

By Adam Sheppard

President Mulroy's Conference on Adapting to Rapid Change

Future Challenges Facing the Local Legal Community



The Chicago Bar Association gathered about 100 leading Chicago area lawyers, judges, and law professors to discuss and think critically about challenges facing local judges and lawyers in the next three to five years. The conference was organized around four topics: (1) the Law Student and the New Lawyer; (2) Justice and the Legal System; (3) Diversity and Inclusion; and (4) ADR-ODR and Conflict Resolution Skills.

For each topic, the conference considered its impact on women and minorities, solo practice lawyers, big firms, government lawyers, the judiciary, and law schools. CBA President Judge Thomas R. Mulroy prepared an extensive report summarizing the results of the conference. According to Judge Mulroy, “The CBA wants to help make the practice of law less stressful and a little easier. To that end, the CBA gathered 100 lawyers, judges, and law professors to study and report on the practice of law in Chicago with the idea of making recommendations which would benefit our lawyers in their profession. This report contains wonderful ideas and suggestions for our future.” In addition, incoming CBA President Steven Elrod, who was also a member of the conference that discussed the topics at issue, remarked “This is an important and timely initiative because our profession is changing rapidly at every level. Judge Mulroy did a masterful job first in identifying the issues, and then in putting together the people and the resources to begin understanding and addressing those issues. This will be our blueprint going forward.”

Section 1: The Law Student and New Lawyer

“Nearly 90% of new law school graduates surveyed say law schools must undergo significant changes to better prepare future attorneys for the changing employment landscape and legal profession. Ninety-five percent of hiring partners and associates believe that recently graduated law students lack key practical skills at the time of hiring,” according to the statistics that the report cites. The report recommends “a proposal to reinvigorate the tradition of mentorship within the legal profession, especially among those who will serve as mentors for women attorneys.” While young lawyers have unique skills that older lawyers must appreciate, e.g., mastering technology, such skills “should come in addition to, and not at the expense of, traditional technical skills and core competencies,” the report states.

Recent data and consultations with experienced individuals from throughout the profession, including current law students, persuaded the group to concentrate on three issues: (1) law school training in technical skill and core competencies; (2) professional skills and values; and (3) law student and new lawyer well-being.

Technical Skill and Core Competencies

“Core competencies” include: integrity/honesty/trustworthiness; good judgment / common sense; legal competency / knowledge; commitment to workplace; dedication to client service; problem solving skills; effective written and oral skills; analytical skills; listening skills; initiating and maintaining good work and team relationships; inspiring confidence; stress/crisis management; project management / high quality, efficiency, and timeliness.

The report recommends, among other programs, “Formal Model Workshop Programs” to address both critical core competencies and technical skills training. Other recommendations include a “Basic Skills” course of no fewer than six hours as part of MCLE requirements; law firms’ designation of individuals to teach and mentor new professionals; and a presentation, by appropriate stakeholders, to the National Conference of Bar Examiners regarding “development of more practice-based skills elements in future bar exams.”

Professional Skills and Values

To train new lawyers and law students in professional skills and values, the report recommends the following: start at the law school admission phase, perhaps by assessing applicants’ social skills through interviews or less expensive or time consuming processes; emphasize professional skills in orientations and workshops for first-year students; use social media as part of each law school’s effort to increase student awareness of professional skills and values; emphasize one-on-one interactions between lawyers and law students; consider delegating professional skills training for law firms, agencies, and corporations to a qualified person; have MCLEs in professional skills and values; and continue educating experienced lawyers and professionals on the skill sets that we want “millennial” lawyers to develop.

Law Student and New Lawyer Well-Being

The report recommends the following regarding the “wellness” of lawyers and law students: conduct orientations related to well-being; increase the MCLE requirement for mental health / substance abuse issues from one hour to two hours; ensure funding for the Illinois Lawyers’ Assistance Program (LAP); increase interaction between law schools and law firms and the LAP; ensure that students are aware of LAP services (each of the nine Illinois

law schools should establish a permanent student group to serve as a liaison to LAP); and designate an individual in law firms and other practice settings to serve as a resource for new lawyers who are suffering from mental health issues.

Other recommendations include the following: law school faculty, staff and administrators should meet with interested students and other school resources to discuss opportunities for students to develop healthy habits to reduce stress and anxiety (e.g., yoga classes, meditation opportunities, wellness sessions); representatives from the judiciary, law schools, LAP, regulators (bar examiners, MCLE Board, ARDC), bar associations, law firms and allies (the public, psychologists, addiction psychiatrists) should support a “Commission on Lawyer Well-Being,” which the ABA National Task Force on Lawyer Well-Being recommended in a 2017 report.

Section II: Justice and the Legal System

Improve Efficiency

To improve courtroom efficiency, the report recommends more online accessibility. The report recommends access to a daily call sheet for each courtroom, the posting of a judge’s availability online, access to a judge’s official email for courtesy copies of filings and communication in the event of an emergency (with appropriate safeguards to prevent ex parte contacts), the ability to complete orders online and print them out in the courtroom, pay-to-print stations in each floor of the Daley Center, the transition to laptops for court coordinators, equipping courtrooms with enhanced audio capabilities and video access, becoming less paper-reliant by having NCR (no carbon required) orders readily available in every courtroom, and having an attorney’s lounge available in each courthouse, such as the lounge that the DuPage County Bar Association maintains on the 2nd Floor of the Wheaton Courthouse.

