.**
16. **Acknowledging our professional responsibility, the legal community should continue to develop programs that will prepare and encourage law students and all lawyers to serve the underserved.**
  - a. **As part of the legal community, law schools, if they have not already done so, should incorporate into their curricula the principle that improving access to justice for all is every lawyer's responsibility, and should offer students early in their law school experience exposure to**

- underserved communities and opportunities to provide legal assistance to those communities.**
- b. The legal community in each jurisdiction should collaborate to help newly admitted lawyers develop the skills that will enable them to provide effective legal services to underserved communities and to create opportunities for those lawyers to provide such services. Examples of such opportunities include work with community-based legal services including solo practitioners' resource networks and non-profit "incubators." Other opportunities for newly admitted lawyers to provide legal services to underserved communities include working with law school/court partnerships to provide resource materials for self-represented litigants, representing clients through traditional bar association pro bono programs, and serving as mentors to students in law school legal clinics.**
  - c. An entity of the ABA should serve as a clearinghouse for these programs to provide examples of best practices and innovative ideas.**