

Inter Alia

STATE BAR OF MICHIGAN YOUNG LAWYERS SECTION

STATE BAR OF MICHIGAN

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SPRING 2005

Letter from the Chair



Angelique Strong Marks

We have all heard that at the end of each day, it is the good that we do that matters. I would like to add that it is not just the good that we do, but also the manner in which we do it. As young lawyers, we enter the profession with what many would describe as unfettered zeal. We believe that we are prepared to conduct the all-too-famous examination from *A Few Good Men*, where our witness, against his/her better interest proclaims, "You can't handle the truth!"

It is our energy and ambition that comfort us when we realize the vast difference between the actual practice of law and the glamorous Hollywood depiction of the practice of law. For some of us, we are humbled as we serve as what some of us call legal "grunts" to senior attorneys in the profession. In some instances, we may be called to do a task that our value system would not have us do. It is not to imply that we are called to do something illegal or even unethical, but it could just be something that we do not think is right.

I am familiar with an instance where a young associate was drafting a mediation statement regarding a personal injury case involving a young African-American boy. The senior attorney on the file in his revisions to the draft wanted to assert in the mediation statement that the young man "had no innate intellectual ability." The young associate, feeling that the language was untrue, unnecessary, and demeaning, and committed to maintaining her own standard of integrity, requested that the language be removed from the mediation statement. When the partner refused, she took her name off the mediation statement and when confronted by the partner, she informed him that while it was not her decision to determine what statements he

included in the mediation statement, it was her decision to determine to what she associated her name. Although the young associate was prepared to leave her job, it became unnecessary, as the client, in reviewing the mediation statement, requested that the language be removed. Eventually, the partner left the firm, which in that young associate's opinion was a good thing for the firm, its value system, and its reputation.

So, why am I sharing this? Good question. I am sharing this story to make the point that even as young lawyers, we have a responsibility to protect the values and integrity of our profession. Sometimes in doing so the consequences may be high. Even still, we must be committed to those standards even if it means losing a motion, losing a case, or even losing, yes, a job. As we master our

skills in the profession, hopefully with the goal of making a positive change in the world, we must realize that we are also establishing our reputation, which ultimately contributes to the reputation of the profession. We must evaluate our actions and our decisions by the high standards of good character regardless of what others around us are doing (even our bosses).

Just so you know, the young associate in the situation above continues to practice law and some would even say that she is a pretty successful attorney. She can share her story because she did what she believed was the right thing to do, and she could not imagine how she would feel if she had not.

Written by Angelique Strong Marks. Ms. Marks serves as Vice President and Corporate Legal Counsel of Handleman Company.

"We the Jury" Program is a Huge Success

By Chris Christenson

On Monday, April 4, 2005 approximately 100 students from Mr. Molina's classes at Flint Southwestern Academy participated in the "We The Jury" program. This program was designed as a way for students to get informed about the process of jury selection and participation. The original "We The Jury" program was created by the Texas Young Lawyers Section, and the materials were presented by the American Bar Association.

The program, conducted at the Flint Masonic Temple, was an expanded format. The original format

called for time in the classroom; however, it was thought that if the students could get the opportunity to come and tour the courts where the action takes place, it would have a greater impact. The students were also instructed to pay attention to all of the various careers that they would be observing while on their tours, such as clerks, deputies, secretaries, attorneys, and judges. To that end, arrangements were made to have the students tour the 67th District Court and holding cell area, as well as the 7th Circuit Court historic

Continued on page 2

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“We the Jury” Program

Continued from page 1

courtroom and the modern courtroom. While at the Circuit Court, the students reported to the jury board for the actual jury orientation, the same as an actual juror off the street would do.

