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On May 18, 1926, evangelist Aimee Semple McPherson disappeared, later resurfacing to face wild allegations and criminal charges.
The practice of health law is professionally challenging and demands dedication. We recognize the firms and attorneys listed here for answering this call to professionalism, for engaging the challenging health law issues of the day, and for their efforts to address healthcare clients’ complex problems.

**NORTHEAST**
1. Mintz Levin Cohn Ferris Glovsky & Popeo
2. Baker, Donelson, Bearman, Caldwell & Berkowitz PC—BakerOber Healthcare
3. Verrill
4. Troutman Pepper
5. Nixon Peabody
6. Rivkin Radler (tie)
7. Venable (tie)
8. Foley Hoag (tie)
9. Robinson & Cole (tie)
10. Stevens & Lee (tie)

**SOUTHEAST & DC**
1. Nelson Mullins Riley & Scarborough
2. King & Spalding
3. Crowell & Moring
4. Hogan Lovells
5. Mintz Levin Cohn Ferris Glovsky & Popeo (tie)
6. Polsinelli (tie)
7. Sidley Austin (tie)
9. Holland & Knight (tie)
10. Williams Mullen (tie)

**SOUTH**
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2. Baker Donelson Bearman Caldwell Berkowitz — Baker Ober Health Law
3. Bradley Arant Boult Cummings
4. Husch Blackwell
5. Butler Snow
6. Stites & Harbison
7. Polsinelli
8. Breazeale Sachse & Wilson (tie)
9. Haynes and Boone (tie)
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**MIDWEST**
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2. Husch Blackwell
3. Foley & Lardner
4. Hall Render Killian Heath & Lyman
5. Warner Norcross + Judd
6. Quarles & Brady
7. Benesch, Friedlander, Coplan & Aronoff
8. The Health Law Partners (tie)
9. Thompson Coburn (tie)
10. BakerHostetler (tie)

**WEST**
1. Hooper, Lundy & Bookman
2. Davis Wright Tremaine
3. Crowell & Moring
4. Sheppard, Mullin, Richter & Hampton
5. Polsinelli
6. Foley & Lardner
7. Latham & Watkins
8. King & Spalding (tie)
9. Snell & Wilmer (tie)
10. Stoel Rives (tie)

The Health Law Section has been the voice of the health law bar for over 20 years. As the profession’s standard-bearer, our central mission is to lead and shape the national discussion on pressing health law issues of the day.

This national leadership is accomplished through our unparalleled resources, unrivaled depth and breadth of expertise, and the backing of ABA’s strength in membership.

This list was determined by reference solely to Health Law Section membership as reported to the American Bar Association. Recognition is solely honorary in nature and not because of any qualification, skill or ability. No endorsement by ABA is granted, directly or indirectly, nor should be construed.
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One of the American Bar Association’s four core goals is to “Advance the Rule of Law.” This has always been and will always be front and center for our association and profession.

The rule of law, while not always easy to define precisely, ensures an orderly, just society. It creates a system where laws are enacted by democratically elected representatives. It means no one is above the law, no one is beneath it—the law treats all equally, and everyone is held accountable in the same way. It demands the enforcement of laws be clear and fair, the judiciary be independent and all persons be guaranteed fundamental human rights.

While the rule of law has been the foundation of America since its birth, recent events and unprecedented attacks on our institutions underscore the need to remain vigilant about protecting it. The COVID-19 pandemic, ongoing racial injustice and attempts to disrupt the peaceful transfer of presidential power have all highlighted broader challenges around justice in America.

The pandemic has created or intensified legal problems for underserved communities involving threats of eviction, debt repayment, government benefits and increases in domestic violence. As lawyers, we can contribute time, treasure or talent to addressing these unmet legal needs. The pandemic also triggered passionate debates over the reach of government in people’s lives, including the legality of public health mandates where civil liberties are at stake. Lawyers have a responsibility to contribute to these debates with civility, thoughtfulness and productive solutions.

Recent events have also laid bare—again—the racism and inequities that infect our legal and justice systems. The rule of law calls for the equal enforcement of and accountability to the law. Our justice system has not lived up to this ideal and does not live up to it today.

At the ABA, we have enhanced our work on racial equity, including through our Center for Diversity and Inclusion in the Profession, our entities and the launch of the Legal Education Police Practices Consortium, addressing police practices in partnership with more than 50 law schools.

The rule of law was shockingly put to the test Jan. 6, when the peaceful transfer of power was threatened by false claims of voter fraud and a violent mob at the Capitol. While the 2020 election results were contested, the rule of law ultimately prevailed. Claims were investigated, audits and recounts conducted, and dozens of lawsuits challenging the election results were carefully and openly considered by independent courts, including the U.S. Supreme Court. People are free to disagree with any court’s decision. They are not free to disobey it.

The events of the past year have reminded us that the rule of law can be fragile if not actively protected. Now is the time for lawyers to help educate Americans on the rule of law’s importance. This year’s Law Day theme is “Advancing the Rule of Law, Now,” reminding us that we the people share the responsibility to promote the rule of law, defend liberty and pursue justice. Across the country, lawyers will celebrate Law Day by leading or participating in school and community programs that reinforce the concept, as Ben Franklin is purported to have remarked, that our government is not a monarchy but “a republic, if we can keep it.”

Lawyers also can advance the rule of law through the ABA’s annual grassroots lobbying effort—“ABA Day 2021: Advocacy for Justice”—on April 20-21. Through advocating for Legal Services Corp. funding, you can support legal aid agencies across the country and use your influence to increase access to justice and assist in creating a more equitable system.

Lawyers are on the front lines in advancing the rule of law. We must constantly strive to improve our institutions in service to the rights of all to justice, fairness and equity. The ABA and bar associations throughout the nation stand ready to support your work.
Introducing ATEM Mini
The compact television studio that lets you create presentation videos and live streams!

Blackmagic Design is a leader in video for the television industry, and now you can create your own streaming videos with ATEM Mini. Simply connect HDMI cameras, computers or even microphones. Then push the buttons on the panel to switch video sources just like a professional broadcaster! You can even add titles, picture in picture overlays and mix audio! Then live stream to Zoom, Skype or YouTube!

Create Training and Educational Videos
ATEM Mini’s includes everything you need. All the buttons are positioned on the front panel so it’s very easy to learn. There are 4 HDMI video inputs for connecting cameras and computers, plus a USB output that looks like a webcam so you can connect to Zoom or Skype. ATEM Software Control for Mac and PC is also included, which allows access to more advanced “broadcast” features!

Use Professional Video Effects
ATEM Mini is really a professional broadcast switcher used by television stations. This means it has professional effects such as a DVE for picture in picture effects commonly used for commenting over a computer slide show. There are titles for presenter names, wipe effects for transitioning between sources and a green screen keyer for replacing backgrounds with graphics.

Live Stream Training and Conferences
The ATEM Mini Pro model has a built in hardware streaming engine for live streaming via its ethernet connection. This means you can live stream to YouTube, Facebook and Teams in much better quality and with perfectly smooth motion. You can even connect a hard disk or flash storage to the USB connection and record your stream for upload later!

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With so many cameras, computers and effects, things can get busy fast! The ATEM Mini Pro model features a “multiview” that lets you see all cameras, titles and program, plus streaming and recording status all on a single TV or monitor. There are even tally indicators to show when a camera is on air! Only ATEM Mini is a true professional television studio in a small compact design!

ATEM Mini ................... $295
ATEM Mini Pro ............... $595
ATEM Software Control ........ Free
Equal justice
Apropos was ABA President Patricia Lee Refo’s “Justice for All,” February-March, page 6, referencing the long-standing, diligent efforts of the ABA to ensure such equal justice for all. Surely we lawyers are well enough endowed with the skills and influence necessary to achieve that “equal justice for all” under the law both in criminal and civil proceedings. What we seem to lack is the collective commitment to make the required institutional changes so no litigant would have to rely upon the off chance a volunteer might step up to provide pro bono representation.

Regrettably, far too many among us—often precisely those holding political power at all levels of government—seem dedicated to forestalling such equal access to justice for all. Are illustrations really needed?

If only that latter cohort of lawyers would conscientiously heed the call sounded by President Patricia Lee Refo.

Thomas Goetzl
Bellingham, Washington

Dream vs. wake-up call
I was somewhat encouraged and discouraged by “Dreams Deferred,” December-January, page 44.

I was encouraged because there is so little recognition of the side effects of imposing such large debts on young people for their education. I was discouraged because the article spoke only to the legal profession.

Student debt is a national problem. Some have recognized that by offering some small steps, such as Kenneth Langone and others who funded the New York University Medical School to eliminate all tuition. Their reasoning, as reported, was because the debt not only put medical school out of reach for so many, especially minorities, but it also forced many to look at making money in medicine as a necessity to pay down the debt. It prevented many from taking up jobs in public health, small communities or family medicine.

That is true not just in law and medicine, it is true for everyone. It is causing our youth to put off marrying, having children, buying houses and everything else. It is effectively impoverishing them during their youth, forcing them to take the path of least resistance to pay off the debt.

While I am not an economist, I expect that student debt is overall one of the major forces holding our economy back. I look at the GI Bill after World War II as what drove American superiority. Young people who never dreamed of college or professional careers came back from service and found that they had the ability to gain a higher education.

The answer to the problem is not going to be solved by lawyers or doctors; it is one that must be solved by a national policy that will allow all Americans, not just the wealthy, to have as much education as they can absorb.

Maurice A. Nernberg
Pittsburgh

...if only that latter cohort...

I have been a member of the ABA since I was a law student almost four decades ago. “Dreams Deferred” was truly a new low for the ABA. Law school is expensive. Indeed, colleges and university educations are expensive—outrageously expensive. Who is supposed to pay for these educations? Why should someone else assume that debt?

There are paths for reducing such debt that include public service. There are few adults who have not had to “defer dreams” in order to be fiscally responsible. We would all like larger, more commodious homes; we make sacrifices to raise our children, to feed and educate our children. It’s called being a grown-up. The pandering is beyond the pale. Seriously. Please stop.

Denise P. Ward
Port Chester, New York

Corrections
Michigan Supreme Court Chief Justice Bridget Mary McCormick’s first name was mistakenly omitted in the table of contents, February-March, page 1.

“Keeping Up Appearances,” February-March, page 44, should have identified Brandon Draper as an assistant county attorney for the Harris County Attorney’s Office.

“Letters from Our Readers,” December-January, page 8, should have correctly identified letter-writer Veronica Chavez Law.

The Journal regrets the errors.

Letters to the Editor
You may submit a letter by email to abajournal@americanbar.org or via mail: Attn: Letters, ABA Journal, 321 N. Clark St., Chicago, IL 60654. Letters must concern articles published in the Journal. They may be edited for clarity or space. Be sure to include your name, city and state, and email address.
Reimagining Federal Courts

Biden’s opportunity to reform and diversify

BY LIANE JACKSON

America’s third branch of government has been at the epicenter of the news cycle in recent years, with the death of Justice Ruth Bader Ginsburg, high-profile battles over U.S. Supreme Court nominations, and controversy over election results putting the power and influence of the bench into full focus.

We have seen that courts can be an instrument for social and political change; they can be the sword and the shield. But they best serve justice when they are inclusive—a perennial challenge for the federal judiciary.

Conservative strategists early on recognized the power potential of seeding the courts with like-minded ideologues and have been playing the long game for years. Sen. Mitch McConnell, R-Ky, with assistance from the Federalist Society and other right-wing groups, has been able to stack the federal judiciary with conservative judges.

After Republicans gained control of the Senate in 2015, then-Majority Leader McConnell blocked more than 70% of then-President Barack Obama’s judicial nominations—including Supreme Court choice Merrick Garland—in order to preserve judicial picks for a Republican president. And once the presidency was secured, McConnell was able to push through hundreds of far right-aligned judges at a record pace, including three Supreme Court justices. The senator’s promise to “leave no vacancy behind” was implemented with ruthless speed and devastating consequences for diversity in the courts.

By the end of his term, former President Donald Trump had appointed more than 200 Article III judges, a class with the dubious distinction of being the least diverse pool in the modern era.

A left-out legacy

Instead of reflecting America’s melting pot, architects of this judicial reshaping sought candidates who evinced extreme right-wing philosophies, even when they lacked experience or had troubling commentary in their pasts.

Trump-appointed judges were overwhelmingly white, male and conservative: More than 76% were men and 84% were white, according to data collected by the American Constitution Society. Comparatively, 58% of Obama’s appointees were male and 64% were white. While Obama holds the record for the most diverse appointments to the federal bench, past presidents from all parties have made at least a de minimis effort to reflect gender and ethnic diversity in their appointments. But not the Trump administration.

Why should this matter? Because judges are not blank slates—their biases, ideologies and professional and life experiences influence how they rule, whether it’s on voting rights, reproductive choice, criminal justice, religion, immigration, the environment, labor issues or gun control. The judiciary holds an
incredible and underappreciated sway over daily life. And lifetime appointments mean decades of opportunity to protect rights or rescind them.

In January, President Joe Biden began selecting members for a proposed bipartisan commission to study reforms to the Supreme Court and the federal bench. He has said he wants the group to craft recommendations within 180 days. Biden has been circumspect about Supreme Court reforms, a priority for progressives who have proposed everything from expanding the number of justices to term limits. The president has been on the record saying he’s “not a fan of court packing,” but activists are urging bold and swift action while the ball is in their court with a narrow Democratic Senate majority. To this end, the administration is actively seeking recommendations from senators and interest groups to fill outstanding judicial openings and any that may arise.

Neutral arbiters?
The judiciary relies on the public trust for legitimacy and viability. Courts remain more popular than other governmental institutions, but political polarization has begun eroding respect for the judicial branch.

A lack of diversity sends the wrong message to constituents and can undermine public confidence in the judiciary. In its October 2019 report Building a More Inclusive Federal Judiciary, the Center for American Progress noted the public increasingly perceives the courts as unfair, especially to underrepresented groups, and sees corporations as favored over the public good. The authors note that the judiciary is facing a legitimacy crisis, in part because of the “lack of federal judges representing historically underrepresented groups, such as people of color, women, individuals who self-identify as LGBTQ, people with disabilities, and people belonging to minority religions.”

Across the federal judiciary, there is a glaring dearth of Black women, with only five of 179 sitting on appeals courts and just 42 of 673 serving at the district court level. For his part, Biden has pledged to nominate a Black woman to the Supreme Court.

Prioritizing diversity
Homogeneity has never been a hallmark of justice. The regression of the Trump years can be reversed through a sweeping and concerted recruitment effort that expands the narrow old boys’ network that feeds the judiciary. Most federal judges are pulled from private practice or are former prosecutors, but Biden’s commission must cast a wide net to include more law professors, leaders of civil rights organizations, public defenders and nonprofit heads in the pool of nominees. Not only are these candidates well-qualified, but they will contribute well-needed diversity of intellectual thought and experience.

Historically underrepresented groups should be prioritized, along with a focus on bolstering the pipeline that starts in law school and includes judicial clerkships.

Federal judgeships should not be the province of the white-shoe elite—qualified candidates can be found at all levels of the educational and legal landscapes. As the Center for American Progress notes: “Adding judges with different backgrounds and experiences to the court can act as a check on bias in the courtroom.”

The Biden administration currently has five circuit court openings to fill. And more than 200 federal judges are currently eligible for senior status, more than half of whom are white males.

This moment offers an opportunity to recast the courts to reflect and understand the communities they serve. There is no lack of talent—all it takes is political will. ■

ON WELL-BEING
Need a Mental Rest and Reset?
Walking meditation is a step toward calm
BY JEENA CHO

In March 2020, like so many lawyers, my husband (who is also a lawyer) and I began to work from home while balancing parenthood. Our daughter was 10 months old. We’ve been figuring out how to do two full-time jobs in half the time, constantly weighing whose Zoom meeting is more important and truly cannot involve a crying child. It’s exhausting learning how to do everything—conducting meetings, mediations, depositions, trials and kids’ birthday parties—remotely.

The hours and days blend together, punctuated by the never-ending news cycle. With the toll on the nervous system caused by all that is happening in the world, it is easy to fall into despair.

Grief. This is the word that feels most prominent as I reflect on the past 16 months. The grief from the loss of loved ones, colleagues and friends to COVID-19. The grief from not seeing people I care about. The grief for those missing from the holiday dinner table.

Having a strong mindfulness practice as a foundation has helped me get through these difficulties. This isn’t to suggest that mindfulness has somehow shielded me from experiencing grief or trauma. What it has allowed is a way for me to process it so that the grief isn’t the only experience my mind is paying attention to.
One meditation practice that I found to be particularly soothing and calming is walking meditation.

**Rest and digest**
Before I explain how to do this practice, it’s useful to understand the science behind it.

Our autonomic nervous system controls involuntary functions that largely operate below consciousness. There are two important subsystems of the ANS: the sympathetic and the parasympathetic nervous systems. These are commonly referred to, respectively, as the “fight-or-flight” system and “rest-and-digest” system.

When we experience a stressful event, it triggers the fight-or-flight response. This response is very useful in acute stress, such as running to grab my daughter’s hand as she’s falling. However, the overactivation of the sympathetic nervous system can lead to long-term negative impacts on the body, such as heart disease and hypertension.

