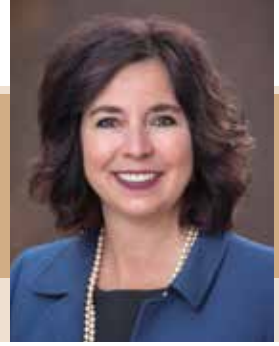


Our Collective Long-Term Investment



Jennifer M. Grieco

A recent survey of young lawyers in Florida revealed that 30 percent would not attend law school if given the opportunity to do it over, while another 32 percent were undecided.¹ Many respondents noted that their dissatisfaction stemmed from lacking a sense of accomplishment and pride in becoming a lawyer, in part because of the long hours required and daily stress.²

Dissatisfaction in the profession is not a new issue, nor is it limited to young lawyers. In March 1995, then president of the State Bar of Michigan Jon Muth wrote that “[m]any lawyers search their souls for a sense of proper direction for meaning in their professional lives.”³ Muth quoted Sol M. Linowitz, who opined that the law had become a business rather than a profession, ruled by the hourly rate and electronic devices.⁴ Muth then forecast that “once the legal profession forsakes the bedrock of values for the blandishment of dollars, it will be treated as only another economic element, lacking any higher purpose...an object for influence by competing interests.”⁵

Is that at the root of so many lawyers' dissatisfaction in the law—the desire to be Atticus Finch and the reality of a profession

controlled by competing interests? Do we practice law solely to add to our firm's bottom line and our bank accounts? Or, rather, as officers of the court and public citizens, do we exist to provide legal services to the public and ensure access to justice because without access to our court system, the rule of law is harmed?

Literally at the door

The opening plenary of the annual meeting of the National Conference of Bar Presidents in August highlighted the push to change Rule 5.4: Professional Independence of a Lawyer (see sidebar) in the hope that the changes will advance access to justice. It was a timely conversation considering that just a few blocks away from the conference, the State Bar of California was holding a hearing for public comment on the rule changes.⁶ And an Arizona task force recently voted unanimously to recommend abolishing Rule 5.4 as well.⁷

The plenary speaker stressed that if our profession exists to provide legal services to the public, we are failing since 80 percent of the population cannot afford a lawyer.⁸ Lawyers in attendance were skeptical regarding the need to allow outside ownership and investment in law firms to curb the access problem. In a stunning coincidence,

while the bar presidents in the room expressed concern that accounting firms were waiting in the wings to capitalize on a loosening of regulations by seizing market share from lawyers, the American Accounting Association was literally gathering outside, ready to begin its own annual meeting.

The concerns are well-founded. As knowledgeable and well-intended as they may be, accountants are not lawyers. There's the obvious difference in training. But importantly, they do not swear to support the constitutions of the United States and Michigan and to maintain the respect due to courts of justice and judicial officers. They do not swear to employ only those causes consistent with truth and honor and to never reject from any consideration the causes of the defenseless or the oppressed or delay any cause for lucre or malice. They are not bound by our rules of ethics and the high standards imposed for the privilege to practice law. As officers of the court, lawyers have an ethical obligation to promote justice and effective operation of the judicial system. This is a higher calling obligating us to serve our fellow citizens rather than solely our own interests.

Is there a way to integrate the respective expertise of lawyers and accountants to provide better value to clients without sacrificing professional independence? That is

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The views expressed in the President's Page, as well as other expressions of opinions published in the *Bar Journal* from time to time, do not necessarily state or reflect the official position of the State Bar of Michigan, nor does their publication constitute an endorsement of the views expressed. They are the opinions of the authors and are intended not to end discussion, but to stimulate thought about significant issues affecting the legal profession, the making of laws, and the adjudication of disputes.

the heart of the ongoing debate centered on Rule 5.4.

If profit is the sole driving factor for lawyers and law firms, the profession loses. The competing factors that Muth predicted are now at our door with the impending removal of regulation barriers and the imperative to address the justice gap. If we solely focus on short-term profit goals and “profits per partner,” we lose a valuable aspect of our profession that sets us apart: our role as public citizens and officers of the court. As noted by the Harvard Law School Center on the Legal Profession, our collective focus on profits and the bottom line has resulted in fewer law firm dollars allocated to pro bono service, less time devoted to the profession and participation in

bar associations, and less time dedicated to broader services for society.⁹ The Center suggests we make a long-term investment in our profession:

It requires investment to ensure quality and excellence for clients; to train, develop and mentor new lawyers; to treat older lawyers with dignity; to represent the underrepresented; to advocate for the advancements of our profession; and to serve broader goals in broader communities. That investment requires using short-term dollars to make long-term investments in the lawyers in the firm, in the profession, in the legal system, and in society more broadly.¹⁰

If profit is the sole driving factor, we also risk losing the purpose and meaning

behind the Lawyer's Oath of Office and our satisfaction as attorneys. We are members of a profession that not only helped to build our democracy and uphold the rule of law but created a civil and just society where the law benefits and protects our families and friends in numerous ways every day. Many of us were inspired to attend law school by Atticus Finch, Thurgood Marshall, or Ruth Bader Ginsberg, yet our daily practice is not as glamorous or revolutionary. However, as officers of the court, we have opportunities to change lives and earn personal satisfaction, and the benefits that come from volunteerism and pro bono service include a longer life span, reduced stress, and lower rates of depression.¹¹ Research shows that “serving others might also be the essence of good health.”¹²

Our ability to use the law and our skills to protect access to justice and the rule of law through the opportunities afforded by bar associations is one way we demonstrate our professionalism and the higher calling that brought us to law school. Those attempting to compete for legal services dollars see business opportunities but do not possess our higher purpose.