The “We The Jury” program consists of a fact pattern and videotape with opening statements, witnesses, arguments, and closing statements. To enhance the program, the American Bar Association suggested that actual attorneys participate in the voir dire process when selecting the jury. In keeping with this theme, the Genesee County Prosecutor’s office was contacted in an effort to include real prosecutors, along with real defense attorneys. In all, there were six attorneys who volunteered their time. The three attorneys representing the Genesee County Prosecutor’s office were David Guinn, John Prokos, and Mike Tesner. The three solo practicing criminal defense attorneys were Steven Beatty, Kraig Sippell, and Amy Kline. This made the voir dire process very authentic as the students were split into three groups and each group represented a pool of jurors from which a jury was ultimately selected. Both the prosecutor and the defense attorneys exercised peremptory challenges.

The jury was instructed to not discuss the case until the delibera-

tion, just as a regular jury would be instructed. In keeping with that spirit, the students were sequestered during their lunch and were asked to come up with a verdict during that time. All three of the selected jury groups returned verdicts of not guilty, and when questioned further as to what the deciding factors were, each jury foreman indicated that it was the lack of credibility for the prosecution’s key witness, the confidential informant, that swayed them. The feedback from the students was very positive regarding the pace for each group; the tours, the jury board, and the actual trials were scheduled so that each took only approximately 45 minutes. The students commented that they were never bored since the program was constantly changing, which held their attention. Many of the students were amazed at the numerous jobs available in the legal field. For more information regarding this program, contact Chris Christenson at (810) 232-1112.

Chris Christenson is a solo practitioner in Flint, Michigan. Mr. Christenson handles criminal, commercial, and real estate matters, and he serves on the YLS Executive Council.

**Regeana Myrick Outstanding Young
Lawyer Award**

Nominations are now being accepted for the **Regeana Myrick Outstanding Young Lawyer Award**. Applications are due by September 9, 2005 and can be found on the YLS website www.michiganyounglawyers.com.

Oh, To Be A New Attorney: Tips for New Lawyers—and Their Superiors!

Advice from a New Labor and Employment Lawyer

By Karla M. McKanders

As I entered the partner's office for the fourth time to make corrections to the brief, many questions swirled through my head. Could my writing be this horrible? Did I not understand the parameters of the assignment? What did I actually learn in law school? Am I destined to have my work constantly defaced by the red pen? I began to think this is not exactly what I signed up for. Many new attorneys can relate to this all too familiar scenario.

Transitioning from law school to the practice of law can be difficult and pose challenges. There are many moments that arise for which our law school education or everyday experience did not prepare us. As a law student, you are constantly reading, preparing for your daily exercise in the Socratic Method, leading up to one final exam. As a new lawyer, you must learn how to interact with senior attorneys, support staff, clients, and the Court, learn the law at a quick pace, and balance it all with your personal life.

I have been a lawyer now for a little over a year and I am continuously learning how to balance work and life demands. In this article, I share tips that have made my transition easier. My hope is to help new lawyers (and those working with them) smoothly transition into the practice of law.

Ten tips to raise the bar

1. Find mentors. It is good to have a mentor who has been practicing for a few years and has a vested and/or sincere interest in your development as an attorney. Finding a mentor who is knowledgeable in the subject area in which you work can be extremely beneficial when you are addressing complex issues and need someone to answer questions and review your ideas. A mentor can also help you address

problems and give advice when unfamiliar issues arise. Finding the right mentor is crucial to helping you survive your first couple years of practice.

2. Seek out opportunities to add to your substantive knowledge of the law. One thing that becomes readily apparent to a new attorney is that the law is continuously changing. In order to keep up with the changes, you should take advantage of continuing legal education seminars and other educational opportunities to hear experienced attorneys speak.

3. Stay organized. Being organized will improve your efficiency, reduce the risks of missing deadlines, improve communications, and enhance the view others have of your work performance. Things I do regularly include: maintaining a to-do list and keeping a current calendar by promptly and consistently inserting court deadlines and client meeting dates. In addition, I try to complete deadlines as early as possible, within the parameters of my schedule.

