

Looking Inward, Listening, and Providing Service in Challenging Times



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Roberts P. Hudson, first president of the State Bar of Michigan, said in 1935: “No organization of lawyers can long survive which has not for its primary object the protection of the public.” And Abraham Lincoln once said: “The leading rule for the lawyer...is diligence. Leave nothing for tomorrow which can be done today.”

These quotes, taken together, are the essence of my inaugural message: As your newest president, I give you my unqualified assurance that the Bar does not take your membership for granted. We have been listening to you and responding diligently. We will continue listening and staying focused on serving as best we can the needs of a profession facing unprecedented challenges, especially solo and small-firm practitioners.

According to the most recent State Bar statistics, 51 percent of our membership is composed of private practitioners; of them, 70 percent are in solo or small-firm law practice. The number is unquestionably growing as recent law school graduates who cannot secure employment from solo practices by default and larger-firm practitioners sometimes transition into solo practice.

The work of a solo practitioner forms my earliest memories of the legal profession. My father, Sidney Fershtman, was a solo practitioner with a general practice office in the Detroit area. Throughout my high school and college years in the 1970s and 1980s, I worked in his office during summers and holidays as a file clerk, messenger, copy person, or receptionist. My father's law office was dusty, and the reception area held decade-old issues of *National Geographic* piled high on small tables. Still, he proudly called that office “his shop.”

On the dark, wood-paneled office wall was an old sign that had surely been there for decades, which read: “A lawyer's time

and advice are his stock in trade,” quoting Abraham Lincoln. From my adolescent vantage point, it was obvious that my father's time and advice were invaluable. Clients turned to him with their most intensely personal and family problems, 24 hours a day, seven days a week. Losing a case meant that the client could lose virtually everything that mattered—children lost in a custody dispute or freedom lost from a felony conviction. Strong, burly factory workers from the blue-collar community he served sometimes entered the office sobbing inconsolably as they recounted painful details of a heartbreaking injury to a loved one. A proud and courageous grandmother, who knew she would soon die of cancer, and her husband waited patiently for their appointment to have a will drafted.

My father's tools were his pens, papers, and shelves of dusty case and statute books. His loyal legal secretary, Jenny, worked steadily on her IBM Selectric, typing his words onto wrinkly onion-skin paper—hopefully in time for me to deliver to the courthouse before it closed.

To a shy, awkward, horse-crazy teenager, a lawyer's work might have seemed utterly terrifying. But to *this* young teenager, there was no doubt in my mind that the legal profession was the world's greatest profession. I wanted to be part of it so, like my father, I could help people at the most critical times in their lives and give them hope through justice and the rule of law.

Twenty-five years ago, I became a member of the State Bar of Michigan. But it never occurred to me until later that Lincoln's quote on the wall left out something vitally important: like it or not, the practice of law is also a *business*. Being a good lawyer isn't enough. We need clients to seek out our time and advice. We need the right technology. And we also need to get paid for our time and advice.

Succeeding as a lawyer these days isn't easy. Our inner strength, ambition, determination, concern for others, and talent have traditionally propelled us to succeed. Lately, though, this has not been enough. It almost feels like we're running against mighty headwinds that force us backward and that we're powerless to stop. For example:

We face headwinds of *technology*

We face headwinds of technology. Technology, you would think, is purely a tailwind for our profession, as it has helped us reach unprecedented levels of efficiency. Cell phones made pay phones obsolete. Now our smart phones help us send and receive e-mails from anywhere. We can file court documents with the push of a button. And we can research without ever opening a book.

That said, many of us may feel that technology has become a *headwind* pushing us backward and bringing practices to a screeching halt. Just ask a general practice lawyer about new clients who arrive loaded with

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stacks of free legal information found online. Your time and advice? They don't want it...or much of it. Even on a legal matter of significant proportions, they seek only an hour or two of your time so they can finish the work themselves. Or ask the law firm whose computer system got hacked—victimized overnight by an invisible thief who could be anywhere in the world and who stole a treasure trove of firm data and client confidences.

We face headwinds of competition from everywhere in the world

Where does the competition come from? Some say an oversupply of lawyers. But competition truly comes from everywhere in the world these days. Just ask practitioners in the probate, real estate, business, and immigration law fields. They've seen how sites like Legal Zoom™ have taken away would-be clients with promises to deliver legal forms instantly, and at a mere fraction of the cost. Even "big law" has noticed that some major corporate clients have turned to firms based in India promising to turn around research projects practically overnight—again, at a fraction of the cost.