When the sympathetic nervous system is triggered, it inhibits the parasympathetic nervous system—meaning, your ANS cannot recover and return to homeostasis. It leads to a vicious cycle where stress negatively impacts your well-being, and because your sympathetic nervous system is constantly “on,” you are less able to recover from stress. This is especially true during long periods of ongoing stress with increased heart rate, elevated levels of stress hormones and blood pressure. You may notice a decline in your cognitive ability to respond skillfully. Your sleep, appetite and digestion may also be affected, which leaves you even less able to cope.

Walking meditation is a simple but powerful tool you can use to activate the parasympathetic nervous system. It combines the benefits of sitting meditation and physical exercise. The practice is simple and does not require any special equipment. Unlike going for a walk, there is no destination during walking meditation. You are practicing paying close attention to the body, intentionally slowing down and giving your nervous system a chance to rest and reset.

**Walk this way**
Walking meditation can be practiced just about anywhere, both indoors and outdoors. Find a space where you can take 10-15 steps. It’s helpful to find a relatively quiet place with minimal distractions and where you’re unlikely to be interrupted. However, don’t fall into the trap of looking for the perfect environment; inevitably, there will be interruptions. But you may notice that in time, your reaction to these distractions shifts, and you may feel less irritated or bothered.

Start the walking meditation practice by grounding yourself. Stand with your feet shoulder-width apart, lengthen through your spine and pay attention to how the weight of your body is distributed. Does it feel even on both feet? Are you able to notice the weight more on one foot?

Take a few slow breaths, in and out. Next, lift your right foot off the ground. As you are lifting your right foot, notice the weight of your body shifting to your left foot. As you move forward, you’ll naturally notice that the weight shifts to the right foot as you take a step. You may find it helpful to walk slower than your natural pace. Continue to walk, paying attention to the physical experience of walking. It is possible that as you do the walking meditation, you may occasionally lose your balance because you are walking more slowly than usual. Don’t be alarmed; this is very normal. Once you’ve taken 10-15 steps, pause for a moment and feel both feet on the ground. Remember, there’s no destination you are hurrying to get to.

And when you feel ready, turn around and walk back in the same direction.

As you are practicing the walking meditation, it’s natural for the mind to drift away. You may notice that you’re worrying, planning, rehearsing a conversation, reliving an event from the past or simply lost in rumination. This is also very normal and not something to get upset about.

Despite popular belief that meditation should be free of distractions (both internal and external), in fact, we are practicing to be more skillful when the mind is engaging in familiar patterns of worrying or imagining the worst. You can observe how these thoughts trigger the fight-or-flight response.

For example, when you catch yourself thinking about an upsetting conversation with an opposing counsel, you might notice your shoulders tensing, your heart rate rising or feeling your face turn red. If that happens, you can gently remind yourself, “I am safe, and in this moment, I am just walking.” Allow the walking practice to become an anchor for the mind.

I suggest setting a timer for 5-10 minutes before you start the practice so there is a set end time. Set an easily achievable goal, such as 5 minutes per day for 31 days, to create a microhabit. It can be extremely difficult to carve out time for yourself, especially when the to-do list feels endless and you’re constantly multitasking.

Remember, though, that your ability to do these tasks skillfully and meet the challenges in each moment is dependent on your ability to stay calm, process all the information and make the best decision possible. However, this isn’t possible without the ability to calm the nervous system. So make your well-being a priority, and give yourself a few minutes to unplug and engage the parasympathetic nervous system every day.

Jeena Cho consults with law firms on stress management and mindfulness. She co-wrote *The Anxious Lawyer* and practices bankruptcy law with the JC Law Group in San Francisco.
Pet Projects

This NYC-based lawyer runs a talent agency for internet-famous animals

BY JENNY B. DAVIS

It doesn’t take much for a pet to be considered cute. Those button noses. The big ears. The way they look when they’re lapping, nibbling, preening, grooming or just staring up at you. But for a pet to be standout cute on Instagram? That takes quite a bit more effort. In fact, it takes so much effort to capture the attention of the social media platform’s more than 1 billion active users that it can feel like a full-time job. And for New York City-based lawyer Loni Edwards, it actually is her job. Edwards is the founder and CEO of the Dog Agency, a talent management company that connects animal-focused social media accounts with commercial opportunities. Among her most influential clients: Tika the Iggy, Crusoe the Celebrity Dachshund, Harlow and Sage, and Toby Toad. Edwards is also founder of PetCon, a multicity annual conference that Travel and Leisure magazine called “one of the most magical events in the world for pet owners.” And it all started when she decided to share a few snaps of her miniature French bulldog with friends.

Your career started out pretty conventionally—you graduated from Harvard Law School and got a job as a lawyer. How did you get from private practice to the pet influencer business? Did you always intend to become an entrepreneur? No. My whole life, my goal was always to be a lawyer. When I graduated from law school, I moved to LA and joined a firm focused on IP litigation. I was there for six months, but then I had this entrepreneurial itch. I wanted to do something more creative. I’m from New York, so I moved back and started a fashion tech company. I was alone all the time working and wanted a little friend to sit with me on the couch, so I got a dog. Chloe was my first real dog—my family had a dog when I was younger, but I was off at boarding school. I didn’t know much about the dog world at the time, and Chloe changed my life completely. Looking at her would just make me so happy. I couldn’t get enough of taking photos and videos of her, and I wanted to share that with my friends and family, so I created an Instagram account for her. That was in 2013. Dog influencers weren’t really a thing then. I only made a separate Instagram account for her in case people didn’t want to see endless pictures and videos of my dog.

As it turned out, many, many people wanted to see your photos! You eventually started partnering with brands, turning her into a full-fledged pet influencer. What influenced you to scale this success into a talent agency for other pet influencers? At the time Chloe was becoming an influencer, I was still running my fashion tech business. I made tech-enabled handbags that charged phones—I was making them in the garment district—and I was also licensing the utility patent I received for it. But I started meeting other humans in the pet influencer space, and they were saying, “Ah, I got this contract. I don’t know how to read it; can you look at it?” I realized there was no centralized hub that helped pet influencers and brands put it all together. With my legal background and having a pet influencer myself, I saw the potential to build around that. There was someone who wanted to buy my patent, so I decided to switch gears,
and in 2015, I started the agency. In the beginning it was just dogs, but now we have all sorts of celebrity pets, like cats, hedgehogs, a celebrity duck and a toad. We even have some people—people who work with pets. We have veterinarians and even a pilot who in his free time flies pets from high-kill areas to low-kill areas to save them.

How do you determine whether a pet influencer has what it takes to join your talent roster?

We take a deep dive on their social media accounts. We look at the comments to see how invested the followers are, and we look for good quality content. At the end of the day, these pets are going to be creating and distributing marketing content for brands, so I want to see consistency and authenticity in their brand, an engaged audience that listens to them and cares what they have to say as well as quality in their content. They also need to be unique. The space is getting saturated, so they need to have an angle to stand out. Location permitting, we try to meet with them in person. We want to make sure there’s a good bond between them and that the human has enough time to devote to turning this into a successful business. It’s a lot of work, so you have to have the time to do it, and you have to enjoy doing it.

Sounds like this could be a full-time job.

We do have clients who do this as their full-time job. We have others who have shifted their job to be more freelance, so they have more time other than just nights and weekends.

Do you help your clients create content?

When we decide to bring somebody on, it’s because we think they’re already doing a good job. So we want them to continue doing what they’re doing. That said, we do help them come up with creative concepts for marketing campaigns and also work with them to keep their content creative, interesting and valuable for their audience. We also connect them to publishers and to brands. We advise and nurture them. We help them grow and, of course, we look out for them legally.

What is your biggest challenge with the Dog Agency?

Staying on top of an ever-changing landscape. The industry is still relatively new, new platforms are always popping up, and new influencers are going viral. You never know what the next day is going to hold.

Going back to challenges—as a result of the pandemic, you weren’t able to hold PetCon in person last year, but you did hold it virtually in December. Tell me about that.

It was extremely disappointing to have to cancel the in-person PetCons; 2020 was going to be our first time in the Midwest with the Chicago PetCon. But the ability to take the event digital actually turned out to be amazing. We had attendees from over 50 countries, and we were able to get big celebrities involved like Kaley Cuoco and Jane Lynch. The event was free, but we were able to raise $25,000 in donations for the Animal Cancer Foundation. The in-person PetCons center around a large adoption garden featuring rescues from the event city, and we were able to go bigger with the digital PetCon by partnering with rescues from all over the United States. Every hour, a different rescue showed off their adoptable pets, leading to a ton of adoptions. Some of the adopted pets had been at the rescues for a long time and had been overlooked, but they were able to find homes through this, so it was really incredible. We also held in-
teractive sessions on how to create compelling content and how to make treats for your pet.

How did the pandemic affect the Dog Agency?
In the beginning, everything came to a screeching halt. A lot of what we do involves branded content, which our influencers create and push out via their social media channels. When COVID hit, brands didn’t want to come off as insensitive, so they put their marketing campaigns on hold. I wouldn’t say it’s back to business as usual, it’s more like business as different. Brands and influencers feel comfortable making branded content again, but it’s made with a sensitivity for this moment in time. But there was one silver lining: In mid-March [2020], a publisher reached out to me about writing a book, which is something I’d always wanted to do but never previously had the time to do.

That’s amazing! So did you write a book?
Yes! It comes out Sept. 21, and it’s called How to Make Your Dog Famous: A Guide to Social Media and Beyond. It’s about how to create a successful social presence for your pup and how to make sure your dog has its best life. The book has two parts: “The Road to Fame” and profiles of dog influencers from around the world centered around a tip. It’s also full of adorable photos, of course!

You lost Chloe in 2017. Tell me about your decision to continue her Instagram account.
A lot of bulldogs get soft palate surgery to make it easier for them to breathe. Chloe had the surgery, it went well, and then she went to a facility for overnight observation as an abundance of caution. However, they didn’t calibrate the oxygen before attaching it to her, and she was killed. Through that experience, I learned that under the law, pets are categorized as property, which results in them lacking fundamental legal protections. I’ve been working with the Animal Legal Defense Fund to raise awareness, push for change and collect donations to support the work they do. I got a new Frenchie named Emma to help me heal, and I’ve been posting her on Chloe’s page to both share her with the community Chloe and I built and to keep pushing for change in Chloe’s honor.

CHARACTER WITNESS

Changing Perceptions

Professor’s justice project aims to humanize those behind bars

BY MARC M. HOWARD

Character Witness explores legal and societal issues through the first-person lens of attorneys in the trenches who are, inter alia, on a mission to defend liberty and pursue justice.

I entered the classroom and walked past a mass of muscle-bound and tattooed bodies, all wearing blue and gray uniforms. The light tan cinder block walls were barren, the dry-erase board had no working markers or erasers, and the stackable plastic chairs were spread out in all directions.

This setting was quite a change from Georgetown University’s ornate buildings, high-tech classrooms and preppy undergraduates.

My students peered back at me, as if sizing me up and trying to figure me out. I knew that for them, the open space of a drab classroom was infinitely better than where they spent most of their nonclass time: in a 6-by-8-foot cell shared with another man.

I wasn’t a newcomer to the prison environment. I’d been familiar with several prison visiting rooms over the course of the 17-year wrongful incarceration of my childhood friend, Marty Tankleff, and we had discussed prison life at length over the years since his exoneration in 2007. I also taught a course at Georgetown called “Prisons and Punishment,” the highlight of which included tours of several local facilities. And I’d had the surreal experience of playing tennis with the “inside team” at San Quentin State Prison in California, which I wrote about for Sports Illustrated. But those were all short visits in controlled settings.
In September 2014, I started teaching at a maximum-security prison in Maryland because I wanted to provide an educational opportunity to a group of human beings who have largely been forgotten by society. I knew the research showing prison education dramatically improves people’s behavior and life chances, but I wanted to see and feel that human transformation myself. Teaching my own class provided an ideal opportunity to create a productive educational environment in a classroom setting with minimal staff supervision.

The class, called “Fascism and Extremist Movements,” was identical to the one I was teaching at Georgetown that semester. When the prison administration learned that my course included readings from Benito Mussolini and Adolf Hitler, they became worried that the Aryan Nation might treat my class as a “how to” manual to stoke mayhem inside. Fortunately, rather than cancel the class altogether or even insist that I adjust the content, they asked me to change the title to “World History.”

As the weeks went by, I was teaching the same material in both places—on Mondays at Georgetown, on Tuesdays at the prison.

Although the average level of academic knowledge was different across the two groups, I was continuously impressed by the high-quality discussions maintained by my incarcerated students. They came to class prepared, having worked through the assigned readings, and they were eager to debate them. I came to realize that our class sessions were not only the highlight of their week but of mine as well.

**Even exchange**

Teaching incarcerated students—which I have continued to do ever since that first class in 2014—is the closest approximation to what every educator dreams of: learning for the sake of learning. The questions posed by my “inside” students display a level of genuine curiosity and commitment that is not only sadly missing in the modern world of institutionalized education and achievement but is also completely antithetical to the prevailing perceptions about incarcerated people.

Over the past six years, I have not only taught my own classes but also run a lecture series for my incarcerated students in which a different guest speaker comes to give a formal presentation followed by an engaged conversation. The idea was to replicate an element of the college experience where students are normally free to attend interesting lectures on campus. In the prison setting, where incarcerated students obviously can’t leave their closed structures, I brought the experience to them. The idea proved to be a winner. I’ve brought countless colleagues who are professors and scholars, business leaders, successful professionals, formerly incarcerated role models—and occasionally, celebrities. Indeed, after Kim Kardashian’s visit to the D.C. Correctional Treatment Facility in July 2019, she shared an effusive account of the experience with her millions of Instagram followers and later featured it in her documentary, *The Justice Project*.

After every single one of these encounters, I realized that both inside and outside participants benefited tremendously from the experience, and they were all changed for the better as a result. For insiders, it made them feel engaged intellectually, treated respectfully and activated civically. For outsiders, it made them admire and appreciate the dedication, character and commitment of incarcerated people. In short, they both recognized each other’s humanity, and they all grew and were transformed by the experience.

**Scaling it up**

Having brought thousands of students and hundreds of guest speakers and observers inside prisons, I decided in 2019 to scale these profound experiences by founding a nonprofit organization: the Frederick Douglass Project for Justice. Seeking to embody the values and legacy of our namesake—the great 19th-century champion of education, emancipation, equality and justice—the organization’s mission is to change the public’s perception of the criminal justice system by becoming proximate with the humanity of incarcerated people. The Douglass Project’s flagship multistate Prison Visitation Program will provide structured meetings and respectful conversations between prisoners and members of free society.

The Douglass Project’s curriculum invites inside and outside participants to engage in deep connecting conversations that expose the areas of commonality we all share as people, such as the accomplishments we are most proud of, the ways in which we would like to improve, and the hopes we have for our family members and those we love most dearly.

As I have seen with my own eyes for many years, when outside members of society recognize and connect with the largely invisible humanity that lies behind prison walls, they are deeply transformed and moved by the exchange. Our hope is that creating these human experiences in prisons all across the country will work toward defeating mass incarceration—and to replace it with a more just, compassionate and equitable society.

Marc M. Howard, JD, PhD, is the founder and president of the Frederick Douglass Project for Justice. He is also a professor of government and law at Georgetown University, where he directs the Prisons and Justice Initiative.
When attorney Timothy L. McHugh, a retired Army paratrooper, meets with a veteran to discuss a frustrating medical benefits issue or a confounding GI Bill problem, he can relate.

For McHugh, who co-chairs the Veterans Pro Bono Program at Hunton Andrews Kurth in Richmond, Virginia, his own experience as an enlisted soldier gives him insight into the tribulations veterans and service members can face.

When he left the Army after two tours in Iraq and one in Afghanistan, he had to make sure he got U.S. Department of Veteran Affairs compensation to get hearing aids for his blown eardrum. When he returned to college, he had to carefully manage his GI Bill funds to save enough money for law school.

“I had to navigate VA stuff on my own while still being in college,” McHugh says. “It was a trial by fire. I figured that out pretty quick.”

He says that experience is partly why he became a lawyer.

“I thought, how are other veterans, particularly those dealing with significant health issues, supposed to figure this out and persevere through the system repeatedly telling them no? I knew then that I wanted to help veterans in their legal fights against the system.”

Now an attorney focused on environmental regulation, McHugh represents clients in enforcement actions and rule-making. Being able to wade through complex government regulations helps with pro bono veterans work.

One of his current cases, Rudisill v. Wilkie, a fight over how GI Bill benefits should be calculated, went before the U.S. Court of Appeals for the Federal Circuit in December and is being watched for its potential impact on educational payments for some of the nation’s longest-serving veterans. Plaintiff Jim Rudisill, a decorated combat veteran who served two separate periods in the Army, argued that the way the VA calculated his use of two different GI Bills shorted him 12 months of expected educational benefits.

It’s estimated that 1.7 million veterans could be in a similar situation, with their collective benefits worth potentially billions of dollars.

McHugh is one of thousands of attorneys nationwide who volunteer to help active-duty service members or veterans with legal problems that range from consumer disputes and family law matters to complicated issues involving medical and college benefits. Some are veterans themselves; others just want to give back to current and former service members, many of whom have little income. And active-duty members may be stationed far from a courtroom and doing dangerous work.

Those who assist them say the clients are grateful to have someone guiding them.

“I think you will never find a client that is more appreciative of your time and effort than a veteran,” says Aniela Szymanski, senior director for legal affairs and military policy at Veterans Education Success, a nonprofit that provides free legal help and advocacy work.

Szymanski, a Marine Corps reservist herself, says typical GI Bill cases include a vet getting a surprise bill from his or her college at graduation or finding out the VA made an overpayment and is clawing back thousands of dollars.