4. Develop good relationships with professional support staff. As a new attorney, you may be jet-tisoned into the role of a supervisor in charge of directing the work of a secretary, paralegals, and other support staff. It is extremely important that you maintain a good working relationship with support staff. Some practical tips include:

- Establish guidelines with support staff when you begin working.
- Utilize the experience of the support staff. In some instances, support staff have worked for many years and may have unique skills and knowledge about a particular area of law, procedure, or

courtroom practice.

- Make sure you are conscious of the workload of support staff before arbitrarily assigning projects. This will allow you to assess whether your expectations are reasonable.

- Take the time to thank support staff for doing good work and going the extra mile for you!

- Be attentive to the needs of your secretary, who can be your biggest ally.

5. Take time to engage in client development activities. Get involved in national, state, and local bar associations. These organizations can provide you with the opportunity to contribute to articles and speak on panels. Keep in contact with high school, college, and law school friends. Join community and civic organizations that you enjoy. Try not to focus only on developing relationships to bring in clients. Develop friendships and connections with people with similar interests and eventually these contacts may turn into business.

6. Don't take criticism personally. Utilize feedback and constructive criticism to improve your work product, and don't take offense to having your work edited.

7. Dealing with clients. Be as accessible as possible. Return phone calls promptly. Be honest about your ability to comply with a client's deadlines. Remember to always communicate clearly when the client will hear from you and with what progress.

8. Develop and maintain good working relationships with other attorneys. Whether it is with your cohorts, senior attorneys, partners,

Continued on page 5

Arranging International Travel for Minors

By Amy A. Yu

In the United States, passports, by federal statute, may only be issued to United States citizens. A passport is a document that gives an individual authority to enter into a foreign country. 8 U.S.C 1101(30). There are various requirements that must be met by the applicant, whether applying for oneself or for a child, before a passport may be issued. So long as all applicable conditions are met, every United States citizen, including children, are entitled to a U.S. passport. 8 U.S.C § 1401, et seq.; 22 U.S.C. § 211a, et seq; 22 CFR, Parts 50, 51. U.S. passport applications may be submitted to passport agencies, post offices, court clerks, and other municipal offices.

A parent or an individual authorized to act in loco parentis must file for the passport of a minor child. When applying for a passport, federal law defines a minor as an unmarried person under the age of 18 years. 22 CFR 51.27. Minors who are 14 years and older can execute their own passport application with proper identification from a parent or guardian. However, there are further hoops to jump through to obtain a passport for a minor under the age of 14 years.

1. Obtaining passports for minors

On July 2, 2004 the Two Parent Consent Law as provided by Public Law 106-113, Section 236, was enacted to regulate passport applications for minors under the age of 14 years. In order to apply for a passport for a minor child under the age of 14, either both parents' consent for issuance is required, or the applying parent must provide documentation evidencing his or her sole authority to obtain a passport for the child. Evidence of such authority could include court orders providing for sole custody or giving authority to one parent to travel with the child; a written statement under the penalty of perjury that the other parent agrees to issuance or is unavailable, now known as Form DS-3053; a termination of the absent parent's parental rights; or com-

PELLING humanitarian reasons relating to the welfare of the child.

2. Passport restriction for minors

Once a passport for a minor child is issued, it can be revoked at the request of a parent under certain conditions. Although the Two Parent Consent Law was enacted to prevent child abduction, reality has proven that parents have been successful in evading the requirements by providing false or misleading information. Once a passport is issued, the passport can be revoked, but not necessarily recovered. This also means that recovery of the child can be extremely difficult.

There are various measures that can be taken by a parent who suspects that a passport has been or will be fraudulently obtained or used. First, the Children's Passport Issuance Alert Program allows a parent to notify the De-

"A parent or an individual authorized to act in loco parentis must file for the passport of a minor child."

partment of State's Office of Children's Issues to require that they must notify the parent or legal guardian before issuing a passport for a minor child. A written request must be submitted to the U.S. Department of State, Office of Children's Issues, Fourth Floor, 2100 Pennsylvania Avenue, N.W., Washington D.C., 20520. The Department of State may refuse to issue a passport at the request of one parent if proof is offered that there is no dual consent and/or a court order exists preventing travel outside of the U.S. 22 CFR 51.27. The alert system will stay in effect until the child attains the age of 18 years. Appropriate contact information must be provided and supplemented to the office.