We face headwinds of constant change and have little time to keep up

Twitter did not exist in 2005. Six years later, it processes 1.6 billion search queries a day. In March, it had an estimated value of \$7.8 billion. But some analysts think it may not last another five years. The fact is that new tools are being released every day that can improve our practices—software upgrades, blogs, social media, or digital dictation equipment. But who has time to find these tools or compare them? Big-firm lawyers have office managers, marketing personnel, and IT staff to make improvements. Solo and small-firm practitioners typically have none.

These headwinds pose serious challenges to the legal profession, but we can make progress against them. As your newest State Bar president, you have my assurance that the Bar is deeply committed to helping lawyers succeed and derive greater satisfaction from the practice of law. Of the many efforts, below are seven.

A Stronger Practice Management Resource Center

My personal mission is to help the Bar continuously strengthen and promote its innovative Practice Management Resource Center (PMRC). According to our survey, almost half of our members are unfamiliar with the PMRC. But you soon will be. In line with the Bar's mission to "help lawyers at their desks," it offers a well-organized collection of videos, checklists, articles, and resources designed to help lawyers develop, manage, and market their practices and keep them profitable. The Bar provides a website link you can access any time, day or night, plus

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a free Practice Management Helpline. You can also make an appointment to use the center's computer room and meet personnel onsite to test new software. This resource could be a lifeline for your practice. You could spend thousands of dollars on consultants and hundreds of hours of time surfing the web or reading books, or you can use the PMRC. And better still, almost everything is free or available for a nominal cost.

As my term begins, I'm proud to say that work has begun to raise the PMRC's profile. I've just formed the PMRC Advisory Committee, which will evaluate the program and suggest improvements to make it more informative and accessible. And in September, the Bar made the center's website easier than ever to navigate and added more links and videos. We proudly call these online management services "Practice EZ."

Unauthorized Practice of Law

The unauthorized practice of law is of great concern to our members, as confirmed

in our member survey. The Bar will work harder than ever in this regard and is expanding its resources devoted to processing these complaints. We will strive to educate the public about the risks of using such things as will and trust kits. In addition, we will remind people that nothing free or cheap on the information superhighway replaces individualized, qualified legal services.

Member Benefits and Services

The Bar is expanding its exploration of benefits and services that can save members money and time. As technology gives rise to more tools and services to help in your practices, the Bar is focusing on helping you navigate those offerings and working to strike the best possible deals. To that end, I have almost doubled the size of our Member Services Committee. The Bar will also work harder to inform you about its many member benefits and services.

Career Center

To help our members find jobs, the Bar will continue to put a strong effort behind its new Career Center.

Mentoring Programs

According to our recent survey, many members want mentoring programs. The Bar is carefully evaluating what works and how we can make these programs happen.

Core Programs and Services

The core services and programs that you have come to expect from the Bar will continue, and we remain focused on constant improvement. To name a few, you will continue receiving electronic newsletters such as the *e-Journal*, *What's New in Practice Management*, and *Public Policy Update*; you will soon see expanded offerings in the online member directory; the *Michigan Bar Journal*, enjoyed by a substantial number of members in print, will grow with new electronic options and enhanced online content; our public policy staff and lobbyist will remain ever vigilant, seeking out developments

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affecting us and serving as a trusted resource in a legislature that is largely composed of nonlawyers; diversity and justice initiatives work will continue thanks to a dedicated staff and dozens of member volunteers; the important Access to Justice Development work continues, assisted by the Bar's unique "A Lawyer Helps" program; and, in these particularly stressful times, the Lawyers and Judges Assistance Program will continue confidentially helping lawyers and judges battle addictions, depression, and other serious problems.

New Presidential Blog

Finally, I encourage you to visit my SBM president's blog—www.sbmpres2012.com. To the best of my knowledge, I am only the second state bar president in the nation to launch a blog. Through it, I will allow you to follow my journey and learn about the work of lawyers and bar associations as I travel the state and to Washington, D.C. This blog is consistent with my commitment to listen as you tell me what matters to you and how the State Bar can better serve you.

The State Bar is committed to giving you resources to succeed and derive greater satisfaction from your work. The fact is—

- A happier lawyer renders top-caliber client service.
- A happier lawyer is more interested in joining or serving bar associations.
- A happier lawyer more readily gives back to the community through pro bono and volunteer service.
- A happier, profitable lawyer helps the less fortunate in need of civil legal services through the Bar's Access to Justice Fund.
- A happier lawyer makes a great mentor.
- A happier lawyer is more likely to be civil to opposing counsel and the judiciary.

Ultimately, it is through your success and satisfaction that we will accomplish our objectives. *Together* we will serve the interests of justice. *Together* we will protect the public. ■