Veterans often feel helpless trying to navigate the government bureaucracy, she says. “A lot of times, they don’t even
understand how to go about getting the error corrected.”

Veterans Education Success and another nonprofit, the National Veterans Legal Services Program, filed a joint amicus brief in *Rudisill v. Wilkie*, the pro bono GI Bill case McHugh and co-counsel David J. DePippo have worked on for the past five years.

It went from the VA’s Board of Veterans’ Appeals to the U.S. Court of Appeals for Veterans Claims—which ruled in Rudisill’s favor—then on to the U.S. Court of Appeals for the Federal Circuit for the government’s appeal, with a decision expected this spring.

The case is one of about 50 active veterans cases that McHugh’s firm handles in any given year.

DePippo used to work with McHugh at Hunton Andrews Kurth; he’s now senior counsel for Dominion Energy. The retired Coast Guard quartermaster has seen cases in which veterans got no disability benefits even though they had a service-related injury—or instances when they received greatly reduced benefits because of a disability rating mistake. Other vets have difficulty transferring GI Bill benefits to their dependents, leaving teenagers without any college money.

“It’s giving people an opportunity to get a really good start,” DePippo says of the pro bono work. “It frees people up to do so many more things. I like that part.”

**Access to justice**

Numerous organizations work with law firms to pair volunteer attorneys with service members or vets who need help. One is the ABA Military Pro Bono Project, part of the ABA Military and Veterans Legal Center.

“We’re really helping with filling a gap in access to justice,” says Mary C. Meixner, director of the center and counsel for the ABA Standing Committee on Legal Assistance for Military Personnel. The pro bono project matches volunteer attorneys with service members referred by officers in the Judge Advocate General’s Corps, or JAGs. Another program, Operation Stand-By, connects military attorneys with civilian attorneys who can share expertise.

Meixner says military families frequently move and often don’t have the money to hire private attorneys.

An ABA volunteer, Patrick J. Hughes, co-founder of the Patriots Law Group in Maryland and Virginia, recently helped a service member whose lender got a garnishment that froze the man’s bank account. The service member was stationed in Wisconsin; the dispute was in Maryland, and he couldn’t pay his rent.

Hughes, who served six years as a JAG in the Air Force, says enlisted personnel encounter the same legal troubles as anyone else—a landlord not returning a security deposit or an issue with child support—but often don’t have the funds to hire a lawyer or may not be able to come to court, especially if they’re posted far away.

“As lawyers, we have a particular duty to provide pro bono legal services,” Hughes says. “It really helps that I can speak their language.”

The National Veterans Legal Services Program also handles pro bono cases and far-reaching class actions. The group famously won a 1991 consent decree in *Nehmer v. U.S. Department of Veterans Affairs*, which resulted in billions in retroactive disability and death benefits for Agent Orange-exposed Vietnam veterans and their families.

The group’s Lawyers Serving Warriors program matches individual vets with private law firms and corporate legal departments willing to donate services. It also provides lawyer trainings.

Barton F. Stichman, NVLSP co-founder and executive director, says the pro bono cases run the gamut. Some are veterans who were wrongly discharged for a “personality disorder” when they actually had PTSD. Or they survived military sexual trauma but were locked out of disability benefits despite having post-traumatic stress disorder and depression.

In such cases, an attorney can help fix the veteran’s record and then follow up with the VA to ensure proper benefits go through.

**Civilian lawyers lend a hand**

Not all the lawyers who step up for veterans and service members have worn a uniform.

David R. Seligman, a partner at Kirkland & Ellis in Chicago, is an expert in corporate restructurings and insolvency proceedings who uses his knowledge of bankruptcy and debtor rights to help veterans with alleged VA debts.

Seligman sees his pro bono work as gathering documentation, figuring out whether the VA made an error and coming up with a strategy—whether to challenge the original decision, reduce the debt or arrange a favorable payment plan.

“There’s a special feeling when you’re able to help those who’ve sacrificed their time and potentially put themselves in harm’s way for our country.”

McHugh agrees that the pro bono work is rewarding, not only for the legal challenges but also for the impact it has on the lives of those who’ve served. Whether it’s helping a veteran who got money for college or a service member who wins a military sexual trauma case and finally gets “an acknowledgment that ‘you were right’; they believe you”—the legal work is infused with the same camaraderie he experienced in the service.

“Take care of your people,” he says. “You take care of your soldiers. You put their interests ahead of your own, and you carry that with you forever.”

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*Photos by Christopher Cosgrove; courtesy of Stephanie Zimmermann*
CRIMINAL JUSTICE

Costly Codes

Fines and fees spark a movement for reform

BY MATT REYNOLDS

Zach Mallory was inside his home in rural Wisconsin when motion sensors alerted him to uninvited guests. Mallory glanced at a security monitor through an app on his phone. The screen framed four sheriff’s deputies, a building inspector and a town planner. Armed with a warrant, they were there to investigate potential violations of zoning rules.

“I felt it was excessive,” Mallory says, recalling the June 2020 event. “They hadn’t proven there were any violations. They simply wanted to inspect the property.”

He owns Mallory Meadows, a 3.8-acre farm in Eagle, where he and his wife, Erica Brewer, grow produce and raise chickens, ducks and Icelandic sheep. Mallory and Brewer, a full-time nurse, dreamed the farm would lead to early retirement. In May 2020, Eagle’s town planner, Tim Schwecke, warned them the town would investigate a complaint that the couple was operating a business on a residential property. Later, town officials threatened them with $20,000 in fines if they did not cut overgrown grass, remove an unpermitted hot tub, beehives and livestock or apply for the necessary permits.

In a lawsuit filed in November, Brewer and Mallory claim that under the First Amendment, the town is retaliating against them for voicing support for a neighboring horse farm that also ran afoul of the town’s enforcement policies. When the couple bought the property in 2016, it was zoned as “agricultural”; the town rezoned their land as “rural residential” in 2017, but they are allowed “limited” agricultural use, according to their court filing.

Brewer and Mallory say the town’s actions have thrown their plans into chaos.

“Economically, this has had a huge impact,” Brewer said in December. “I’m struggling to figure out how am I going to get ahead of the winter weather to have crops for next year.”

The Institute for Justice, an Arlington, Virginia-based libertarian public interest group, represents Brewer and Mallory, and another Eagle couple, Annalyse and Joe Victor.

The Victors say they were fined for keeping semitrucks on their property. A judge entered a default judgment against them for $87,900 in September 2016, and town attorneys recommended jail time. Though the judge struck out the jail provision, Joe Victor says the judgment makes it “impossible for us to sell our home and leave.” In January, the couple filed a motion to vacate the judgment.

Regardless of whether the code violations are valid, Institute for Justice attorney Kirby Thomas West argues Eagle is levying and threatening fines that are disproportionate to the offenses, and they reflect what the group has seen in California, Georgia, Florida, Missouri and other states. Across the country, Americans are being hit with hefty fines and fees for petty violations, advocates for reform say, igniting a movement pressing for change.

“Code enforcement exists to promote public health and safety, but the way we’re seeing it happen across the country right now is to make money,” West says.

In January, Eagle—a town with a population of 3,600 and a $1.8 million 2021 fiscal year budget—asked a federal judge to throw out Mallory and Brewer’s case, arguing the couple is trying to use the court “as a zoning board of appeals” without exhausting all of the state procedures and remedies available to them. The town says the couple declined a voluntary inspection to investigate the merits of the anonymous complaint, and it is only ensuring compliance. Municipal Law & Litigation Group of Waukesha represents the town. The firm’s attorney Remzy Bitar says the couple’s lawsuit is without merit.

Measuring what’s excessive

In a 2019 story titled “Addicted to Fines,” the magazine Governing found budgets from almost 600 towns in which fines and forfeitures accounted for more than 10% of general fund revenue. In 284 cities and towns, “decades of economic decline” had diminished tax bases, and fines and forfeitures...
made up more than 20% of general fund revenue.

But according to Eagle’s 2021 fiscal year budget, the town does not rely heavily on fines and forfeitures to make up revenue. The town projects total revenue of $1,827,234. It anticipates receiving $1,000 in revenue from fines and forfeitures.

When local governments do rely too heavily on fines and fees, the effect on low- and middle-income Americans can be devastating, Lisa Foster of the Fines and Fees Justice Center argues.

“As long as there are laws in place, they need to be enforced, and people need to be held accountable if they violate those laws,” Foster says. “But how you enforce the law has to be fair.”

Charles Thompson, executive director of the International Municipal Lawyers Association, says fines and fees are an unpredictable revenue source and that most cities don’t rely on them to balance budgets. Complaints and disputes between neighbors are sometimes at the root of residential code enforcement, and towns use fines as a deterrent or a penalty for failure to comply.

Thompson uses the code violation of overgrown grass as an example. While that might not prompt a neighbor to complain, if they put their home on the market, a real estate agent could call the town alleging a code violation, Thompson says. A $500 fine for tall grass could be excessive if the violation costs nothing to enforce, Thompson explains, but costs add up if officials have to visit multiple times to ensure compliance. Sometimes a property owner may not comply for several years, he adds.

“Is $500 excessive under those circumstances? I suggest not, because it’s not disproportionate to what it has cost ... the government to try to enforce the law,” Thompson says.

Case law on excessive fines and fees centers on forfeitures. In the 1998 case United States v. Bajakajian, the U.S. Supreme Court ruled that under the Eighth Amendment, the federal government’s seizure of $357,144 in cash was “grossly disproportionate” to the defendant’s crime of trying to leave the country without declaring the money. In the 2019 case Timbs v. Indiana, the court found states are also subject to limits under the Eighth Amendment.

The Supreme Court sent Timbs back to the state court. In October 2019, the Indiana Supreme Court noted the high court had left “lower courts the task of establishing the appropriate measure of excessiveness,” and it took up the challenge. It found judges should consider whether forfeitures are “grossly disproportional to the gravity of the underlying offenses and the owner’s culpability.” Foster expects the opinion will guide judges when they rule on excessive fines and fees.

**A movement for reform**

When driver’s licenses are revoked for unpaid parking or speeding tickets, people can fall into a debt spiral, and without a car, they can lose their jobs, Foster says. And the FFJC says people who can’t pay court-imposed fines sometimes face arrest and jail.

Since the early 1990s, a mantra of “no new taxes” has taken hold, making it harder for state and local governments to raise revenue, Foster says.

“Many local governments don’t have the authority to raise revenue from their states. They may have a limited sales tax base. They may not be able to impose an income tax,” she adds.

The coronavirus pandemic adds to the economic strain, but Foster hopes local governments resist the temptation to fall back on fines and fees. According to the FFJC, New York City, Chicago, Georgia and Orange County, California, are among the worst offenders, ramping up fines and fees even as COVID-19 has led to job losses.

But there are signs the reform movement is taking hold. President Joe Biden has proposed barring jail time for people who cannot afford to pay fines and fees, and he plans to target policies revoking driver’s licenses.

San Francisco Mayor London Breed has eliminated some fines and fees and offered discounts on others in her city. “In San Francisco, many of our fines and fees were putting people in significant financial distress with little gain for the government due to low collection rates,” Breed said last year.

In fact, San Francisco, Philadelphia, Chicago, Dallas and other cities and towns have joined an inaugural cohort committed to fines and fees reform. In 2018, the American Bar Association’s House of Delegates passed Resolution 114 advocating for limiting fines and fees, and a ban on jailing people because they can’t pay. The ABA has shared its guidelines with five states, including Oregon, Illinois and Montana.

While the impact of reform on fines and fees is uncertain, Mallory Meadows Farm, the Victors and millions of Americans are still feeling its effects today.

“With the economic challenges, this has just been a defeating experience,” Brewer says.
TECHNOLOGY

Toward Smarter Courts

Artificial intelligence has made great inroads—but not as far as increasing access to civil justice

BY SEAN LA ROQUE-DOHERTY

When it comes to civil law, artificial intelligence identifies suitable jurors, speeds legal research, predicts judicial outcomes, and promises cheaper and faster electronic discovery. These AI use cases are becoming table stakes in litigation support software for law firms and corporate legal departments.

But when it comes to helping pro se litigants navigate the complex and intimidating civil court structure, AI isn’t helping them access court procedures and legal documents.

According to the Legal Services Corp., 86% of the civil legal needs of low-income Americans received inadequate or no aid. On average, close to 50% of all cases filed in the U.S. Courts of Appeals since 1995 were pro se. In 2019, the National Center for State Courts reported from anecdotal data that 75% or more civil cases in state and local courts have at least one self-represented litigant.

These pro se litigants need detailed information about their legal rights, how courts work, filing documents and handling their cases. They are draining court resources already hampered by financial constraints and manual processes.

With AI using data to improve customer experience in other industries—from banking and retail to consumer electronics and transportation—can it enhance access to justice in civil court?

Existing AI

The NCSC identifies several AI technologies in civil courts that can enhance courts’ access, including natural language processing, machine learning and chatbots. NLP is used to generate documents or get legal answers from guided
Alan Carlson argues courts need to move to e-filing before deploying AI.

questionnaires that follow decision trees of legal or business rules. Legal navigators such as Florida Law Help and the Colorado Resource Network assist pro se litigants in identifying legal issues, drafting and answering complaints and filing court documents.

Because of COVID-19, many courts consider e-filing an access-to-justice issue. In Palm Beach County, Florida, courts use machine learning supplied by Apopka, Florida-based Computing System Innovations, as well as optical character resolution to scan and ingest e-filed documents and automatically docket them.

Henry Sal, CSI's founder and CEO, says the company’s Intellidact software automatically separates, analyzes and classifies e-filed documents by type and docket code. Intellidact AI extracts data specific for each docket code, transforming unstructured document text into structured content. Software bots then perform the data entry, updating in a court's case management system.

According to Sal, Intellidact can automatically process 75%-80% of documents filed in a case management system without human intervention. “The balance requires human intervention because of OCR errors, or the software has not seen the document before,” Sal says. “The same processing engine can identify and redact privacy protection at no additional cost.”

The software also automates Tyler Technologies' Odyssey File & Serve portals, which handles e-filing, decreases file processing time and makes documents immediately available to parties and the court. The first Intellidact projects under Tyler went live in courts in Stanislaus County, California, and Tarrant County, Texas, in January.

Since texting is popular among court users, machine learning and NLP technology can develop text-based chatbots to handle public inquiries and increase court access.

The New Jersey Courts launched a chatbot in 2019 called the Judiciary Information Assistant. The courts fed it Q&As, website FAQs, manuals, operating procedures and other court information to compile more than 10,000 question-and-answer pairings. JIA uses artificial intelligence to answer commonly asked questions by guiding users to specified court and legal topics—from attorney registration to tax—on the court's home page. Once JIA directs users to an answer, users can ask additional questions in free text or return to the main menu.

The Superior Court of California in Los Angeles County rolled out the LACourtConnect chatbot in June 2020 to automate the first level of support for remote hearings. Using Microsoft Azure Cognitive Services, the goal was to produce the same service level in answering users’ queries and reduce the volume of calls to support agents.

Nevertheless, the court found training the informational bot in artificial intelligence very time-consuming.

To get the bot up and running quickly and efficiently, the court designed it along the same lines as the chatbot used to order Domino’s Pizza. The LACC chatbot uses preliminary or guiding questions to lead users to the right answers from a knowledge base of 100 questions based on user guides and FAQs.

**Behind the curve**

When it comes to integrating AI with civil courts to better serve the public, the U.S. is behind other countries, including Brazil and China.

Brazil’s Superior Court of Justice uses an AI system called VICTOR to address the court's backlog of petitions. According to the 2017 Brazilian Federal Supreme Court Activity Report, the court issued 126,531 decisions and registered its lowest final collection of pending cases of the last five years (45,437). VICTOR reduces the initial analysis of petitions from 30 minutes to five seconds.

Chinese courts embrace AI in trials and verdicts, according to the Supreme People’s Court. As early as 2016, the high court in Hebei province introduced the “smart court” concept.

The smart court includes electronic case filing with OCR capabilities; case party identification and automated document production; and it delivers related laws, regulations and authoritative cases to judges.

Many U.S. courts cannot develop and deploy AI because they lack digital processes and data flowing from e-file and modern case management systems.

“How can you build a model where there’s no data?” asks Alan Carlson, a court management consultant and former court executive in Orange and San Francisco counties in California. “Even those courts with labeled or structured data to train AI systems need to clean the data before they use it, and that takes time and money.”

He adds: “The difficulty with data includes the insufficient size of available data sets, the absence of data standards, data integration, and data privacy and security.”

Beyond the data problems, courts face technological challenges such as
the lack of interoperability and AI algorithms’ transparency. Then there are the skills to ask data-oriented questions and the ethical challenges of replacing human judgment with machine inferences and determining the responsibility for errors using AI.


CSI’s Sal adds that with e-filing, “courts need to trust that AI algorithms can provide higher-quality output from reading documents than humans. If you have 100% accurate text and no OCR errors, you will get 100% accurate extraction and classification of documents. The best OCR technology is still 92% accurate.”

“AI is slowly getting integrated into various places,” Carlson says. For example, Tyler Technologies acquired Modria, an online dispute resolution system, and incorporated the online dispute resolution software into Odyssey Court Solutions.

“There is faster innovation in private dispute resolution because we don’t have to worry about getting judges signed on or approvals through the courts,” says Colin Rule, president and CEO of Mediate.com and co-founder of Modria. Although private dispute resolution providers do not yet use digital judges, they “are doing interesting things with machine learning and AI to score cases, guide parties and present a zone of potential agreement,” he says.