Once a passport is issued, the De-

partment of State cannot keep track of the passport or the child. If the child's whereabouts are known, a parent can petition a state court with jurisdiction over the child to order the other parent to surrender the passport. The court has the authority to hold the passport and the state has the authority to enforce the court's order. This type of order should be reported to the Office of Children's Issues as well. Once a passport and the child leaves the United States, it is very difficult to track the whereabouts of the minor child. This is why preventative measures are so important.

3. Restrictions on traveling without both parents

A parent or guardian should take extra precautionary measures when traveling with a child, particularly when at least one parent is absent. This is true even in cases where the legal parents of the child are still married and no custody dispute exists. Foreign officials and transportation companies are vigilant concerning documentation for children crossing international borders. Proper identification for the parent or guardian and for the child is essential, if not merely prudent. Proper identification may include a valid passport for both adult and minor and a document giving the adult party permission to travel with the child. In cases where at least one legal parent is not escorting the child, a notarized consent document or letter verifying that the child has the permission of the absent lawful parent(s) or guardian to travel abroad is necessary. This document should be specific to each trip and should include contact information for the parent(s) or guardian. In cases where one parent has died or is otherwise unavailable, or when only one parent's name appears on the birth certificate, a certified copy of the child's birth certificate should also be carried.

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or opposing counsel, it is good to establish and maintain good working relationships. With attorneys in your workplace, be proactive by requesting work assignments. If you want experience in a particular area or skill set, speak up! In your interactions with opposing counsel, make sure you are professional at all times. Do not engage in unnecessary game playing, using unduly harsh language, or refusing to accommodate the schedules of other lawyers. This is not zealously representing your client. It may in fact hurt your client.

9. Public service/pro bono. Find the time to get involved. As an attorney, your schedule will always be full, so you must make time to give back to the community.

10. Take care of yourself. There are many things that cause stress in a lawyer's life—demands made by senior attorneys, long hours, co-workers, unreasonable clients, court deadlines, and the work itself. Exercise to relieve stress. Take time for yourself. Take vacation time. Stay connected with a support network of friends and family to help you get through difficult times.

Top five things new lawyers want experienced lawyers to know – but don't have the nerve to say:

1. Provide sufficient feedback for new lawyers! As new lawyers, we want to improve, but it is hard when we aren't receiving sufficient feedback to know what areas of our work need improvement!

2. Take us along with you when you argue motions or have a deposition of a key witness. Our learning is greatly enhanced by watching more experienced attorneys in action. Once we see how a deposition is defended, we are able to apply what we observe. Also, in the alternative, when senior lawyers allow us to do most of the leg work on the case, we learn how to handle a matter from start to finish. Over time, this inures to the benefit of the senior attorney, who can trust that the associate attorney is experienced in handling certain matters.

3. Better instructions = better work product. In addition, you will save the client's money because we will not take as long trying to figure out what you want. Also, you will

receive a work product that needs less editing by you.

4. Take advantage of the computer-savvy skills of newer attorneys. We grew up with computers and the internet and have a lot of skills to offer. Ask us questions about how PowerPoint or other technology can improve your next big presentation or help you in trial. We can help you wow your cohorts with your new-found technology skills!

5. Be empathetic! Remember, you were once a new attorney trying to navigate your way through the trenches of being a new attorney!

Karla M. McKanders is an associate attorney with Miller, Canfield, Paddock and Stone, P.L.C. in Detroit, Michigan. Ms. McKanders practices in the area of labor and employment law.

Arranging International Travel for Minors Continued from page 4

When traveling abroad with minor children, one can never be too prepared. Exhaustive research of the destinations and/or countries the child may be passing through is another necessary precaution. Additional requirements and/or suggestions may be applicable for travel in other countries.