An example of our impact: Human trafficking pro bono

In my role as SBM president, I had the rewarding experience of meeting attorney Nate Knapper, who not only commented on my first President's Page column but sent it back to me, having highlighted the access-to-justice gap and the voluntary pro bono standard.¹³ Knapper is an FBI agent who recently founded The Joseph Project with a goal of pairing survivors of human trafficking with pro bono attorneys who could help with their legal needs as they attempt to rebuild their lives. His vision was in line with the concept of legal first responders highlighted throughout the article.

The first survivor Knapper assisted was the catalyst for The Joseph Project. D'lynn ran away from home when she was 12 and befriended a 70-year-old man who offered to help.¹⁴ His “help” included getting her addicted to meth, trafficking her for 18 years, and routinely beating her. He eventually beat her so severely that he dropped her off at a

Rule 5.4: Professional Independence of a Lawyer

Law Firms and Associations

- (a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:
 - (1) an agreement by a lawyer with the lawyer's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;
 - (2) a lawyer who purchases the practice of a deceased, disabled, or disappeared lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative of that lawyer the agreed-upon purchase price;
 - (3) a lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement; and
 - (4) a lawyer may share court-awarded legal fees with a nonprofit organization that employed, retained or recommended employment of the lawyer in the matter.
- (b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.
- (c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.
- (d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:
 - (1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;
 - (2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or
 - (3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.

In 2018, the National Human Trafficking Hotline received 1,038 contacts from Michigan, with 383 cases reported and another 1,358 victims and survivors identified.

hospital, where she spent days recovering. Her scars following the attack made her less valuable to sell and she was able to escape. But without health insurance or a job, she could not pay the hospital bills. Although she was a victim of a vicious attack, she was being pursued by a collection agency. Connecting with a lawyer who could negotiate with the collection agency and get funding from the Victim's Compensation Fund allowed D'lynn to remove the negative credit report and take the necessary steps to rebuild her life.¹⁵ She is now married and attending college to become a counselor.

Recently, Mary, a human-trafficking survivor, attended a meeting of social service agencies held for the purpose of understanding the legal needs of human trafficking victims. Mary is a Michigander with a substance-abuse problem. Her traffickers exploited her illness and trafficked her for two years using advertisements on Backpage.com. She was able to escape, and with the help of Grace Centers for Hope, has been sober for four years. Mary desperately wanted custody of her daughter. Through The Joseph Project, she connected with a legal first responder; with his pro bono assistance, she was awarded joint legal custody of her daughter.¹⁶ Her connection to this lawyer happened by chance because she attended the "listening session."

Countless victims have similar stories and need the connection that helped D'lynn and Mary. In 2018, the National Human Trafficking Hotline received 1,038 contacts from Michigan, with 383 cases reported and another 1,358 victims and survivors identified.¹⁷ That's why the SBM has collaborated with a coalition of associations including the Oakland County Bar Association, the D. Augustus Starker Bar Association, and Lakeshore Legal Aid to work with The Joseph

Project to connect lawyers with victims of human trafficking.¹⁸ The victims are saddled with myriad legal issues, such as criminal expungement for crimes committed while (or as a result of) being trafficked; access to public benefits; access to public or subsidized housing, guardianship, or court-appointed advocates for survivors under 18; immigration and family-law issues, including personal protection orders; and custody issues regarding children that may have been fathered by their trafficker.¹⁹

As we head into October and Pro Bono Month, let's all consider how we can use our legal skills and training to selflessly change lives. On October 17, this joint coalition will host "Legal First Responders: Equipping Attorneys to Empower Human Trafficking Survivors" to provide free training to attorneys willing to take pro bono cases to help survivors.²⁰ Additional opportunities will be available throughout the state for both litigators and non-litigators to put your oath of office and role as a public servant to use and to remind yourself of why you became a lawyer and to find the satisfaction that comes from using the law for good.²¹ The ability to change the trajectory of someone's life is powerful. The ability to do so with our law degrees and professional skills is the essence of our value to society. "Lawyers play a vital role in the preservation of society."²²

Update on professionalism

As a follow up to my December President's Page highlighting the recommendations to improve civility that resulted from the Promoting Professionalism in the 21st Century Summit at the Hall of Justice,²³ the Professionalism Work Group has drafted a set of professionalism principles that we

hope will be adopted for all state courts in Michigan.²⁴ The principles will be presented to the Representative Assembly for approval on September 26. If approved, the principles will be considered by the Michigan Supreme Court. The 10 professionalism principles and accompanying commentary represent what we should expect of lawyers and judges, and I want to thank the work group and chair Ed Pappas for their efforts on our behalf.