Rule adds there is a lot that technology can do to structure negotiation and educate parties. Modria created online workspaces where parties in a court case could work out a mutual agreement.

“Although there are forward-looking courts, they are not built to innovate,” Rule says, pointing out that judges and courts are a monopoly and are immune to pressure to innovate due to lack of competition.

Ensuring trustworthiness

Attorneys, courts and the judiciary operate on trust. Without it, there is no avenue for self-represented litigants to access justice. The same is true of AI in courts.

“There is not a single area of the legal system where AI does not have the potential to advance the functions of the law and the values that animate the law. It all comes back to ensuring trustworthiness,” says Nicolas Economou, who is CEO of H5, chair of the Future Society’s Law & Society Initiative and chair of the law committees of the Institute of Electrical and Electronics Engineers’ global initiative on ethics of autonomous and intelligent systems.

“Trustworthy adoption of AI means adoption based on sound evidence of the extent to which AI-enabled processes in the legal and judicial domain do, in fact, advance justice,” Economou says. Like the trustworthy adoption of drugs or surgical procedures, he adds there must be evidence that AI is effective at achieving a specified objective without undue risk.

In the opening remarks at the Athens Roundtable on Artificial Intelligence and the Rule of Law in November, Judge Isabela Ferrari of the federal court in Rio de Janeiro called on regulators to develop annual benchmarking programs for AI applications in legal and judicial systems to produce trustworthy and transparent evidence accessible to all on whether specific legal and judicial AI applications effectively meet desired objectives. Otherwise, “We can only turn to marketing materials and studies of dubious qualities,” she warned.

Court users must trust that AI and the judicial agents produce desirable outcomes and that they can be held accountable if not.

“This requires an operative definition of desirable outcomes and the ability to measure the extent to which these are met,” Economou says. “This is not that hard. If we can achieve trustworthy technological adoption—or, equally importantly, avoidance of adoption—in medicine and aviation, we can surely do so for AI in the legal domain.”

Nicolas Economou: “Trustworthy adoption of AI means adoption based on sound evidence.”

Colin Rule: “Although there are forward-looking courts, they are not built to innovate.”
Staying Connected for Law Firm Success in a Digital World

By Jack Newton

COVID-19 has accelerated digital transformation in many industries, including legal. While this transformation was underway pre-COVID, there is no question that today we live in a world where every aspect of the legal experience is being digitized. This is underscored by data from the 2020 Legal Trends Report, which found that 85% of law firms now use software to manage their practices, with 79% relying on cloud technology to store firm data, and 83% meeting with clients virtually.

As the race to immunize the world’s population accelerates, we’re continuing to see incredible resilience and adaptability in the legal industry. These changes will long outlast the effects of the pandemic, creating a new, better normal in which legal services are more accessible and more efficiently delivered.

However, there’s still work to be done. Law firms must continually strive to find new ways to connect with those they serve, so that they can intentionally usher in this better normal. For example, while many law firms made their services available online last year, many clients weren’t aware of this availability. According to the Legal Trends Report, only 26% of consumers saw lawyers meeting with clients virtually, and only 29% saw them storing information in the cloud. Most troubling of all, Clio’s COVID-19 Impact Research found that as many as 33% of consumers believed that lawyers had stopped offering services altogether in the spring of last year, while in reality, just 2% of law firms had stopped offering services during that time.

Clients need legal services, but lawyers must connect with them and make it clear that they’re continuing to shift to provide services in a way that is adapted to their new reality. The key, as always, is product-market fit: Develop deep empathy for your clients’ mindset at all stages of the client journey, and ensure the services your firm offers match what they truly need. This doesn’t have to be difficult, and will help you secure more clients and better serve your firm. For example, make sure you’re using the right technology to create new connections with clients and meet them where they want to be served. Ensure your law firm is discoverable online, through your website and online listings like Google My Business, and make it simple for worried clients facing a legal issue to quickly book a consultation via streamlined online scheduling. Clear communication at this stage of the client journey is important for being found, building trust, and getting hired.

Looking to the end of the client journey, consider that to better connect with and attract more clients, your firm may have to reimagine the way it bills clients and collects payments. According to Clio’s 2020 COVID-19 Impact Research, 61% of surveyed consumers said they could not afford to deal with a legal issue. This certainly makes sense amidst the struggles of a global pandemic, especially considering that, in 2018, the Federal Reserve found that 39% of Americans would not have the funds available to pay for an unexpected $400 expense. Providing access to payment plans would help solve this, but although 72% of consumers want to pay their law firms this way, only 53% of law firms offer payment plans in comparison. Law firms willing to adapt and offer this alternative payment method stand to connect with a huge subset of clients and capture a substantial market opportunity.

The bottom line is simple: law firms who can stay tuned into what clients need and find new ways to meet them where they are will be positioned to succeed, and empathy, adaptability and resilience will be key to success. Only when we stay connected can we build empathy for each other and thrive as an industry and a society.

Jack Newton is the founder of Clio and a pioneer of cloud-based practice management. Jack has spearheaded efforts to educate the legal community on the security, ethics, and privacy issues surrounding cloud computing, and is a nationally recognized writer and speaker on the state of the legal industry. Jack is the author of “The Client-Centered Law Firm,” the essential book for law firms looking to succeed in the experience-driven age, available at clientcenteredlawfirm.com.
In the Money

Lockstep compensation, long a staple of BigLaw, is declining in order to keep—and attract—talent

BY JOHN ROEMER

In 1919, the Boston Red Sox sold Babe Ruth to the New York Yankees for an unheard of $100,000, a sum worth nearly $1.5 million today. Sports fans credit the deal for an ensuing New York dynasty of pennants and championships and for Boston’s World Series drought, known by some as the “curse of the Bambino.”

Lateral transfers are nothing new. Like the big leagues, BigLaw seeks to gain powerhouse rainmakers via outsized salary offers. The deals have the added value of draining rivals’ rosters to kneecap the competition.

Lockstep compensation plans can hamper staid old firms. In 2018, Cravath, Swaine & Moore, established in 1819, fell victim to a no-holds-barred offer by a nimbler, younger rival when Kirkland & Ellis, founded in 1909, signed Cravath litigation partner Sandra Goldstein for $11 million a year for five years. The megadeal was one of several in recent years that became emblematic of a trend away from the lockstep model increasingly employed by traditionalist firms. In its place, in varying degrees, is the attorney-for-hire equivalent of Wild West free agency.

Like the Sultan of Swat, Goldstein got a signing bonus.

In September, venerable Davis Polk & Wardwell—where Grover Cleveland was once of counsel—moved to a more flexible compensation system to better attract and retain rainmakers, according to multiple reports. Another old-line New York firm, Cleary Gottlieb Steen & Hamilton, has modified its lockstep structure, as reported by the American
Lawyer. Cleary Gottlieb did not reply to a request for comment. And Simpson Thatcher & Bartlett has broken lockstep ranks, according to the American Lawyer. Simpson Thatcher also did not reply to a request for comment.

“Understand that these are not ‘all or nothing’ changes,” John C. Coffee, director of the Center on Corporate Governance at Columbia Law School, said in an email, “but marginal ones to allow the firm to pay more to the highest-grossing partner. Other firms (for example, Debevoise & Plimpton) have decided not to change significantly.”

Free agency
Legal recruiters are on the front lines of the lateral trade wars. Dan Binstock, an attorney and partner at the legal search firm Garrison & Sisson in Washington, D.C., points to the effect Kirkland & Ellis has had by giving out huge guaranteed contracts to attract lateral partners. “They have thrown a wrench into the lockstep model for a number of top-tier firms. Kirkland rattled the lockstep magic,” Binstock says.

Jeffrey A. Lowe, the global practice leader of Major, Lindsey & Africa’s law firm practice group, noted that lateral transfers were once shunned by those observing old-school white-shoe norms. “There’s an emerging sense even there that there’s no stigma anymore to moving laterally,” he says. “With that goes the difficulty firms face of keeping partners with less a sense of firm loyalty, especially when they might be offered twice what they’re now making.”

Lowe says he foresaw the trend a dozen years ago when he examined law firms’ evolution. In his 2008 article “The Broken Covenant: ‘Partners for Life?’” Lowe argued that while lawyers once bonded with a single firm and worked their way to senior partnership, “over the last 30 years ... this covenant has steadily eroded across firms of all sizes, resulting in a culture that more closely resembles baseball free agency than a ‘gentlemanly’ profession.”

Other factors are also to blame, including lifting the longtime ban on lawyer advertising after the landmark 1977 U.S. Supreme Court case Bates v. State Bar of Arizona and the media. Lowe notes that when journalists began ranking firms by size, income and compensation, envy and job-switching followed.

Even once-stuffy London firms in the so-called Magic Circle are taking a new look at their old lockstep pay structures as they strive to compete in the U.S., Lowe says, naming Allen & Overy as one whose partners voted recently for “more discretion” in offering generous packages to hire and retain junior and senior talent.

Meanwhile, Legal Week reported in October 2020 that another U.K. Magic Circle firm, Freshfields Bruckhaus Deringer, was considering changes to its own lockstep system.

Avis Caravello, a 30-year veteran of the legal recruiting industry, says the San Francisco location of her Attorney Search Consultants firm is at the center of a white-hot market encompassing Silicon Valley, where demand is off the charts.

“If a firm wants to grow here, they have to recruit hard, because the pool is a 10th the size of New York’s,” she says.

In April 2020, Caravello brokered a deal in which King & Spalding won a bidding war to hire 15 partners from Boies, Schiller & Flexner.

Caravello, who tracks lateral moves within Am Law 100 firms, says Lewis Brisbois Bisgaard & Smith led in national hiring in 2020. (The firm also had 41 departures that same year.) Among Am Law 50 firms, she says King & Spalding led the way, although she points out that big international firms have higher numbers.

“Lateral hires are a key driver for revenue growth, so there’s continued interest in increasing market share that way,” she says.
Pandemic Pivot

The coronavirus has forced many lawyers to reinvent themselves—and some have become ‘COVID-19 attorneys’

BY DANIELLE BRAFF

The coronavirus has affected every aspect of life, from employment to housing to travel to child safety. And while some law firms have closed their doors within the last few months, others are simply adjusting their focus. In fact, some lawyers have switched focus entirely, becoming full-time “COVID attorneys.”

“When the pandemic first broke in March, there was a natural pivot for employment practices because businesses were desperate for information on how to manage their workplaces,” says Justin Boron, a partner at the Philadelphia-based Freeman Mathis & Gary firm.

Boron’s firm—like nearly every other—hadn’t previously dealt with the legal issues arising from a pandemic, and the government administrative agencies hadn’t issued any guidance specific to COVID-19, he says. “So we had to take a deep dive into the existing regulations in similar contexts to give the best advice to clients that we could give at the time,” Boron says.

When it became clear COVID-19 was precipitating an economic crisis, Congress acted, passing a coronavirus relief bill in March 2020. A large part of the legislation focused on employee pay and benefits, so Boron’s firm tracked this to be able to advise its employer clients.

The firm formed a coronavirus task force, which Boron co-chairs, and he says there has been an uptick in small- and medium-size businesses retaining the firm to advise on COVID-19 issues, ranging from the Paycheck Protection Program to mandatory leave laws.

“The new programs and their maze of red tape have created at least a temporary market for legal advice that wasn’t there before,” Boron says.

Others have seen their practices shift for more predictable reasons. Ben Schneider, of Schneider & Stone in Skokie, Illinois, is a bankruptcy lawyer, so he’s been very busy since the start of the coronavirus. Some of his clients need help taking advantage of the changes in the bankruptcy code. Others are dealing with issues related to the sudden loss of income because of pandemic-related layoffs or furloughs and/or increased expenses (food for kids at home, additional child care for e-learning, etc.). “I am not allowed to say that I specialize,” he says. “But I would say that 100% of my practice is now COVID bankruptcy law.”

Elder law is another area that’s been fundamentally remade by COVID-19. John Dalli, a partner with Dalli & Marino in New York, says he became a COVID-19 attorney overnight. His firm had been investigating nursing home and elder abuse cases in the New York area for more than two decades, and the pandemic brought to light many of the problems plaguing the industry.

“Nursing homes throughout the state of New York were hard-hit by the virus, and our clients lost many loved ones—so overnight, my firm turned into a COVID law firm helping families navigate the issues facing them as a result of having a loved one in a nursing home struck by the coronavirus.”

To prepare, Dalli says he immediately had to learn everything he could about the virus, how it spread, and particularly how it affected nursing home residents. He created a new page on his website as a resource center for clients. Shortly after the coronavirus hit, Dalli began to speak out about the effect of the virus on nursing home residents and particularly, how the pandemic revealed the understaffing crisis that had existed in these facilities for years—which cemented his position as a COVID-19 attorney.
**Long-term planning**
Some attorneys are simply using COVID-19 to jump-start their legal businesses. Kim Chan, a lawyer and founder of DocPro.com, a legal tech platform offering free legal documents and resources, launched his website at the beginning of 2020. Since March 2020, DocPro has refocused and began offering pandemic-related documents for its users, and traffic has grown more than 1,000 times since then, he says.

“We are focusing on COVID to generate more traffic and business,” Chan says. “However, COVID will be over after the vaccine is widely available, so we are using this as an opportunity to build a long-term customer base instead of having a long-lasting business based on COVID.”

Indeed, what happens after COVID-19—especially for those who made a big pivot? Barbara Barron, a labor and employment attorney, personal injury lawyer and shareholder at Texas-based MehaffyWeber who practices from the firm’s Houston and Beaumont offices, says she doesn’t consider herself to be a COVID-19 lawyer. But like most attorneys, she felt the need to get up to speed on how the pandemic has affected state and federal labor laws.

And even after the pandemic hopefully becomes a long-forgotten nightmare, she believes the virus will still be entangled within our legal system.

For example, employers now have many questions about whether vaccinations can be required—or what happens if proof of vaccination is required for airline travel, and an employee whose job duties require air travel refuses to take the vaccine.

“Merrily marketing oneself as a COVID-19 attorney is too faddish and does not highlight the full depth of actual experience,” he says.

Kim Chan cautions against focusing too much on COVID-19 and suggests using spikes in traffic and business to build a long-term consumer base.
ADVOCACY

Healthy Hives

Can replacing hierarchies with intergroup teams transform our profession?

BY HEIDI K. BROWN

It’s fun to consider the possibility that the core of what humans experience at rock concerts, group fitness classes and flash mob dances might hold a key to improving the functioning of our law firms, law schools and legal communities. Social psychologist Jonathan Haidt’s concept of the “hive switch” might be the jolt our profession needs.

Haidt defines the hive switch as “an adaptation for making groups more cohesive, and therefore more successful in competition.” A hive switch is a phenomenon that occurs when individuals realize they have become part of and fused within a collective; they transcend self-interest and invest in something larger than themselves.

For millennia, groups that have figured out how to operate in synchrony—rather than in isolated silos—have achieved greatness. Psychologists like Haidt have studied phenomena like “muscular bonding”—how armies, for example, forge bonds by physically moving together in time. When humans engage in synchronous or rhythmic movements, their hierarchies, borders and rigid delineations temporarily dissolve. Similarly, group rituals (like flash mob dances, festivals and carnivals) incite “collective effervescence”—a feeling of electricity and elation that can make people less selfish, more caring and increasingly focused on communal fusion rather than individuality. When these experiences of “interlocking” flip on the hive switch, we momentarily forget ourselves, trust others and coalesce.

If we want all individuals and communities within the legal profession to flourish at the highest level, we should consider how a hive switch can transform a group of people into a healthy collective social organism rather than just a loose assortment of detached individuals.

Haidt emphasizes that too much self-focus can hinder happiness; to really thrive, we should intermittently lose ourselves in a hive.

Hive switch moments

I recall three poignant hive switch moments in my life. First, at a U2 concert in Rome’s Olympic Stadium, fans coordinated a surprise for the band. During the song “With or Without You,” thousands of fans held up colored pieces of paper (taped beneath our seats) forming a massive image of a Joshua tree (an icon invoking the band’s 1987 album). U2’s frontman, Bono, stopped in his tracks, gripped, when he saw it.
Second, I felt a hive switch in a spinning class on Thanksgiving morning in New York a few years ago: music blasting, pedals pumping, muscles exerting; everyone assembled in the room united in the spirit of physical well-being and became overwhelmed with emotion.

Third, a friend took me to a Rome-Bologna soccer match. Suddenly, the crowd began swaying back and forth arm-in-arm, singing a Roman anthem while waving burgundy and gold flags. Pure magic. In those moments, all my petty, self-focused concerns evaporated. I felt intense human connection. I felt motivated and inspired to make a positive impact in the world.

**Can law firms hive?**

How does this relate to the legal profession? Happily, hive switches are not limited to entertaining distractions like U2 shows, spinning classes and Italian soccer matches. Because the hive switch is a phenomenon that can cohere any group, Haidt says leaders can capitalize on its power to fuel groups’ successes, including in competitions with other collectives. Haidt notes that this concept has profound implications for how future leaders craft and manage organizations. He distinguishes between organizations run by transactional leaders who motivate through “institutionalized carrots-and-sticks” and transformational leaders who generate social capital and bonds of trust among employees.

According to Haidt, members of hives work harder, experience more joy and exuberance while doing so, and they are less likely to abandon the hive for shinier opportunities. Further, he reports that hives outperform less cohesive groups. Conversely, “pitting individuals against each other in a competition for scarce resources (such as bonuses) will destroy hivishness, trust and morale,” he wrote.