4. Obtaining information related to passports

The information contained in Passport Service records is privileged and subject to the Privacy Act of 1974. 5 U.S.C 552a. Adult passport records may be made available for inspection by law enforcement officials or pursuant to a court order. 22 CFR 51.27. Passport information is available on

minor children through the Children's Passport Issuance Alert Program as referenced above.

Amy A. Yu of Abrams Yu & Associates PC, Farmington Hills, Michigan, practices in the area of family law. She is a member of the American Bar Association, the State Bar of Michigan, the Michigan Trial Lawyer's Association, the Women Lawyers Association of Michigan, and the Women's Bar Association. She is a council member of the Family Law Section of the State Bar of Michigan and is an Oakland Bar Family Law Section member. She has lectured on family law for the Family Law Section of the State Bar of Michigan.

Create Your Path by Walking

By Tim Batdorf

I had arrived.

Five years after graduating from law school, I was practicing the exact type of law I always wanted and working for the ideal law firm. I was a hot commodity after receiving my LLM in Taxation and was able to choose my employer, an experience vastly different than when I could not find a job after graduating from law school. When I accepted The Firm's offer, I knew it was my best and last hope for happiness at a law firm. If I wasn't happy at The Firm, I thought, I would not find happiness at any firm. I interviewed with too many potential employers to believe there'd be anything better than what I had.

And I was right. The Firm was everything I expected and more. My supervising attorney was one of the best tax attorneys in the city, and (fortunately for me) he was a great teacher who loved to mentor associates. My hourly requirements were reasonable. I was paid well. I was working on really amazing matters for major-league clients.

But, after working for only a few short months, a familiar feeling crept over me—unhappiness. Before law school, I always dreamt of starting my own practice. After law school, I convinced myself I had to work at a firm. After working at The Firm, I realized I was truly an entrepreneur at heart.

When I decided to leave The Firm,

I purchased virtually every book available for wannabe solo practitioners. That didn't help. If anything, the details in all those books created more confusion.

Starting a law practice was actually relatively simple. I created a professional corporation, hired an accountant, rented virtual office space (for access to a conference room), purchased high-quality business cards online, obtained health and malpractice insurance, bought a cell phone, created an e-fax account for faxes, and purchased a multifunction device to serve as a laser printer, fax machine, and photocopier.

Creating my practice took less than a couple weeks, required relatively minimal effort and cost much less than imagined.

Here's the bottom line: The details of creating a law practice won't stop you from starting your firm. But other things may.

My major obstacle was fear. Before I started my practice, a myriad of thoughts crept into my mind, "Would I be able to find clients? Would I be looking for another job within six months? Would I be able to afford my bills?"

So, here was my reality. I had several people tell me they wanted to hire me after I started my practice. I

thought I had about ten estate planning clients on queue. Unfortunately, my timeline for doing their planning was much different than their timeline for doing their planning. I wanted to start immediately, but they seemed content to wait for several months (or years) before doing anything.

I left The Firm in the middle of April. Fortunately, a couple clients hired me immediately. But then, everything stopped.

Summers are traditionally slow in my practice. For some odd reason, people don't want to talk about death and taxes during the summertime. My phone stopped ringing, and to make matters worse, I was knocked on my back for most of the month of June as a result of a mountain biking injury.

Week after week after week and no one called. I was paralyzed by fear. My family warned me not to start my own practice. Maybe they were right. Oh crap, I thought, I might have to start looking for another job. Within three months, my bank account dropped several thousand dollars.

By mid-August, I knew I had to be proactive. Marketing was now my full-time job. I purchased every marketing book for professionals I could find. The best one was *Get Clients Now!* by C.J. Hayden. I read that book and followed it religiously.

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State Bar of Michigan Tax Section

2005 Annual Luncheon—In Honor of Judge Robert A. Wherry, Jr.
Wednesday, June 8 at 12:00 p.m.

Detroit Club located at 712 Cass Ave., Detroit

\$20 per person (special rates for new lawyers and law school students)

Cash Bar

For more information, please contact Ronald Charlebois at (248) 643-6500 or
rcharlebois@powerschapman.com or visit the Tax Section's calendar at

<http://www.michbar.org/tax/news/cfm>.

