

Let's Talk Specifics



John T. Berry

The holidays are here—not a good time for turkeys. It is, however, a good time to talk specifics with you about what the Bar's Strategic Plan will mean for you in the next year. In both the President's Page and my articles, we have talked to you about the dramatic shift in the Bar's approach to finances and future programs.

Today, let's talk in much more specific terms.

First, we have cut programs dramatically to balance the budget and slice a lot of the fat off the Bar's expenditures. We have not only cut fat, but we have had to go a lot deeper to be fiscally responsible with your dues money in tough financial times. That action was needed and was done to prepare us for a new focus demanded by you.

It is clear that an increase in revenue, both in dues and non-dues revenue will be up for discussion during the next year.

All alternatives, plans, and timing will be presented to you for your input and help. This year will be a good year to evaluate the

efficiency and appropriateness of future services to you.

Here are some initial thoughts for future initiatives:

(1) Discipline Diversion Programs

The State Bar of Michigan, Attorney Grievance Commission, and Attorney Discipline Board will be coordinating efforts to study the feasibility of initiating a comprehensive diversion program for the discipline system.

Most of you know my background in professionalism, ethics, and lawyer regulation. As part of that experience, I have learned that a purely "prosecutorial model" of lawyer regulation is both unfair and counterproductive.

Vital limited resources should be used to protect the public and the judicial system from *unethical* and *incompetent* lawyers.

Most lawyers who have received complaints, however, either have done nothing wrong or in many cases are not bad lawyers, but are lawyers who need help in law office management, interpersonal skills, anger management, or stress management.

Diversion programs allow training in these areas in a non-confrontational setting. Studies throughout the United States show that recidivism rates for disciplinary actions drop from over 30 percent to less than 5 percent if such programs are used rather than prosecutions. These programs are comprehensive and provide great ways to avoid future complaints by clients. Serious violations, of course, would continue to be prosecuted.

This approach actually helps individual complaining clients more because they know their complaint has caused some constructive action to be taken rather than just having had a minor discipline sanction entered. Also, it helps the lawyer and future clients. It is a win-win for all.

This program is paid for by the respondents. The amount to be paid, however, is far less than the administrative fees and attorney fees for defending against a potential minor discipline sanction.

If it does not work, future discipline is an option, but this approach of helping lawyers, when appropriate, encourages good lawyers, rather than labeling them forever.

This, in combination with an already newly-existing intake system which talks to complaining parties up front humanizes our approach to lawyers and the public alike.

(2) Defining, Improving, and Defending our Profession

We must develop a coordinated approach to defining who can practice law, where, with whom, and in what way. Law office management help, defining our relationship with other professions (MDP), defining our ability go across state and international borders (MJP), and finding more efficient delivery systems by lawyers must be a priority of our Bar.

Efforts against the unauthorized practice of law must be increased, and lobbying efforts statewide and nationwide must be focused on protecting the public from harmful violations of those protections. In reaching a definition of our profession, we must be open and objective and base our decisions on one common theme—public protection.

(3) Law Schools

We will work with those within our law schools who wish to help lawyers begin not only on an intellectual quest and career quest, but also on a quest for *servicing* in a profession in which it is a privilege to practice.

Share your thoughts/concerns

Please forward comments to voice@mail.michbar.org

(4) Technology

By this we mean the technological advances that will help each of you to practice law more efficiently. With your suggestions, we can improve upon our *e-Journal* concept. We must find you computer research alternatives at cheaper rates.

Likewise, we must focus on new technology, which will make more efficient our system of justice. In this budget year, we have significant resources devoted to completing a model e-filing project. This project will test the feasibility of implementing an e-filing system in our courts.

(5) Development Campaign

We must build upon the success already achieved by our raising two million dollars for helping the poor to have access to our justice system.

We have already cut many very good programs serving community needs, but we just

can't continue to stretch limited resources so thinly that we dilute our ability to directly deal with critical needs you and our profession are facing. It is never easy to say no to well-intentioned positive programs, but you have told us to focus on the urgent needs facing you in the realities of practice. That is what we are going to do.

Maintaining the best of existing services and providing these additional initiatives will require new expenditures of time, money, and resources.

We must remain focused on the mission of improving the administration of justice by providing a profession that is more ethical, professional, competent, compassionate, and efficient.

We must remain focused on the mission of improving the administration of justice by providing a profession that is more ethical, professional, competent, compassionate, and efficient.

It is Thanksgiving season. We as lawyers have much to be thankful for. Right near the top is the privilege to be a vital part of the best judicial system in the world.

As I reflect upon the strengths of our justice system and the lawyers who help make it work, I am reminded of a quote by Chesterfield Smith, former president of the ABA: "I believe in fixing institutions when they are not recognized as broken—

and even before others know that improvements are possible. I have a desire to make life better and more pleasant for others, to be involved in improving society, and to improve our institutions for the future."

Our focus is to heal and strengthen this profession and those who serve in it. ♦