Unfortunately, traditional legal education and practice models do not cultivate synchrony, unity and collective trust. Instead, we often pit individuals against one another in fierce, unhealthy, survival-of-the-fittest competition. Outdated educational traditions that reinforce the myth of one path to success in law school—the Socratic method used in an intimidating way, exams worth 100% of semester grades, strict grading curves, class rankings, selection mechanisms for accolades like membership on law review editorial boards and advocacy teams—entrench a scarcity mindset. Similarly, many law firms rely on the same metrics every year to recruit new talent and thereafter default to compensation systems that can reinforce self-interest rather than regard for the health of the collective.

The good news: We can change this. We can experiment with new educational and development approaches that activate the hive switch for law students and lawyers. Leaders of legal institutions who are conversant in the fundamental workings of the hive switch can design systems, projects and interactions to spark pride, loyalty and enthusiasm among community constituents.

Obviously, some hierarchical structures are natural in professions like the law, in which we grow in expertise, assume leadership roles and guide others with less experience.

Teams and groups can benefit, however, from temporarily setting aside hierarchies. Anthropologist Victor Turner explains that periodic collective experiences of “anti-structure”—through group rituals in which boundaries and hierarchies provisionally melt away—enhance the humaneness and stability of such structures when community members return to them.

**Flipping the hive switch**

Haidt suggests three pathways for enhancing the hivishness of an institution, team or company:

- Identify and celebrate shared values and a common identity.
- Facilitate experiences that foster synchrony in physical movement.
- Nurture healthy and friendly inter-group team rivalry.

The pandemic has highlighted the roles that connection and community play in our individual mental health and well-being. Notably, Haidt illuminates how synchronous physical movement and team-based activities can activate the hive switch and foster a collective bond. He offers the example of Toyota starting each day with companywide coordinated calisthenics. I had a similar experience in a recent all-weekend Zoom conference. Organizers invited a leader of an online dance community called Daybreaker to give conference attendees a 45-minute movement-dance break on Zoom. I felt incredibly awkward and cheesy dancing on screen at first (and turned off my video), but then completely shelved my hang-ups, turned my video back on and participated. By the end, I felt more closely bonded to my fellow attendees.

If group movement (even as simple as coordinated stretching in the middle of the day) feels unrealistic in a legal setting—and, of course, being mindful of the reality that not everyone can participate in physical movement—we can get creative. Haidt notes alternative ways of flipping the hive switch through moments of awe and healthy team rivalries.

Awe is a multistep experience. First, we perceive something tangible (a stunning mountain range, a cascading waterfall, a jaw-dropping work of art), interactive (a rock concert, a Broadway show, a sporting event) or conceptual (a peaceful protest, a moving political speech, poetry) that stops us cold. Sud-
denly, we feel small, insignificant, temporarily immobilized. As author Emily Esfahani Smith writes in her book, *The Power of Meaning*, “Awe challenges the mental models that we use to make sense of the world. Our mind must then update those models to accommodate what we just experienced.” As we vibrate from the electrical charge of awe, our minds sift and sort past memories, striving to incorporate this new powerful interloper. Social psychologist Barbara Fredrickson explains that awe is so impactful because it teeters on the precipice of safety; it blends positive emotions like inspiration with other sensations like fear. But in the end, awe is self-transcendent. Awe can ignite positive change in the way we view the world and how we fit into it.

Legal communities might consider cultivating experiences that ignite collective awe. Even during the pandemic, can we inspire one another to get outside and appreciate an awe-inspiring aspect of nature and then exchange our reflections on those experiences? Can we connect with group members in virtual musical performances or artistic showcases? When we can safely convene in person, can we team up to work on humanitarian initiatives and charitable projects in our communities? We can further foster hivishness by undertaking these activities in departmental groups or established work teams, engendering healthy and friendly intergroup team rivalry.

Haidt emphasizes that excessive self-focus can impede our happiness. The legal profession could use some self-focus can impede our happiness.

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Haidt emphasizes that excessive self-focus can impede our happiness. The legal profession could use some self-focus can impede our happiness.

Congratulations. You’re the newest hire at your state attorney general’s office. They advertised for an experienced litigator with sound writing skills, and you got the job. Your first law job was in this very office—and you know the demands can be great. Now, after a few years in private practice, you’re among the most experienced litigators in the office. After two days of orientation, you’ve just arrived for your first day of work.

It’s 8:45 a.m. Your supervising attorney briefly explains pressing needs for the day: You’re handed three case files, each with a 5 p.m. deadline. No extensions are possible. One is a motion to strike an expert witness’s testimony supporting a summary judgment motion in federal court; one is a state court motion for judgment on the pleadings; and the third is a motion to consolidate two proceedings in the state supreme court: a mandamus petition and a direct appeal.

Each motion will require an accompanying form of order. But none will need affidavits or other ancillary filings. You know all this from your experience in state and federal courts.

Your predecessor resigned, citing “burnout.” How will you fare?

The upshot of this series is to show how an efficient and effective legal writer must sometimes work.

**Getting to work**

The basis for challenging the expert isn’t *Daubert* rationale but 28 U.S.C. § 1746. You have no clue about that statute. The motion for judgment on the pleadings, you’re told, is based on the state’s immunity from suit on construction liens—that’s § 57.035(1) of the state code. The motion to consolidate is simply common sense: The two appellate matters are essentially identical, but the appellant has filed both a direct appeal and a mandamus petition. You can review the briefs to see that it’s the same set of facts.

You ask whether any attempt has been made to work out the motion to consolidate with the other side. That’s the only motion requiring a conference, as you know, and your boss says she exchanged emails three days ago with opposing counsel, who opposed consolidation. It’s all in the file.

Your boss excuses herself, assuring you that your legal assistant will help file the papers as soon as they’re ready. But the three deadlines are firm.

**A far-fetched scenario?**

If you think the circumstances I’m describing are outlandish, I can assure you that these things happen. And there are analogous situations in all walks of life.

Watch a few episodes of *The Great British Baking Show*. It’s all about skill, knowledge and efficiency. The immediate spark behind this column was viewing an episode in which three finalists—skilled amateurs—were asked to make 36 desserts in two hours’ time: 12 Victoria sandwiches, 12 lemon-custard tarts and 12 miniature scones. There were no recipes, and there was no further explanation. The contestants started with just flour, fruit, sugar and butter. The output was expected to be perfect: each dozen uniform in shape and size, the internal layers distinct and gustatorily complementary, and the presentation aesthetically pleasing. Oh, and each item had to be scrumptious.

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Heidi K. Brown is a professor of law and director of legal writing at Brooklyn Law School. She is the author of *The Introverted Lawyer: A Seven-Step Journey Toward Authentically Empowered Advocacy* (ABA 2017) and *Untangling Fear in Lawyering: A Four-Step Journey Toward Powerful Advocacy* (ABA 2019).
When the deadline came, the contestants had to stop immediately. The desserts were presented to the judges as they stood at precisely 120 minutes. You can imagine all the would-be contenders who had fallen by the wayside before this point in the competition. But these were finalists.

Anyone who hadn’t prepared properly might say, “Why am I doing this to myself?” Preparing, in this sense, means spending months and even years acquiring the necessary know-how. You don’t prepare yourself in a week or even a month for undertaking this type of challenge.

Meeting your challenge

The same is true of you as a lawyer. You’re experienced. You’ve prepared briefs and motions for some time now. In applying for this job, you billed yourself as a good writer, and you had glowing recommendations. You made it through: You were hired. Now down to work.

First you must plan your day, allocating time for each task. Time management is crucial. The motion to consolidate seems easiest; the motion for judgment on the pleadings will be hardest. You’ll give yourself an hour to figure out the dispositive points for the judgment on the pleadings and 30 minutes to draft point headings. It’s 9 a.m. now; that takes you to 10:30.

At 10:35, you’ll take up the expert witness challenge, giving yourself 55 minutes to review the file while taking notes, and then 30 more to draft point headings. How many point headings? You won’t know until you delve into the problem.

Then you’ll read over the high-court briefs to verify the identical nature of the two proceedings. You’ll try for a very short motion to consolidate, succinctly pointing out the commonalities between the cases. That will take you to 1:30.

At 2 p.m., you’ll have one hour to finalize each of the three filings. If you can knock out the easier ones in less time, you’ll have more time to polish off the motion for judgment on the pleadings. It should be halfway written in your head once you have the point headings at 10:30.

You resolve to file the motion to consolidate by 3 p.m., the motion to strike expert testimony by 4 p.m. and the judgment on the pleadings by 5 p.m. It crosses your mind to ask for templates—similar motions from other cases—but the search might waste precious time. You’re not a generic lawyer. You disdain formbook-style filings. You can doubtless work best from scratch.

The three filings

Being a virtuoso writer, you have clear expectations of yourself. In each filing, you must state in plain English, on page 1, the precise point to be adjudicated and the basis on which it should be decided in the state’s favor. No conclusory statements allowed. No insults directed at the other side. You must come across as the voice of reason.

For the motion’s body, you must have two or three paragraphs under each point heading. The point headings will be full-sentence assertions in boldface, without initial capitals or all-caps. They should be 15 to 35 words long—two to four lines. No more.

In the conclusion, you must avoid the cop-out generic statement “For all the foregoing reasons.” You must sum up in a freshly written paragraph, using some new vocabulary or a new angle to wrap up the points you’ve already compellingly made. Being a fan of Aristotle, you wouldn’t dream of doing what so many lawyers do: just exhorting the judge to reread the stuff you’ve written up to this point.

You know judges, and you know how they detest having their time wasted.

You also scorn all the common catchphrases to excuse mediocrity: “Good enough is good enough.” “Perfect is the enemy of good.” “It’s good enough for government work.”

If it were a baking competition, the judges would be interested in both style and substance. But these aren’t baker judges you’re attending to: They’re judicial officers. They’ll want to see how sound your arguments are, and they’ll be influenced somewhat by the presentation.

To monitor the progress of your day, we must wait for part two in this series. Meanwhile, since you’re so fascinated with demonstrations of skill in various fields, I suggest you watch an episode or two of The Great British Baking Show—even if you have little interest yourself in baking. The analogy is real.

Bryan A. Garner, president of Dallas-based LawProse Inc., has taught writing seminars over the years to more than half of the offices of attorney general throughout the United States. He has also taught at the U.S. Department of Justice and the U.S. solicitor general’s office. Among his more than 25 books is The Winning Brief: 100 Tips for Persuasive Briefing in Trial and Appellate Courts. Although he won a baking competition in high school, he long ago retired his apron.
ETHICS

Questionable Claims

Election fraud cases highlight ethics rules on baseless complaints

BY DAVID L. HUDSON JR.

Lawyers have ethical obligations to consider before signing their names to pleadings, because their signatures represent that there needs to be a factual and legal predicate for the claims. This duty has come into full focus with a spate of lawsuits filed by President Donald Trump-allied lawyers who alleged fraud during the 2020 presidential election. These cases were almost universally rejected by the courts and prompted complaints against the attorneys who filed the lawsuits, urging sanctions and even law license suspensions.

But it isn’t just the high-profile, high-stakes suits that trigger ethical obligations.

When a lawyer files an action based on an unfounded legal theory, he or she could be subject to sanctions or disciplinary action ranging up to disbarment. Experts say lawyers have a duty to investigate whether their clients’ accusations have support or are without merit.

“Lawyers have to make a reasonable inquiry to determine that there is evidence supporting their factual allegations under Rule 11” of the Federal Rules of Civil Procedure or a state equivalent, says University of Connecticut law professor Leslie Levin, who writes regularly on ethics issues. “How much factual investigation the lawyer needs to do depends on the circumstances, but the lawyer usually can’t just take the client’s word for it that the allegations the client is making are true.”

Checking frivolous claims

As officers of the court, lawyers have an obligation to bring meritorious claims and are subject to disciplinary action for violating rules of professional responsibility.

Rule 3.1 of the ABA Model Rules of Professional Conduct provides:

“A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good-faith argument for an extension, modification or reversal of existing law.”

However, legal observers say Rule 3.1 is not frequently enforced. But according to professor Peter A. Joy of Washington University School of Law, there are other ethics rules that come into play when a pleading is unsupported by evidence, including Rules 4.1, 5.1(b), 8.4(a) and 8.4(c).

Rule 4.1 states that lawyers must not make false statements to third parties. Rule 5.1(b) requires lawyers with supervisory authority over other lawyers to make sure those lawyers act consistently with ethical rules. Rule 8.4(a) identifies it as professional misconduct to assist or induce another attorney to violate the rules, while 8.4(c) says it is professional misconduct to “engage in conduct involving dishonesty, fraud, deceit or misrepresentation.”

Levin notes that in addition, lawyers who engage in such conduct “may be subject to civil claims for abuse of process or vexatious litigation.”

According to ethics experts, the most common source of punishment for lawyers who file claims deemed nonmeritorious are court sanctions. In federal court, lawyers who file litigation that seems to lack a factual and legal predicate are often sanctioned under Rule 11.

“It does start with Rule 11 because when you sign the complaint, you are saying that the claims or defenses are warranted by existing law and that you have evidentiary support for your factual contentions,” Joy explains, noting most states have modeled their ethical rules after Rule 11.

Rule 11(b) of the Federal Rules of Civil Procedure provides that when an attorney signs pleadings “after an
inquiry reasonable under the circumstances,” the lawyer is representing to the court four things: 1) the claim is not filed for an “improper purpose,” such as to harass someone; 2) the legal claims “are warranted by existing law or by a nonfrivolous argument for extending, modifying or reversing existing law or for establishing new law”; 3) there is “evidentiary support” for the factual contentions; and 4) “the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.”

The fact that a legal argument is creative or even contrary to existing law doesn’t necessarily mean the argument is frivolous and warrants sanctions. Comment 2 of Rule 3.1 provides: “What is required of lawyers, however, is that they inform themselves about the facts of their clients’ cases and the applicable law and determine that they can make good-faith arguments in support of their clients’ positions.”

In other words, a lawyer may file a lawsuit if he or she has knowledge of enough facts to believe he or she could ultimately prove the allegations of the complaint—if acting in good faith.

Digging deeper
It might seem a lawsuit that is frivolous is one that lacks merit, but there is a difference between frivolous and meritless cases. “All frivolous cases are meritless, but not all meritless cases are frivolous,” explains Alexander Reinert of the Benjamin N. Cardozo School of Law. “My working definition is this: Frivolous cases are those that a judge can determine, at the moment of filing, to have a zero chance of success. It takes no legal argumentation or factual development to make that determination. Meritless cases are those that require some consideration—either turning over legal argumentation or considering the need for factual development—before concluding that there can be no relief of any kind for the plaintiff.”

Under this analysis, frivolous cases are those that can be tossed immediate-

“Frivolous Cases,” Thomas reminds readers of the testimony of former federal district judge and famed civil rights lawyer Robert Carter, who warned that if the term “frivolous” was applied broadly, then much civil rights litigation challenging the separate-but-equal hegemony would have been threatened.

“There is a good argument to sanction lawyers if they bring a case for bad purposes or a case that is not supported by fact or law,” Thomas says. “But people must have access to the courts. While there doesn’t seem to be evidence of widespread election fraud, what if we do have problems with our election systems? So in cases like this— involving fundamental elements of our democracy—we should be hesitant to punish lawyers.”

In the case of the Trump stolen-election lawsuits, complaints have been lodged with at least five state disciplinary agencies accusing nearly two dozen attorneys of filing frivolous lawsuits or engaging in professional misconduct. But there is a high bar before sanctions are imposed in most jurisdictions, with the standard of proof requiring clear and convincing evidence. And ethics experts say bar authorities often defer to the courts.

“As a practical matter, disciplinary authorities almost never get involved in these sorts of matters,” Levin notes. “If the court doesn’t sanction the lawyer, disciplinary authorities often conclude that discipline is not warranted. If the courts do sanction the lawyer, disciplinary authorities often feel like lawyers have been punished enough.”

David L. Hudson Jr. teaches at Belmont University College of Law. He is the author, co-author or co-editor of more than 40 books. For much of his career, he has focused on the First Amendment and professional responsibility.
50 STARTUP TIPS TO GET YOUR PRACTICE OFF THE GROUND

BY VICTOR LI
For many, being your own boss is the ultimate dream. But the idea of hanging up your own shingle can be scary and confusing, while others might not know where to start.

The ABA Journal asked lawyers, legal professionals, marketers, consultants and other experts what to keep in mind when starting your own practice. Here are 50 tips. (Responses have been edited for clarity and space.)
**Should you do it?**

Do you believe you have a high risk tolerance? Do you enjoy the business aspects of running a practice beyond practicing law (i.e., leadership, management, finances, operations, sales/marketing)? Do you have a business plan? Do you have enough cash and bandwidth? If you answer yes to all of these questions, then maybe you should start your own practice.

—Gyi Tsakalakis, president and co-founder of AttorneySync

**2.** Start by getting really clear with yourself on the purpose and goals for opening your own firm. While many lawyers are attracted to the possible freedom and flexibility of owning their own firm, lots of new firm owners haven’t planned out how much they’ll need to work “on” their business (strategy, business development, goal setting, documentation) versus how much they’ll be working “in” their business (providing legal services, sending out bills, reconciling accounts, marketing).

