



Summary Report

STATE BAR OF MICHIGAN
2016 BAR LEADERSHIP FORUM
Keynote Address by Fred Headon

2016 BAR LEADERSHIP FORUM

June 10, 2016 Mackinac Island, Michigan

The Future of the Profession Lead It or Lose It: Bar Association Leadership at a Critical Moment

On Friday June 10, 2016, Fred Headon, recent past president of the Canadian Bar Association (CBA) and leading thinker on the future of the legal profession, delivered the keynote address to State Bar of Michigan section and bar association leaders, at the Bar Leadership Forum (BLF) on Mackinac Island. Noting that Canada and Michigan share similar histories, demographics, legal and professional cultures, Headon is not surprised to see Canada and Michigan together on the cutting edge of the challenges and opportunities facing the practice of law in the 21st Century. This is part of a global trend. In Canada, the UK, Australia, and on a recent trip to Bogota, Columbia, Headon finds lawyers discussing the same topics raised by participants in this year's BLF: an aging profession, seasoned lawyers experiencing burn-out, ongoing challenges with respect to self-represented litigants, a prevailing (but inaccurate) belief among the public that legal services are prohibitively expensive, needed changes in legal education and post-law school training, with a sharper focus on practice-ready skills.

The Canadian Experience

The CBA published its original Futures Report in August 2014. Since then, Canadian lawyers have moved from skepticism to curiosity, and are moving slowly but surely toward engagement. Change is here, and its pace and breadth are only increasing. To date, change has been driven in many ways by entities and people outside the legal profession, a phenomenon the profession is just beginning to address. As examples, Headon reviewed and discussed the following:



- Accounting firms marketing themselves as qualified, competent, and available to address their clients' "rights" as debtors
- Web-based tools that enable the layperson to handle all aspects of small claims matters
- Online self-help practice guides for law students and young lawyers
- **Map Your Property** (MyP-Toronto): enter your address, find information concerning zoning status of the property and applicable zoning regulations

- **Beagle:** search your contracts to find specific provisions and clauses
- **ClosingFolders:** allows multiple parties to draft, store, revise and manage transaction documents in a single digital location
- **Citasca:** an eBay for legal research and writing work product

Headon believes that the profession should recognize the inevitability of these trends, embrace them, and engage them. Technology should be welcomed—in areas where machines tend to function better than human beings; for example, data storage and retrieval, or completing replicable routine administrative tasks. However, Headon was careful to emphasize that the role of the human lawyer remains, and always will be, invaluable—in areas where human beings function better than machines; such as understanding and applying abstract concepts like justice and fairness, making judgments about what works best for various stakeholders in legal processes, encouraging and managing diversity and inclusion, and determining how to best balance competing interests and priorities.

Leading thinkers including Headon encourage the profession to re-focus on the traditional social contract between lawyers and their communities. For generations, the privileges associated with law practice (e.g., status, influence, material rewards) have been directly tied to a concomitant obligation and commitment to serve the public interest.

As a matter of principle and ethics, first and foremost, but also as a matter of self-preservation and maintaining relevance in the marketplace, leaders and scholars urge the profession to return to a more deliberate focus on understanding and meeting people's needs, ensuring client satisfaction, and serving the public good. Highlighting some of the fraying threads in the social contract, Headon pointed out that only 1 in 7 legal problems in Canada today are addressed by a lawyer. In a recent survey, Canadians reported the following preferred sources for obtaining legal advice:

- Family and Friends (1st choice, 48% of responses)
- Business Contacts
- Online Sources
- Lawyers (4th place, with only 37% of responses)

Headon also reviewed survey results identifying the Canadian consumer's expectations of lawyers and its priorities when seeking legal services: a strong desire for predictable pricing and a focus on affordability; a premium on transparency, credibility, and trustworthiness; a legal system that pays better attention to the many forms of diversity found in today's Canada; and finally, a desire to utilize familiar media platforms to increase client participation in legal processes with near-immediate response and feedback loops (call this the Twitter or FaceBook effect). In general, the Canadian public wants its lawyers to continue to be available to help, but also wants to see changes in the model where, once engaged, a lawyer simply "steps in and takes over" every aspect of a client's legal interests. Headon is confident that a survey of American consumers would yield nearly identical results.

Next Steps

Headon's observations, analysis, and recommended action items very much resemble and compliment those presented in the recently published report of the State Bar of Michigan's 21st Century Practice Task Force. As he concluded his remarks to Michigan bar leaders on Mackinac Island, Headon identified the following action items as critical next steps:

- Bringing legal education and training into the 21st Century: more practical, hands-on programs with clear goals of delivering skilled, practice-ready lawyers to the marketplace upon graduation, and helping lawyers keep up as they mature in the profession
- Taking a fearless look at potential new structures and collaborations for legal services entities, including exploring the pros and cons of non-lawyer ownership
- Encouraging innovation, even by non-lawyers, by engaging them and working directly with them to ensure compliance with ethical standards and protection of the public
- Seeking out and embracing alternatives to the billable hour
- Fostering the necessary ongoing evolution of regulations, rules, and laws, where needed
- Developing more responsive and flexible rules administration mechanisms that can adapt quickly to future changes
- Keeping discussions about the future at the forefront, engaging others, and helping to enlarge the tent
- Reaching out to media sources who cover law-related topics and the legal profession, and keeping them engaged in these discussions about the future

Keynote Speaker

Fred Headon, assistant general counsel, labour and employment law, at Montreal-based Air Canada, was the first in-house counsel to serve as president of the Canadian Bar Association and served as chair of the CBA's Legal Futures Initiative. His work with the CBA, and in particular, the Legal Futures Initiative, were cited by *Canadian Lawyer* magazine when it included him in its 2013 list of Canada's 25 most influential lawyers. The CBA "Futures: Transforming the Delivery of Legal Services in Canada" made quite a splash upon its release in 2015 and is required reading in many Canadian law schools. Fred was a special guest at the first meeting of the State Bar of Michigan's 21st Century Practice Task Force in April of 2015, providing inspiration and encouragement for the work ahead. We are pleased to have him with us at the Bar Leadership Forum and looking forward to his global perspective on legal futures, and reflections on the work of our Task Force. Mr. Headon earned his LLB and BCL degrees from McGill University in 1996 and earned his BA from the University of Winnipeg in 1992. He has been a member of the Quebec Bar since 1997. He is an avid tweeter @FredHeadon and frequently uses #cbafutureschat to keep the conversations and progress going. "We've far to go, but we've come far too!"



Fred Headon