Creating Your Path by Walking

Continued from previous page

Virtually everyday, I met with other professionals for breakfast or lunch to talk about my practice. Gradually, my phone began to ring. With every dollar I made, I knew it extended the time I could remain on my own. My law practice became my freedom.

I've been practicing law, on my own, for four years now. I have not grown rich, but that was never my intention. I treat my clients well and practice law in a way that feels good for me. I have more balance in my life. Last year, I spent two months on vacation. I work 40 hours or less per week. Not bad for a 35-year-old, right?

Law firm associates ask me, "What is the key to starting your own practice?"

I promise you, the answer is not in the details. It's not even the number of

clients you have, or the money you've saved. What is absolutely critical is having a mentor and a strong community willing to offer you guidance and support along the way. No two paths are exactly the same. As each path is different, as unforeseen situations constantly arise, having a solid mentor and strong community is crucial.

If you want to start your own practice, you must find a group of people you trust completely; people who will be totally honest with you; people who will encourage, support and challenge you to do what you are meant to do.

I will not lie to you. Starting a law practice is difficult. Despite the difficulties, I have never regretted my decision. Because I was willing to take that risk, the options in my life have expanded exponentially. I create my

life exactly the way I want it to be. I choose my clients. I negotiate my deadlines. I set my rates. I am more relaxed than at any time I can remember. I enjoy my life. I love being a lawyer. I can't imagine having it any other way.

Tim Batdorf is an estate planning, probate, and business planning attorney with his law practice based in Troy. He is the Chairman of the Board of Directors for The Mankind Project - Windsor/Detroit Centre. He is a trained career coach and consultant through the Coaches Training Institute. Tim offers workshops for lawyers addressing marketing, solo practice, and life balance. Questions? Contact Tim at 248-797-9905.

MICHIGAN DEFENSE TRIAL COUNSEL, INC Summer Conference June 24 & 25, 2005

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Get clients. Keep clients. Taking center stage in a competitive legal market - DEFENSE LAWYER

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Associates in practice five years or less can attend for free if they attend with a partner in practice more than five years.

Download the conference program and registration form at

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In this Issue

Oh, To Be a New Attorney: Tips for New Lawyers—and Their Superiors	3
Arranging International Travel for Minors	4
Create Your Path by Walking	6
SBM Tax Section Annual Luncheon	6
Michigan Defense Trial Counsel, Inc—Summer Conference	7

Section Mission Statement

The Young Lawyers Section of the State Bar of Michigan provides education, information, and analysis about issues of concern through meetings, seminars, website, public service programs, and publication of a newsletter. Membership in the Section is open to all members of the State Bar of Michigan. Statements made on behalf of the Section do not necessarily reflect the views of the State Bar of Michigan.

Founded in 1940, the Young Lawyers Section (“YLS”) is the oldest and largest section of the State Bar of Michigan. 2004 marks its 64th year! The YLS began as the “Junior Bar of Michigan.” In 1961, its name was changed to the Young Lawyers Section.

The YLS is the largest section of the State Bar of Michigan and includes approximately 33% of the Bar Association. The reason for this size is that membership is automatic.

The YLS Bylaws provide that membership is for attorneys under 36 years of age or with less than 5 years of practice. The YLS Bylaws provide that the objectives and purposes of the YLS “shall be to sponsor and carry on activities of particular interest and value to young lawyers in Michigan; to coordinate activities of the various local young lawyer groups in Michigan; to cooperate fully with, and as an integral part of, the State Bar of Michigan (“STATE BAR”); and to cooperate with the various local bar associations in the State of Michigan, and the American Bar Association, including its Young Lawyers Division, in the promotion of their programs.”

Mission as stated on the Section’s website at: <http://www.michbar.org/younglawyers/mission.cfm>

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