—Aaron Street, CEO and co-founder, Lawyerist

**3.** If it’s nagging at you and you’re itching to do it, absolutely yes. I think most people who get to the point of seriously contemplating it are in a good position to try it. Most who really don’t want to or will hate it simply never get to the point of it being a serious possibility.

—Megan Zavieh, Zavieh Law

**4.** Take an aptitude test: Myers-Briggs, StrengthsFinder [renamed CliftonStrengths], etc. That way, you know more about how you’re wired, which relates to your professional calling. If you are someone who likes to follow the structure provided to you by others, chances are you will hate running your firm. But if you (like me!) like creating your own rhythms and structures, chances are you will like the ups and downs of owning a business.

—Inti Martínez-Alemán, Ceiba Fórte Law Firm

**5.** Starting your own firm takes one-half planning and one-half insanity. You will need to be creative and hungry and prepared to make mistakes. Most of that time you are making snap decisions without a safety net, but you feel alive with every decision. Your world will shift from dialogue to numbers. Your language in law is prose, but your language in business will be numbers. Spend time educating yourself on that, even at the expense of less time on the law.

—Brian King, King Law

**6.** Others will disagree. But in my opinion, if you have the opportunity to work for another lawyer or law firm before launching your own practice, take it. It can be a truly outstanding educational opportunity that allows one to learn while drawing a paycheck.

—Jim Calloway, director, management assistance program, Oklahoma Bar Association

**7.** I was working for a firm where my talents were not appreciated. There were cases I wanted to take that the firm did not. I also had to wait for approval to move forward on things, and my income did not equal my production.

—Daniel J. Tann, Law Offices of Daniel J. Tann

**Developing a business plan**

**8.** Your business plan should start with your vision. Are you creating an enterprise or a lifestyle business? Knowing this in advance will influence your plan, and your plan should be completely dependent on your goals.

—Billie Tarascio, Modern Law
9. Do it, but don’t overthink it. It can be paralyzing to embark on a plan that we aren’t trained to write, but it’s not half as hard as you think it’ll be. Plus, it’s a living document. You can always pivot and change course.

—Megan Zavieh

10. Planning is key. It may sound like a no-brainer, but use the internet to your advantage. It’s a great resource for educating yourself on any topic. Once you feel you have a handle on business objectives and goals, begin developing your plan. Look into what area of focus you want to specialize in, speak with those professional mentors on the do’s and don’ts of practicing. Most important: Seek feedback at every step of the way from peers, colleagues, etc., to make sure you are on the right track.

—Jack Newton, CEO and co-founder, Clio

11. The old adage that you “can’t manage what isn’t measured” is more important than ever in today’s legal economy. Business plans must include a way to objectively measure outcomes. Business plans without metrics built in cannot succeed because there is no way to measure success. Failure is even scarier because without metrics to tell you when to stop or change directions, you can get in very deep before you even see the failure.

—Patrick Palace, Palace Law

12. What are your revenue goals? Here’s one way to look at it: A 365-day year has 104 weekend days. Subtracting holidays, sick days, vacation days and family events leaves 220 working weekdays during the year. To gross $1 million per year, one would then need to average over $4,500 in revenue per day; while to gross $100,000, the average is over $450 per day. Gross is reduced by overhead and taxes before it ends up in the lawyer’s hands. And that is one reason why so many lawyers work many weekends and fail to take off sufficient time to relax and recharge.

—Jim Calloway
Real estate: brick-and-mortar or virtual?

13 Both. You should have the capability to deliver service both in person as well as virtually. That said, there are a variety of ways to accomplish that objective. To me, the key is building your practice from your clients’ perspective. For example, how will your clients prefer to communicate with you? How will they prefer to complete/sign documents? How will they prefer to pay you? At the risk of stating the obvious, they won’t all prefer the exact same things. Be prepared to provide options.

While this may be lower on your list of considerations, keep in mind that Google My Business (the premier real estate on search results) requires an actual physical office location. If your marketing strategy relies heavily on winning clients from local search, that alone might be enough reason to maintain physical space.
—Gyi Tsakalakis

14. Whether you need an office depends on the type of law you practice and what your clients expect. In your area of practice, do clients want to physically meet with their attorney? Even if the answer is yes, you may not need to be physically present all of the time. An executive space or sublet space may work perfectly. You have more options than ever before.
—Billie Tarascio

15. Many legal services will be delivered virtually going forward. Lawyers have always served out-of-state clients. The tools are just better today. At a minimum, a lawyer needs a location where certified mail can be received and deliveries are dropped off. Plus, there will be a need for physical meetings with clients and others. Depending on the work-from-home situation, a lawyer may need a physical office location for an uninterrupted workspace. Many law firms have downsized and have extra space available that could include reception and access to a copier. Renting a U.S. post office mailbox is better than listing a home address on documents publicly filed with a court.
—Jim Calloway

16. There are three main reasons lawyers pay for expensive office space: 1) to have a place to work; 2) to have a place to meet with clients; and 3) to impress clients and opposing counsel. If more of your employees are working remotely, these reasons don’t mean much anymore. We suspect when this pandemic is over, many firms will adopt a model similar to what firms like PwC have been doing for years: a series of unassigned workstations that any employee can sit at and plug into.
—Patrick Palace

How big do you want your practice to be?

17. Give this some real thought. I started with a small goal: My husband and I decided that if I could build a certain income stream, it was worth giving it a second year. It wasn’t the income I wanted long-term, but it was a first-year goal. At some point, you have to decide what is the biggest you want the firm to be. The more specific you can be with it, the better. Your goal informs decisions like when (or whether) to hire other lawyers, when to turn down work, whether to expand geographically or into new practice areas, and other critical questions.
—Megan Zavieh

18. The size of your practice depends on what area you want to specialize in. One factor to take into consideration is how popular your practice is in your area. Another point is whether you want to take on fewer higher net-worth clients versus many lower-to-middle-class clients; you may not need a lot of manpower. Evaluate what specialty you’re practicing to decide how much manpower and the services you need to offer.
—Jack Newton

19. For most solo or small-firm lawyers, growing the firm may not mean adding more lawyers. That may be a good plan if you need more hourly billers or attorneys available for court appearances. But outsourcing to virtual assistants, contract lawyers and automated services is often a better alternative. This allows a firm to ramp up the support services when there is lots of work and reduce them when they are not needed.
—Jim Calloway
What kind of fees should I charge?

20. Don’t limit yourself to billable-hour thinking as you develop your fees and pricing. Flat fees reward efficiency and experience, but a sliding scale or unbundled fees can also help you serve more people in your practice and provide access to legal help to those who might otherwise struggle to get it.

—Aaron Street

21. New lawyers starting a practice need to determine an appropriate hourly rate for legal services, whether they will be using that as a primary method of client billing or not. Many bar associations will not be able to offer much help on this due to antitrust concerns. It’s OK to ask other lawyers in your area what they charge; this is one bit of information that few mind sharing. New lawyers will likely set their fees lower than experienced lawyers and write off more time as they are doing things for the first time. But if your clientele is mainly individual consumers, where you can set a fixed fee for a legal service, you will find clients appreciate the certainty of the fixed fee.

—Jim Calloway

22. Alternative fee arrangements! Yes, we occasionally use hourly billing alone for some cases, but we try to combine it with other components. We really like to offer a hybrid model for many cases: Start with a handsome flat fee for investigation and advice, which, when completed, converts into hourly billing. This is helpful for cases in which (a) the client is hesitant to hire you because of the uncertain nature of hourly billing, and (b) litigation could open a can of worms down the road. So if you start with a good flat fee, you could charge an hourly rate for services related to the initial scope but not necessarily contemplated in the scope.

—Inti Martínez-Alemán

23. I like an enhanced hourly/contingency fee system. Make no mistake, the large firms you are competing against understand the hourly billing system—and it works. If you can be more efficient, that system can work for you as well (and better for the client). I have yet to see a flat fee system that benefits the attorney, although I understand its appeal to clients. Be prepared for difficult times if you choose to 1) be the low-price leader or 2) develop a subscription-based model. I think both can work, but you have to spend your day on the hustle and not necessarily on legal work.

—Brian King

24. As a student loan lawyer, most of my law practice is transactional-based. The little litigation I do is fixed and routine. So for me, it makes total sense to charge a flat fee. Now, the key to charging a flat fee is to charge a high enough fee where you don’t hate your client for doing the work for them and a low enough fee where they don’t hate you for what they’re paying you.

—Stanley Tate, Tate Law

What kind of tech should I use?

25. Focus on technology that both improves your clients’ experiences and makes life easier for you. And if you have to pick between the two, pick client experience.

- Client relationship management software: Organize all your professional contacts and create systems to create, nurture and solidify professional relationships.
- Marketing automation: Nurture contacts throughout their hiring journey.
- Scheduling/conferencing: Make it easy for people to schedule time to meet with you. (I like Calendly + Zoom, which integrates nicely with Google Calendar.)
- Virtual receptionist: Someone has to respond to inquiries remarkably fast and competently. It’s unlikely you’ll be able to effectively handle this on your own.
- Document automation: Make organizing and executing documents a better experience for clients (particularly with respect to digital signatures; don’t make people come to your office to sign documents).
- Web presence: fast, reliable website hosting; WordPress; responsive design; Google My Business and social media.

—Gyi Tsakalakis

26. Use things that are low-cost, cloud-based and typically don’t require you to know how to code. There are literally dozens of options in every tech category—just find the ones that work best for you and integrate with your other tools. My No. 1, hands-down first criteria when searching for tech is, “Does it integrate with Zapier?” If not, it has major points off.

—Jessica Birken, Birken Law Office
28. Use the tech that works for you. You’re not going to know what that tech is until you start using it. For instance, many of my colleagues use branded practice management SaaS [software as a service]. I tried them all but realized many of them didn’t work for how my brain worked, so I built a custom one using Airtable and Zapier integrations. The tech I think is nonnegotiable, though, especially as a solo, is a scheduling tool like Calendly, an online payment system like LawPay, a virtual meeting tool like Zoom, and an e-signature tool like HelloSign or PandaDoc. Those tools are all time-savers because they allow you to work quickly and efficiently.

—Stanley Tate

29. Lexis and Westlaw—both of which require a minimum yearlong commitment—are no longer the only game in town for legal research. Both Casetext and Fastcase offer month-to-month subscriptions. Additionally, Fastcase access is a member benefit for many bar associations across the country, while Casetext is a member benefit for a few. Lawyers can get discounted access to Casetext through a few local bar associations. Talking about free, you may find that Google Scholar is sufficient for your research needs.

—Lisa Solomon, Lisa Solomon, Esq. Research & Writing

30. Implement a docketing system. You need to have a way of keeping track of cases. You should think about this in advance. Are you going to use a calendaring system? An off-the-shelf program that’s being offered to legal professionals? Do your research and get it in place before you open so when you start accepting matters or cases, they go right into your docketing software so you never risk missing deadlines or client notifications.

—Josh Gerben, founder & principal, Gerben Perrott

31. You will need a business account and possibly a trust account. Get to know your local business banker, and weigh the pros and cons of a national bank vs. a local one.

—Billie Tarascio

32. Digitize every record. Every physical document you receive should be immediately scanned and stored safely on a secure cloud site where it can be easily accessed. While a regular complete backup of your computer is still important, the standard today is having the information where it can always be used and updated no matter what. A busy lawyer cannot afford to be locked out of data, waiting for a new computer to be shipped or waiting for someone to help them restore from the backup.

—Jim Calloway

33. If you have been in a firm and never had to handle the money before, take the time to read your bar rules on trust accounting. If the bar offers a class, take it. Open your accounts correctly and choose a separate bank for your IOLTA (Interest on Lawyers Trust Accounts). If only your IOLTA is at that bank, you drastically

—Megan Zavieh

I’m pretty tech-savvy but stay away from fads in legal tech. Too many to choose from! I ask myself, “Do we really need it, and will it make us happier at work?” If not, I decline. I also think of revenue over cost: Will this $1,000 investment pay for itself quickly? If so, let’s do it. If not, don’t fall in the trap just because every colleague of yours is doing it. There’s no one-size-fits-all approach to running a law firm.

—Inti Martínez-Alemán
reduce the risk of many common errors (such as depositing funds in the wrong account, having electronic transfers into and out of the account, and bank errors).

—Megan Zavieh

34. If I was hiring one person, I would start with a fantastic accountant. The collection of money will make the difference between what you bill and what you net as take-home.

—Brian King

35. You have to have a corporate entity for liability protection—in most cases, you’ll use a limited liability company, or in some states they’ll be called professional limited liability companies. You’ll likely want to be an S corporation, which is a tax designation that allows for pass-through taxation on your income. Talk to your accountant if you need to set up as an S corp.

—Josh Gerben

36. Get your malpractice insurance in place—and general liability coverage that you’d normally have for a business. Malpractice insurance is an absolute must in today’s world. Get it in place. It’ll be expensive and painful, but you have to have it. There are plenty of carriers out there. Talk to an insurance broker about what other types of coverage you should get.

—Josh Gerben

37. You must accept credit cards—getting paid faster and easier is going to be critical. You don’t want to have accounts receivable as an attorney. That means you’re waiting on that money to come in—when you’re a small firm, oftentimes you can’t wait for it. When you’re just starting out, the quicker you get paid, the better. Some people don’t like credit cards because it costs 2%-3% off the top. In the vast majority of our engagements, we require payment upfront to begin work or a retainer. It’s easy to get people to give us their number right off the bat, or they use our secure online portal. I use Authorize.net.

—Josh Gerben

38. Remember, especially if you’re starting a business for the first time, that you still have to pay taxes—and that no one is paying them for you anymore. You must pay your federal and state taxes on a quarterly basis, and you can do it online. Set up an account at EFTPS.gov to pay federal taxes online, and if you live in a state with an income tax obligation, find the online portal and pay there, too. More attorneys starting law firms than I can count have reached out to me at the end of their first year with a large tax liability and no way to pay. Save yourself the hassle. Remember that the taxman always gets paid first.

—Jared Correia, CEO of Red Cave Consulting
40. Many lawyers launching law firms ignore an obvious traction point: their existing networks! So gather up all the emails you have (yes, literally all of them), and send out a grand opening announcement via an email marketing program. You may never get more views than when you make an initial announcement for a new business, so don’t miss the opportunity.

—Jared Correia

41. How do potential clients use the internet to find legal services? In most cases, search engines are the easiest, most accessible means of finding information. Lawyers who understand how people use search engines to research lawyers and to find answers to their legal questions can earn meaningful attention and new clients. Eighty-six percent of consumers start with Google when searching for a lawyer online, as identified in a study by iLawyerMarketing.

—Jack Newton

42. According to the 2019 ABA TECHREPORT Survey, only 47% of firms overall have a marketing budget. Effective marketing starts with a budget. Your marketing budget should include both time and money. If you’re short on money, be prepared to spend more time. In fact, even if you have money, be prepared to spend time on marketing. Keep in mind that the business of law is still largely a relationship and reputation business. Therefore, your marketing should focus on investments in relationships and evidence of your professional reputation. This means delivering better experiences to everyone who comes into contact with you and your firm. Invest in deeply understanding who you help, how you help them and why you are uniquely qualified to do so.

—Gyi Tsakalakis

43. Your unique selling proposition is your story. It’s what makes you totally different from the lawyer down the street. When you design your marketing or write your bio, line it up next to 10 other attorney bios. Give them to your spouse or friend without names, and ask him or her to pick out which one is you. If he or she cannot easily do so, keep looking; you haven’t found your unique story yet!

—Billie Tarasco

I used a more traditional name when I started because I wanted clients to know that we were a real law firm because we were mostly going to be advertising online to obtain clients. In the last 10 years, there’s been a shift toward using names of firms that are not just the last names of the partners. You can build a brand into a firm, and it’s not reliant on everybody sticking around.

—Josh Gerben

Your unique selling proposition is your story.
44. Make sure your marketing spend leads to specific clients. Too much of the time, marketing dollars are spent trying to “create a brand” when most legal services come one client at a time. Wisely spend money on internet marketing and gifts. You want to have 20 good referral sources and treat them like gold.

—Brian King

Culture

45. Think about what you want in your ideal boss, then try to be that with your first employee. Read about organizational culture and what it means—they don’t teach this in law school, so you’ve probably got some homework to do. Your law firm culture will be created whether you try to create one or not—so make sure you consciously cultivate one.

—Jessica Birken

46. Right now, company culture is a major make-or-break factor for prospective employees, especially with COVID-19 and remote work. Whether you’re building a large business or an intimate practice, culture means everything. As part of your business plan, remote-working conditions, comprehensive health care benefits, time-off policies and professional development opportunities for employees should be just as important as the services you offer clients. People are keeping a close eye on work-life balance during this pandemic, so you want your company to be a place that welcomes people of all backgrounds, locations and paths of life. One specific area you can focus on right now is offering flexible work options if you are going down the path of opening a brick-and-mortar location. Work from home is vital for many right now, and it is a perk that can boost employee morale and overall culture.

—Jack Newton

47. Starting a practice is a big step, and you will have setbacks. You have to be prepared for those and be ready to bounce back. Since you don’t know what they’ll be, the best thing you can do ahead of time is have appropriate coping tools in place. Know how to reset your perspective, have an accountability partner who can help pick you up, and know what you’ll do when you are feeling low. To be able to be resilient, you have to take care of yourself. It’s hard to make self-care a priority, especially when the life of the firm depends on you, but if you burn out, the firm is destined to fail.

—Megan Zavieh

Be resilient!