Thank you

Before I close, since this is the end of my term, I want to thank each of you who took the time to read the President's Page columns. It has been an honor and privilege to serve as SBM president. We are fortunate to have such a dedicated group of volunteer members in the committees, sections, and local and affinity bar associations, and it was a delight to meet with so many Michigan lawyers this year. Thank you for inviting me to visit with your associations and for all that you do for your communities and our legal system.

For those of you who have not worked closely with the SBM, I encourage you to consider doing so. The SBM is one of the most respected integrated bars in the nation. Its staff is diligent and committed to assisting each of us in fulfilling our ethical obligation as public citizens to seek improvements in the law, the administration of justice, and the quality of service rendered by the legal profession. I look forward to continuing to work with you in our long-term investment to benefit lawyers, the profession, the legal system, and society. ■

Postscript: Since this article was submitted, the SBM has been sued in the Western District of Michigan. Filed by Lucille Taylor, the case challenges the constitutionality of the integrated bar. Members are directed to the State Bar of Michigan Statement on Federal Lawsuit on the SBM home page at <https://www.michbar.org/News/NewsDetail/nid/5644> and the link to the amicus brief filed by the SBM in the pending Eighth Circuit Court of Appeals case of *Fleck v Wetch*, as well as the March 2019 President's Page, "The Challenge to the Integrated Bar," at <http://www.michbar.org/file/barjournal/article/documents/pdf4article3621.pdf>.

ENDNOTES

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18. The members of our coalition include Rob Mathis, State Bar of Michigan; Jennifer Roosenberg, executive director of the Oakland County Bar Association; Merri Lee Jones, professional development director of the Oakland County Bar Association; Kimberly A. Ward, president of the D. Augustus Straker Bar Association; Ashley Lowe, CEO of Lakeshore Legal Aid; Christina Guirguis, attorney at Lakeshore Legal Aid; and Nate Knapper, The Joseph Project. I am very grateful for their service and support of this effort.
19. The Joseph Project <<https://josephproject.com/>> and Polaris <<https://polarisproject.org/initiatives/survivor-support>>.
20. For more information and to register, visit <<https://www.michbar.org/alawyerhelps/storydetail/StoryID=199>>.
21. One such program for non-litigators, the 10Core Law Society, coordinates housing literacy through bar associations and organizations such as the Detroit Branch of the Federal Reserve Bank, AARP, the NAACP, the Fair Housing Center, and the U.S. Attorney's Office in the Eastern District of Michigan. The mission of 10Core is to provide basic knowledge about housing and integrating housing literacy into the education systems to change the trajectory of individual lives and future. The American dream of home ownership is not appreciated by those who have never witnessed a family member own a home and cannot therefore dream about a life outside of their experience. The program, currently collaborating with the River Rouge School District, trains students to view themselves as CEOs of their future and educates them, through mock exchanges, of the steps necessary to buy their first home as well as about entrepreneurship, building wealth, and serving the community. If interested, please contact the founder, Professor Florise Neville-Ewell, at Western Michigan University, Cooley Law School <<https://www.cooley.edu/faculty/florise-neville-ewell>>.
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24. The members of the Professionalism Work Group include Sandra K. Carlson, Kevin L. Francart, Tina S. Gray, Thomas H. Howlett, Hon. Shalina D. Kumar, Michael S. Leib, Jennifer Lyons, Hon. M. Mack Jr., Hon. Allie G. Maldonado, Martha D. Moore, Nicholas M. Ohanesian, Edward H. Pappas (chair), Lorie Nancy Savin, Joel H. Serlin, Daria Solomon, Judith Susskind, Joan P. Vestrand, Victoria A. Vuleitch, and Kimberley A. Ward assisted by SBM staff members Candace A. Crowley, Danon D. Goodrum-Garland, and Janet K. Welch.



MONEY JUDGMENT INTEREST RATE

MCL 600.6013 governs how to calculate the interest on a money judgment in a Michigan state court. Interest is calculated at six-month intervals in January and July of each year, from when the complaint was filed, and is compounded annually.

For a complaint filed after December 31, 1986, the rate as of July 1, 2019 is 3.235 percent. This rate includes the statutory 1 percent.

But a different rule applies for a complaint filed after June 30, 2002 that is based on a written instrument with its own specified interest rate. The rate is the lesser of:

- (1) 13 percent a year, compounded annually; or
- (2) the specified rate, if it is fixed—or if it is variable, the variable rate when the complaint was filed if that rate was legal.

For past rates, see <http://courts.mi.gov/Administration/SCAO/Resources/Documents/other/interest.pdf>.

As the application of MCL 600.6013 varies depending on the circumstances, you should review the statute carefully.