Enhance Resources for Self-Represented Litigants

The report recommends a “far-reaching public awareness campaign” to promote resources that are available to self-represented litigants. “The campaign might include radio and TV ads, public service announcements, ads on buses and trains, text message campaigns, and ads on social media platforms, such as Facebook, Instagram, Twitter, and Snapchat.”

Streamline Domestic Relations Procedures

To streamline proceedings in Cook County domestic relations courts, the report recommends an online system that helps prepare dissolution documents (a computer program asks questions and the responses are automatically inserted into the Domestic Relations forms), more fillable forms for common pleadings, and the ready availability of hearing officers to assist self-represented litigants. Other jurisdictions have implemented such systems.

Streamline Litigation

To streamline litigation in the Law and Chancery Divisions, the report recommends mandatory initial disclosures as required by Federal Rule of Civil Procedure 26(a) (1), stricter enforcement of

Illinois Supreme Court Rule 218 disclosures, mandating ADR in some or all cases sometime before trial, screening cases for ADR, including Online Dispute Resolution, and “expand and improve the current mediation programs in Cook County by giving the parties information about mediation at the time a case is filed and when the defendant is served.”

Section III. Diversity and Inclusion

Even though diversity statistics in the corporate and professional world have increased substantially over the past decade, such numbers in the legal field are still lagging. The report recommends that Chicago law firms and legal organizations consider implementing the “Mansfield Rule,” named for Arabella Mansfield, the first woman admitted to practice in the United States. The rule is modeled after the National Football League’s “Rooney Rule.” As explained in the report, “[t]he Mansfield Rule measures whether law firms have affirmatively considered women and attorneys of color at least 30 percent of the candidate pool for leadership and governance roles, equity partner promotions, and lateral positions.”

The report also emphasizes that “‘Diversity’ and ‘Inclusion’ are two separate and essential components to success.” The report recommends that firms or business leaders make the “business case” for diversity and inclusion; strengthen “implicit or unconscious bias” awareness training; ensure compliance with the newer IL Supreme Court MCLE Rule, effective July 1, 2017, requiring every attorney to take at least one hour of CLE in area of diversity and inclusion; and continually request and expect diverse teams on their matters. “Most importantly, lawyers need to assume personal responsibility for professional changes.”

How to Integrate Five Generations of Lawyers

The five generations of lawyers include: (1) the Greatest Generation or Traditionalists (born before 1945); (2) Baby Boomers (born 1946-1964); (3) Gen X (born 1965-1976); (4) Millennials (born 1977-1995); and (5) iGen or Generation Z (born 1996 and after).

The report recommends that firms, agencies, or organizations conduct a self-assessment to get a realistic picture of its lawyer and staff population demographics. Firm leadership should then become involve in embracing workplace flexibility and the use of social technology. The report also contains other recommendation for how to integrate the five generations of lawyers.

Section IV: ADR-ODR and Conflict Resolution Skills

Online Dispute Resolution

“Online Dispute Resolution (ODR) refers to a broad and flexible set of systems that are meant to integrate technology into various approaches towards and steps of the dispute resolution process.” The report recommends a task force to develop a pilot ODR program in Cook County. The report also notes new, worldwide, suggested standards for all forms of technology-assisted dispute resolution that the recently formed International Council for Online Dispute Resolution (ICODR) has adopted.

Alternative Dispute Resolution

In addition to ODR, the report discusses the increase of alternative dispute resolution (ADR) and the need for ADR. In addition to the ADR initiatives already underway, the report recommends additional initiatives that the court system may implement, including: conducting a thorough analysis of statistics to date from existing Circuit Court of Cook County ADR programs; requesting funding for various focus groups, roundtable discussions and panel discussions with ADR stakeholders; maintaining ongoing information exchange venues regarding ADR matters; inviting Resolution Systems Institute (RSI) to collect statistics to show value of mediation to judges; and consulting with Claims Litigation and Management Alliance or Defense Research Institute and prominent plaintiffs attorneys to determine obstacles to mediation.

The report also recommends the creation of “Circuit Court Rule (or better) requiring the filing of an Affidavit indicating that attorneys have had a conversation with their client informing the client of available ADR options and the potential cost and time savings ADR offers.” With respect to “Judicial Education Initiatives,” the report recommends adding curriculum to the New Judge Seminar that includes uses of ADR and information about existing programs. Other recommendations include pilot projects to expand the types of cases that are subject to ADR and ensuring that pro se resources include information about access to ADR services. The report also identifies ADR projects and conferences for which the court system, the CBA, or legislature may request funding.

In addition, the report summarizes the conference’s findings regarding conflict resolution skills, an area in which many attorneys never received any formal training or instruction. The report recommends, among other programs; mandatory conflict resolution skills education; new lawyer training programs; annual conflict resolution skills workshop by firms or law schools; stress education training; the CBA’s development, publication, and distribution of materials and software to facilitate the development of attorneys’ conflict resolution skills; and the promotion of law school coursework involving conflict resolution skills.

Conclusion

“This Summit was important for both identifying future trends and prioritizing recommendations to improve the profession. It will be

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interesting to see—several years from now—how lawyers practicing in Chicago have adapted to the changes predicted in Judge Mulroy’s report,” said Matthew Passen, former YLS chair who participated in the summit. Indeed, as the report notes, “[l]ike it or not, the world is moving forward at a quickened pace, and the profession must do so too. We cannot wait—either we manage the challenges today, or the challenges will manage us tomorrow.” ■

Adam Sheppard is an Editorial Board Member who has been slated to the CBA Board of Managers for the 2018 and 2019 Bar Years.



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