48. Business is full of peaks and valleys. There will be good months and bad months; you have to hang in there during the bad months and know that the good months will come. You need to plan for the bad months. Use the slow periods to learn. Learn about running a business; learn about marketing; learn about anything that can help you. Sign up for every free webinar about running a law firm, marketing and branding. Find another attorney who you can talk to—someone not in your practice area—that you can trust. Stay calm and don’t panic.

—Jodi Ann Donato

49. Being a solo is like riding a roller-coaster of emotions. Some days are awesome. Other days suck. And sometimes, those emotions come through on the same day within a one-hour window. The key is to keep plugging away. Soon, you’ll have enough experiences built up that you’ll be able to better modulate your emotions. That said, I’m seven years in. And when it’s Thursday and I haven’t booked a new client, my anxiety kicks in. And I start looking at what marketing I could do more of or better, or both.

—Stanley Tate

50. If 2020 has shown us anything, it’s the value of resilience. Pivot, adapt and be open to the possibility that the practice of law is changing, and largely for the better. Clues are everywhere that the client-focused law firm enabled by tech is here to stay. There is no “set it and forget it” with running your own law firm, so make sure to set aside time to work “on” your business and step back to determine what needs to change.

—Aaron Street
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Calls for Help
Police are often first responders to mental health crises, but tragedies are prompting change

BY JULIANNE HILL

Before he came home on holiday break in late 2015, Quintonio LeGrier, an engineering student at Northern Illinois University, had been acting erratically. There were a series of incidents on campus. He got into a dorm fight and had been charged with a misdemeanor in March. Two months later, he shouted profanities in the dorm cafeteria and struck an employee when she asked for his ID. And in September, after LeGrier frightened and chased a woman, university police worked with medics to admit him involuntarily to a nearby DeKalb, Illinois, hospital for a psychiatric evaluation.
Back home in Chicago visiting his father early on the morning after Christmas, the 19-year-old Black sophomore called 911 three times in mental distress. He requested police assistance, claiming there was someone in his home threatening his life. The dispatchers did not inquire about the state of his mental health. One hung up.

Shortly afterward, LeGrier tried to break down his father’s barricaded bedroom door with a baseball bat. His dad called 911, telling the dispatcher, “My son has freaked out. I need an officer.”

When police arrived at the two-flat on West Erie Street and rang the doorbell, neighbor Bettie Jones responded, opening the door and stepping outside. LeGrier charged down the stairs toward them on the front stoop, swinging the aluminum bat toward Chicago Police Department officer Robert Rialmo. The officer moved back, then pulled his service weapon and fired multiple shots. Six hit LeGrier, killing the distressed college student outside Jones’ front door. Jones took a bullet in the chest as she stood near the entrance to her apartment and also was killed.

Cases such as Quintonio LeGrier’s have prompted demands around the country to reform how police respond to people in mental health crises, a movement that advocates believe can help avert such deadly confrontations.

“We’ve trained people that calling the police is the way to get help, but chances are things won’t go well,” says Amy Watson, a professor at the Helen Bader School of Social Welfare at the University of Wisconsin-Milwaukee.

“Let’s be clear about how poorly this situation works,” says Alex Vitale, a professor of sociology at Brooklyn College and author of the 2017 book The End of Policing. “At least 25% of people who are shot and killed by police officers suffer from acute mental illness at the time of their death.”

These incidents also have sparked protracted legal actions against municipalities and police departments from families who believe their loved ones were killed unnecessarily.

The LeGrier case instigated a spate of lawsuits, including a wrongful death case from the family for $25 million and separate civil action filed by Bettie Jones’ family. However, in an unusual move, Rialmo countersued, blaming LeGrier for causing the officer to shoot and kill the student and the innocent neighbor. He asked for $10 million from LeGrier’s estate for emotional damage.

A growing national crisis
For the past year in Chicago, the issue of how to improve response to mental health calls has been the focus of negotiations between Mayor Lori Lightfoot’s administration and the city council.

“There is a growing recognition around the country that mental health crisis calls are fundamentally health care calls,” says Matt Richards, the deputy commissioner of behavioral health at the Chicago Department of Public Health. “Mental health professionals need to be part of the team.”

With many community mental health clinics now shuttered, the spotlight on racial justice intensifying and chronic stressors surrounding the COVID-19 pandemic growing, there is a gnawing sense of urgency nationwide in both small towns and large urban areas to change how behavioral health issues are handled.

Around the nation, pressures for change grew after the high-profile case in Rochester, New York, of Daniel Prude, who experienced a behavioral health crisis after taking phencyclidine, or PCP, on March 23, 2020. Prude left his brother’s home wearing long johns and a tank top—but no coat or shoes when the temperature was below freezing—then stripped off those items outside, standing naked. Police
arrived and handcuffed the 41-year-old Black man, but once restrained, Prude’s delusions intensified. Police then placed a mesh hood over his head. No social workers or medical personnel were contacted. The police video shows little was done to soothe Prude.

In fact, as Prude shouted, “Gimme that gun, I mean it” and appeared to be attempting to stand up, police pushed him down. One officer used his full body weight and both hands to press the side of Prude’s head to the cold pavement while another knelt on his back for more than 2 minutes. He died seven days later.

An autopsy ruled Prude’s death a homicide by “complications of asphyxia in the setting of physical restraint,” but a Rochester Police Department investigation found no wrongdoing by officers. Additionally, in February, a grand jury convened by New York Attorney General Letitia James declined to charge any of the officers connected with Prude’s death. Prude’s family filed a federal lawsuit for damages against the city of Rochester and the officers involved in September.

“Every place is struggling,” the University of Wisconsin-Milwaukee’s Watson says. “We’ve been so willing to rely on police that there hasn’t been much development for other ideas. But now we are at the point where we have to do something.”

With an estimated 240 million 911 calls made each year, police serve as the de facto first responders for behavioral health issues including mental health crises, substance abuse and homelessness. A 2019 report from the Treatment Advocacy Center, or TAC, a nonprofit in Arlington, Virginia, in partnership with the National Sheriffs’ Association and the New York State Association of Chiefs of Police, found that 21% of law enforcement’s time was spent responding to and transporting people with mental illness.

Waiting until matters escalate
After widespread media coverage of cases such as LeGrier’s and Prude’s, fearful families may hesitate to call 911 when their loved ones are in distress.

“They say, ‘I don’t want to call police because they might kill my family member,’” Watson says. “So they wait. They call only when things have escalated and they can’t wait any longer. And at that point, it’s the hardest time for police to become involved.”

Often, those calls do not go well. People with untreated mental illnesses are 16 times more likely to be killed during a police encounter, according to TAC.

“No one is any better off because the police got there,” says John Snook, TAC’s former executive director, now the director of government relations and strategic initiatives at the National Association for Behavioral Healthcare. “Many in law enforcement didn’t get into the job to become a psychiatrist.”

A nationwide survey of 2,406 senior law enforcement officials, Management of the Severely Mentally Ill and Its Effects on Homeland Security, found that police and sheriffs are overwhelmed by “dealing with the unintended consequences of a policy change that in effect removed the daily care of our nation’s severely mentally ill population from the
medical community and placed it with the criminal justice system.”

Often, a family has to wait for their loved one to deteriorate to become an imminent danger, which amounts to waiting for the loved one to violate the law before requesting an emergency inpatient civil commitment.

In Black and brown communities, this creates additional stress because officers too often don’t see a sick human being but a criminal, which increases the probability that deadly force will be used, says Sabah Muhammad, a legislative and policy counsel at TAC whose brother lives with paranoid schizophrenia.

“If a Black man with severe mental illness must present an imminent danger in order to involve the police, what happens when police, who are subject to implicit bias or outright racism, arrive?” wrote Muhammad, a former public defender, in an op-ed in the Washington Post.

Her family in Georgia has been forced to make that call. “You don’t want to. You hesitate,” she said in an interview. “No one should be put in that situation.”

Along with police, dispatchers must overcome their own biases. “Without special training for dispatchers, there could always be police sent to Black and brown communities,” Watson says.

Beyond police training

In Chicago, where half of the city’s publicly funded community mental health centers were closed in 2012, the Lightfoot administration and the city council developed separate plans to incorporate mental health professionals in response to 911 calls. The mayor’s office focused on developing a three-person unit that includes a police officer, while the plan by the progressive members of the council installs a two-person mobile unit that does not include law enforcement. The 2021 budget includes language for both.

“What both plans are trying to get at is that officers alone don’t have the tools to resolve a mental health call. What’s important is the ability to link people to mental health services,” says Watson, who studied Chicago’s system for two decades.

About one-quarter of Chicago’s officers, or about 3,100 police, have received 40 hours of training with the National Alliance on Mental Illness, or NAMI. Called the Crisis Intervention Team, or CIT, it teaches officers to respond thoughtfully and effectively to those experiencing mental health issues and redirect the person in distress to social services, says the Chicago Police Department’s Antoinette Ursitti, commander of the department’s Crisis Intervention Unit and coordinator of its CIT program.

The city beefed up this program in 2017. Additionally, all 911 call takers now receive mandatory training to recognize mental health crises, says Alexa James, the CEO of NAMI Chicago, a nonprofit dedicated to supporting those with mental health conditions. She also has served on the city’s Police Accountability Task Force.

Still, even when trained police offers and medics arrive at an emergency call, a person in a mental health crisis might feel terrified at the sight of a police cruiser with its lights on and uniformed officers.

“That uniform matters,” Muhammad says. “If you’re calm in the middle of your crisis, the police will still handcuff you to take you to the car. Those handcuffs, they do something. If you’re in the middle of psychosis, you need a medical response to happen instead of criminal response.”
Prevent and preempt
Under Chicago’s current system, when a resident calls 911 with a mental health situation, a Chicago Police Department unit with a CIT officer will be dispatched. An emergency medical technician along with a medical transport could respond as well.

However, a new system starting as soon as this summer will include call center support, co-responder teams, and diversion and deflection. It’s broadly based on similar programs in other places across the country and will launch in two of Chicago’s 22 police districts.

“These pilots are a natural extension of the robust crisis system the city has been developing,” the CPD’s Ursitti says.

First, Chicago will add three mental health professionals—each working a 40-hour shift—to 911 call centers in the pilot districts. “It makes sense to have mental health professionals in the call center,” the Department of Health’s Richards says. “These professionals can provide support to callers, consult the call taker, support dispatch teams.

“The goal is to prevent and preempt cyclical calls,” he says. “By attending to underlying needs, everyone is better off.”

Second, the portion of the plan developed by the Department of Health creates two new units that include a community paramedic, a mental health professional and a CIT officer wearing a special uniform to co-respond to behavioral crises based on various models nationwide. They’ll arrive together in a sprinter van.

“Sometimes the presence of a uniformed officer might be confusing, implying that something criminal has been done,” Ursitti says. “We want to be crystal clear and want to make sure there is no confusion.”

Often, police do not know they are responding to a mental health crisis when arriving at an emergency call. This co-responder model has the capability to handle any call that has a mental health component—and all types and risk levels, Richards says. Support works both ways. The co-responders could back up police who find themselves in a mental health situation, and the co-responders could request police assistance if the situation warrants it as well.

Third, a process of diversion and redirection will connect people who have had repeated contact with the system—emergency room trips, complex mental health needs, substance abuse issues—directly to support services.

Treatment, not trauma
However, members of Chicago City Council’s progressive caucus pushed back against the administration’s plan, saying it did not go far enough and police should be removed entirely from mental health calls that are not life-threatening.

As a result, two additional response units will be added, staffed by health care professionals without an accompanying CIT officer.

“It’s been time to do this for a while. We’ve looked at safety from the point of view of punishment exclusively,” says Rossana Rodriguez-Sanchez, alderman for Chicago’s 33rd Ward. “It’s time for treatment, not trauma.”

A 2019 publication by CIT International, a partnership aiming to facilitate understanding, development and implementation of CIT training in communities, states that police should not be the first responders in behavioral health situations.

“Unfortunately, it’s simply impossible for law enforcement to create a safe and humane crisis response system on their
own or to take on permanent responsibility for managing every crisis call for service,” according to the publication Crisis Intervention Team (CIT) Programs: A Best Practice Guide for Transforming Community Mental Health Crises. “Instead, law enforcement must work with their partners, look for strengths in the community, and support mental health system partners in shouldering primary responsibility of crisis response services.”

Under the council’s plan, residents’ calls would be rerouted to an emergency line through which a paramedic and a clinician would be dispatched without a law enforcement officer. “Crisis response work has to do with notions of safety and creating a system of safety nets that are supportive of people in need—and less about punishment,” says Rodriguez-Sanchez, who is currently pursuing a master’s degree in social work.

The Chicago City Council plan is based on the 32-year-old Crisis Assistance Helping Out on the Streets, or CAHOOTS, program in Eugene, Oregon. There, two-person teams consisting of a mental health caseworker and a medic respond to 911 and nonemergency calls involving a behavioral crisis when safety is not an issue. That means calls concerning conflict resolution, suicide threats and welfare checks are deflected to these units.

“There are no lights or sirens. There’s no uniform beyond a jacket or a hoodie, and everyone is unarmed,” says Benjamin Brubaker, clinical co-coordinator of the White Bird Clinic, home base for the CAHOOTS program. “We talk with them and get them the support they need—and not by sending them to jail or the hospital.”

Ideally, qualified responders have lived experience with mental health issues, showing empathy with the person in crisis. “Having the right person respond makes all the difference,” he adds.

The teams offer information and referrals, transportation to social services, first aid and basic-level medical help. However, if the CAHOOTS team finds a crime in progress, violence or life-threatening emergencies, police are called in as primary or co-responders. “That is a very small percentage of the time,” Brubaker says.

Through CAHOOTS, Eugene has diverted 20% of all 911 calls from police, Brooklyn College’s Vitale says. “That’s a huge volume—and they saved $8.5 million just from that,” he says.

Since last summer, more than 400 municipalities have contacted CAHOOTS organizers asking for advice on how to set up a similar program, Brubaker says, including representatives from Chicago.

**Holistic approach**

Although CAHOOTS works well for Eugene, a city of 176,000 residents, a bigger city like Chicago, home to 2.7 million people, has different needs and resources. CAHOOTS is replicable, Brubaker says, but it must involve input down to the neighborhood level. “Ideally, the response will be amended to that specific community,” he says.

However, Snook warns that employing the CAHOOTS model is not a magic bullet. “Those programs are helpful, but they not going to help if an entire ecosystem of support is not there,” he says.

To address a spectrum of needs, Los Angeles County, home to 10 million people, has proposed a holistic approach to overhaul its crisis response system over the next four years. The plan creates someone to talk to, someone to respond and somewhere to go for people in crisis.

The “Care First, Jails Last” efforts focus on preventing high-stakes crises that can lead to horrendous outcomes, says Dr. Jonathan E. Sherin, director of the county’s Department of Mental Health. Instead, the new system allows for calls for support to come early on, when family members first notice signs that their loved one is deteriorating.
“We’re looking to solve the question of ‘What do you do between when someone is slipping and you’ve got to call the cops?’” he says.

All emergency calls would be funneled through a regional call center network. A small team of health and law enforcement experts determine if the appropriate dispatch is law enforcement, social workers or peers. “And if instead of a cop a peer is there, someone with street credibility, the response will change,” he says. “We can slow down, wait. ‘Do you want a cigarette?’”

To staff those responses, the financial commitment required will be “massive,” Sherin says, with a $400 million one-time investment anticipated for infrastructure.

And each year, the county will need as much as $300 million to keep it going. “We’ve got to put our money where our mouth is,” he says. “This is how you end suffering.”

Lingering lawsuits

In Chicago, meanwhile, the 2021 budget includes $65 million in affordable housing and homeless prevention, $36 million toward community-based violence prevention and $20 million for mental health, including $1.3 million to launch the crisis response initiatives.

“I can’t help but laugh; $1 million is not enough for paper and ink,” Alderman Rodriguez-Sanchez says. “It’s not enough to accomplish anything meaningful. It’s disingenuous to say we’re going to take these steps but not give it any money.”

The pilot efforts do not have enough money, NAMI’s James says. “I’m supportive of this next step, but it is not the end all, be all. There’s more to do.”

“Having the right response in the first place can reduce legal action,” CAHOOTS’ Brubaker adds. “Costs for additional support can be offset by fewer lawsuits that tie up the court for years.”

Legal consequences surrounding the Quintonio LeGrier incident dragged on.

Despite his mental health issues, the family’s case centered on Rialmo’s response during the call. “Simply, this case was about a police officer who shot and killed two people unjustifiably,” says attorney Basileios J. Foutris of Foutris Law in Chicago.

The eight-day trial ended dramatically in June 2018, with the jury finding that Rialmo unjustifiably killed LeGrier and awarding the family $1 million. Then moments later, the judge learned the jury signed a special interrogatory finding that Rialmo fired in the reasonable belief that LeGrier posed the danger of death or great bodily harm and quickly overturned the decision.

A jury also found in Rialmo’s favor in his lawsuit filed against the LeGrier estate for infliction of emotional distress, though no damages were awarded. Additionally, the state’s attorney found insufficient evidence to file criminal charges against the officer. Illinois law considers a baseball bat a deadly weapon, and Rialmo was seen as defending himself. Ultimately, in October 2019, the Chicago Police Board voted unanimously to fire Rialmo.

LeGrier’s mother could not be reached by the ABA Journal for comment. His father declined to discuss the case.

“If Quintonio called today, things would be different,” James says. “Dispatchers would know how to identify someone who is out of touch with reality and link them to care. They would have asked different questions, they would have coded for the dispatch of a CIT-trained officer. There would be a different outcome.”

Julianne Hill is an award-winning Chicago-based writer, reporter and producer who specializes in covering mental health and brain diseases. She is a former recipient of a Rosalynn Carter Fellowship for Mental Health Journalism.
It was spring break at Benedict College when news reports emerged in March 2020 that the novel coronavirus was spreading across the country. Yet there were still hundreds of students on the school’s campus in Columbia, South Carolina.

Benedict President Roslyn Clark Artis and her team worked around the clock to help the students, including international ones, quickly return home so the campus could close because of the mounting public health crisis. Meanwhile, the historically Black college extended spring break for an additional week so that faculty could transition classes online to finish out the semester.

After the liberal arts institution made it through that initial tumult sparked by COVID-19, Artis turned her attention to determining what the next academic year would look like for the school’s roughly 2,000 students.

Fortunately for her, she was able to rely on the problem-solving and critical thinking skills she developed during her decade as a lawyer in private practice—especially when it came to grappling with the array of liability issues presented by the evolving pandemic. Of paramount importance was deciding whether students and employees could safely return to campus in the 2020-21 academic year. Ultimately, Benedict allowed up to 50% of its students to come back in person and implemented a universal testing protocol as part of its extensive safety measures. The college also instituted a policy that allowed faculty with underlying health conditions and of advanced age to teach remotely, determining that the institution could potentially face legal exposure if it forced them to return in person at the peak of the pandemic and without a vaccine being available.

Lawyers find their skill sets make them ideal candidates for college presidencies

BY LYLE MORAN
“The lawyer voice in me says, ‘Avoid liability at all costs and to the extent that you can. Protect and preserve life at all costs.’”

—Roslyn Clark Artis
“The lawyer voice in me says, ‘Avoid liability at all costs and to the extent that you can. Protect and preserve life at all costs,’” Artis says. “So most of my decision-making is made against that backdrop.”

Artis is one of the rapidly growing number of lawyers who have been chosen to lead higher education institutions during an era when experts say the job has become much more difficult because of the ever-increasing regulatory demands and crises presidents must confront. In each of the last two decades, the number of attorneys appointed as college and university presidents has nearly doubled, according to data compiled by Patricia E. Salkin, senior vice president for academic affairs for the Touro College & University System and provost for Touro College’s graduate and professional divisions.

This rise is evidenced by at least 250 lawyers being appointed to college presidencies in the 2010s, up from 68 in the 1990s, reports Salkin, whose research on the topic is part of her dissertation for her PhD in creativity from the University of the Arts in Philadelphia. The attorneys securing the sought-after leadership posts serve at a broad swath of institutions and come from a wide variety of legal backgrounds.

“We pick college presidents in different eras for the different challenges that higher education is facing,” Salkin says. “I think with all of the complexities of higher education over the last quarter century, it has made lawyers more viable candidates and somewhat in demand.”

**The in-house pipeline**

In-house attorneys at colleges and universities are frequently on the front lines of confronting the intricate web of regulatory and compliance obligations at the federal, state and local levels.
Experts say that is a major reason why general counsel make up an increasing share of the lawyers who have become college presidents. In the 2000s, 12 of the lawyer-presidents appointed had been prior general counsels, according to Salkin. In the 2010s, she reports, that figure nearly quadrupled to 45, which is 18% of the lawyer-presidents selected that decade.

Laurie A. Carter, the president of Shippensburg University in Pennsylvania, is among the general counsels who have ascended to the pinnacle of higher education leadership. During the roughly 25 years she spent at the Juilliard School in New York City, she became the prestigious institution’s first chief legal officer. More recently, Carter served for three years as university counsel and executive vice president at Eastern Kentucky University. “Having a good view of higher education and the role of the president really let me know I was prepared to take on the role and to be effective in it,” she says.

Carter became president of Shippensburg in August 2017 and says she uses her legal background on a daily basis. She cites efforts to comply with federal civil rights law Title IX as one example. “I have the benefit of having been steeped in Title IX as it was developing and being able to support my team while they are framing things out in a way that can best serve the institution,” Carter says.

Jonathan R. Alger, president of James Madison University in Virginia, also previously worked as a high-level lawyer at multiple higher education institutions. While serving as an assistant general counsel at the University of Michigan in the early 2000s, Alger worked on two cases about affirmative action that ultimately made their way to the U.S. Supreme Court.
He later served as the general counsel at Rutgers University in New Jersey for more than seven years before taking over as James Madison’s president in July 2012.

Alger says his time as a general counsel prepared him to become a university president because “it is one of the few jobs where you interact with everybody at the institution, both on the administrative side and the academic side.” This required him to spend a lot of time breaking down important legal concepts so they could be understood by a wide array of officials. “I think that is a really valuable skill set in higher ed because a lot of people have expertise, but they don’t necessarily have that ability to translate and communicate with people who have very different types of expertise,” Alger says.

Dennis Barden, a senior partner at the executive search firm WittKieffer, says general counsel also must work closely with college and university boards. Such experience provides the in-house lawyers with a strong understanding of the importance of shared governance in higher education, which is an asset when they are seeking a college presidency.

“That gives boards a lot of comfort in terms of how they are going to be building partnerships with a president,” Barden says.

**GRADUATING FROM LAW SCHOOLS**

Attorneys who have worked in leadership positions at law schools are also consistently being tapped to serve as university presidents.

This group includes current Columbia University President Lee C. Bollinger, who previously served as the law dean at the University of Michigan and later as its president.

Another example is University of West Virginia President E. Gordon Gee, whose time as the university’s law dean preceded his decades of leading institutions such as Vanderbilt University and Ohio State University.

Overall, 35 of the lawyers appointed as college presidents in the 2010s previously had served as law school deans, according to Salkin.

Additionally, several schools have announced in recent months that they would be bringing on law deans as their presidents later this year.

Eduardo Peñalver, who was Cornell Law School’s dean from 2014 through the end of 2020, will become Seattle University’s president on July 1. He says law schools are a great training ground for advancing in higher education leadership because of their multidisciplinary nature.

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“We are always welcoming colleagues across campus to come and engage with us and with each other on the questions we are studying at the law school.”
—EDUARDO PEÑALVER

“We are always welcoming colleagues across campus to come and engage with us and with each other on the questions we are studying at the law school,” Peñalver says. “I think that provides some advantages in terms of the breadth of the intellectual experiences that people embedded in law schools have when they transition to university leadership.”

L. Song Richardson, who has served in recent years as dean of the University of California at Irvine School of Law, will become president of Colorado College on July 1. Richardson says most of the responsibilities she has had as a law school dean will match the duties she will have as president of a liberal arts college. This includes working with the community to create and realize the strategic vision for the institution.

Richardson also expects her work collaborating with the law school’s leadership team on admissions, budgeting and career development, among other topics, will serve her well as Colorado College’s president. “That’s why taking on this position at a college that shares my vision and values feels natural,” Richardson says.

The executive role law deans must play can give them an edge when competing with candidates coming from other university leadership posts, according to Bill Howard, a vice president and senior consultant at Academic Search. “A dean is more so of a mini-CEO than some of the universitywide positions,” he says.

Werner Boel, a senior partner at WittKieffer, says law school deans also accrue valuable experience working with faculty members who possess a wide range of viewpoints and are typically not shy about sharing them. “I always say, ‘If you can manage a cantankerous law faculty, you can pretty much do anything in the world,’” says Boel, who conducts law dean searches for clients.

He and others who follow legal education closely highlight that law schools have made a concerted effort in recent years to diversify their leadership ranks. This is likely to result in more law school deans becoming college and university presidents because higher education institutions are also seeking increased diversity at the top. “We are going to see, I predict, both more
women and more people of color coming out of the law school community because we have a more diverse community of law school deans now than we have ever had,” says Judith Areen, executive director and CEO of the Association of American Law Schools.

FROM PRIVATE PRACTICE TO PRESIDENCY

Lawyers who were in private practice before transitioning into higher education are another subset of attorneys who have become college and university presidents.

Jennifer J. Raab previously worked as a litigator for nearly a decade at two of the nation’s best-known firms: Cravath, Swaine & Moore and Paul, Weiss, Rifkind, Wharton & Garrison. Similar to many other attorneys who later became college presidents, she also worked in government for a time, serving as chair of the New York City Landmarks Preservation Commission for seven years.

In 2001, Raab became president of Hunter College, which is the largest college in the City University of New York. Raab says the advocacy abilities she honed as a litigator have aided her efforts to generate both public and private financial support for the institution. Additionally, she credits the negotiation skills she learned as a lawyer with being instrumental in helping her effectively collaborate with the college’s many different constituencies on a wide range of topics. “Lawyers are brought up knowing that you are not going to succeed unless you can negotiate to a solution,” Raab says.

As for Artis of Benedict College, the roughly eight years she spent as a civil litigator in West Virginia featured work on insurance and mass torts cases. She started at Brown & Levine before moving to the Wooton Law Firm. Her transition to higher education was sparked by a transformative experience teaching a business law course at the since-closed College of West Virginia and eventually resulted in her appointment as interim president of Florida Memorial University, a historically Black institution in Miami Gardens, starting in July 2013. She was named its president in February 2014, and she served for another three years before becoming president of Benedict College in the summer of 2017.

She says her legal background has been very beneficial when handling initiatives ranging from real estate transactions to employee benefit changes. “While I’m not an expert in [the Employee Retirement Income Security Act], real estate or tax law, it has been helpful for me as we engage outside counsel on working through the issues to understand the language and to be able to speak as a colleague to those lawyers,” Artis says. “I’d like to think it probably saved us a little something on the bill, because common language keeps everybody honest.”

Michael Sorrell, who has been president of Paul Quinn College in Dallas since 2007, is another higher education leader who spent some of the early part of his career in private law practice. This included three years as a corporate securities lawyer for Dallas-based Jenkens & Gilchrist and nearly three years at Luce & Williams. He credits his legal experience for helping him develop an analytical approach to problem-solving, which he says has been particularly useful when going through the accreditation process at the HBCU he leads.

“You understand the need to just take a moment, analyze the situation, look at the facts and then proceed from there,” Sorrell says.

MORE TO COME?

Overall, higher education experts say that the experience lawyers from a variety of legal backgrounds possess in addressing conflicts and crises makes them particularly well-suited to serve as college presidents. This is especially true, they argue, during an era in which university leaders must tackle hot-button issues from racial justice to campus sexual assault.

Marvin Krislov, president of Pace University in New York City, is among the lawyer-presidents who highlight the importance of conflict resolution experience. His professional history includes working as acting solicitor for the U.S. Department of Labor and serving as the University of Michigan’s general counsel for nearly nine years, after which he became president of Oberlin College in Ohio.

Krislov says early in his decadelong tenure at Oberlin, he was made aware of allegations that the local police had behaved in a discriminatory way toward students of color. Prompted by his legal training, Krislov set in motion actions designed to discover the facts at issue and hear the viewpoints of the parties involved. He also recalls that a subsequent dialogue between student leaders and police helped calm tensions and create a better working relationship between those two groups moving forward.

“The challenge is to try to find something that acknowledges the different viewpoints and allows people
to move forward rather than being trapped in argument,” Krislov says. “In this instance, it worked out quite well because the students felt heard, and the police benefited from the process.”

Other lawyer-presidents joined Artis in pointing to COVID-19 as a crisis in which their legal training has been invaluable to addressing a wide spectrum of challenges. University of Virginia President James E. Ryan, who was a Supreme Court clerk and public interest lawyer before moving into higher education, noted his experience making sure laws are applied “both equally and equitably” has helped amid the public health emergency.

“It’s easy enough to apply the same rules to everyone, whether you’re deciding which employees need to come to work or determining what grading options will be available to students,” Ryan said in a statement to the ABA Journal. “But the more important thing is to make sure everyone is being treated fairly and given an equal opportunity to succeed. I learned the importance of striking that balance as a lawyer, and it has helped guide our decisions during the pandemic.”

Meanwhile, the regulatory demands placed on higher education institutions—which have been thrown into sharp relief during COVID-19—show no sign of abating. This trend is a major reason why experts prognosticate the growth in the number of lawyers serving as college and university presidents is likely to continue. Additionally, the ongoing pandemic has exacerbated the enrollment and financial challenges many colleges have been grappling with in recent years, another development some suggest could lead to more university presidents with legal backgrounds.

“I think as the higher education landscape continues to evolve—and in many instances becomes even more unstable—the calm, critical and analytical approach that most lawyers tend to apply will be even more useful in the future,” Artis says.

Salkin agrees, adding that the budgetary difficulties facing colleges and universities could result in opportunities for lawyers with experience in mergers and acquisitions. She predicts that by 2029, lawyers may hold up to 400 college presidency positions—more than 10% of all sitting presidents across the country.

“I think that higher education is going to continue to need creative problem-solvers in order to survive—and also to reimagine itself,” Salkin says. ■
Kelley Henry hadn’t been on an airplane for nearly seven months when she learned the Department of Justice had set an execution date for Lisa Montgomery, who was the only woman on the federal government’s death row.

It was a Friday in October when the warden of Federal Medical Center Carswell in Fort Worth, Texas, called and put Montgomery on the phone with Henry and her co-counsel, Amy Harwell. Montgomery was crying and could barely speak.

“With Lisa, there was no just talking with her over the phone,” says Henry, the supervisory assistant federal public defender based in Nashville, Tennessee, who had represented Montgomery since 2012. Henry explains that as a child, Montgomery was sex trafficked by her mother and gang-raped by adult men, which exacerbated severe mental health issues that existed on both sides of her family. “We needed to physically observe her,” Henry says.

Despite the risks associated with traveling during the COVID-19 pandemic, Henry and Harwell were on their way to visit their client three days later. Montgomery had been sentenced to death in 2008 after being convicted of strangling Bobbie Jo Stinnett and cutting Stinnett’s unborn baby from her womb. She was scheduled to be executed Dec. 8.

When Henry and Harwell arrived, Montgomery had been moved to a cell that was monitored by a video camera, and her clothes—including her underwear—had been taken away. The attorneys planned to visit Montgomery every Monday, but within weeks, both of them tested positive for COVID-19. A federal judge delayed Montgomery’s execution to Dec. 31 to give them time to work on her clemency petition. It was later rescheduled for Jan. 12.

Henry argued in one of several cases filed on Montgomery’s behalf that her client was incompetent for execution because her mental health had deteriorated, and therefore she no longer understood what was happening to her. In the days before her execution, another federal judge granted Mont-
Lisa Montgomery was executed Jan. 13.

Lisa Montgomery was put to death by lethal injection on Jan. 13. Montgomery was put to death by lethal injection on Jan. 13.

“We had stays in three different circuits on various appeals, and there were 12 judges, if you aggregate them, who essentially were saying that Lisa deserves a stay and there were issues in her case that deserve further attention,” says Henry, who emphasizes that is unprecedented in a death penalty case.

Henry admits she was hit hard by the death of Montgomery, the first woman to be executed by the federal government since 1953. But, she says, the support of her colleagues and needs of her clients keep her moving forward.

“The legal community is at its best when we hold each other up, and each of us as lawyers are a part of making the world a better place,” she says. “I truly believe that, and I think we have to hold on to that. We can’t always control the outcomes, but we can fight for the rights of every citizen.”

For the defense
For Henry, advocating for people such as Montgomery isn’t just a job. She wants to help fix what she sees as a broken system, and she loves the Constitution.

“I see myself as someone who is defending the Sixth Amendment, the Eighth Amendment, the 14th Amendment, because if you say it’s OK to violate those rights because you just don’t like my guys, then your rights are next,” she says.

“There are ways in which lawyers are part of that system of checks and balances. We’re a check on the government’s power.”

Henry has served as the chief of the Capital Habeas Unit at the Federal Public Defender for the Middle District of Tennessee since 2003 and has been co-counsel in more than 30 capital cases during her career. She is a longtime ABA member and received the John Paul Stevens Guiding Hand of Counsel Award from the Death Penalty Representation Project in 2019 for being “a leader in the field of capital defense, providing exceptional, client-centered representation to individuals on death row.”

Henry was at the University of Missouri-Kansas City School of Law when she began working with Sean O’Brien, the chief public defender in Kansas City who represented individuals facing the death penalty. When he left to become the executive director of the Missouri Capital Punishment Resource Center, she joined him as his law clerk.

“I felt like if we can understand why people do some of these awful things, then we can figure out how to fix it,” she says. “If we can understand the ways in which food insecurity and housing insecurity and lack of mental health treatment result in murders, we can intervene and help these children. We will prevent these crimes when they get older.”

After Henry graduated in 1991, she worked in the Capital Division of the Missouri State Public Defender and the Capital Habeas Unit in the Office of the Federal Public Defender for the District of Arizona. She joined the Capital Habeas Unit in Nashville in March 2000, right before Robert Coe was set to be the first death row inmate executed in Tennessee in 40 years.

Henry, a lawyer who has represented prisoners throughout the nation, says the legal community is at its best when they work together to fix what they see as a broken system.

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“I see myself as someone who is defending the Sixth Amendment, the Eighth Amendment, the 14th Amendment, because if you say it’s OK to violate those rights because you just don’t like my guys, then your rights are next,” she says.

“There are ways in which lawyers are part of that system of checks and balances. We’re a check on the government’s power.”

Henry has served as the chief of the Capital Habeas Unit at the Federal Public Defender for the Middle District of Tennessee since 2003 and has been co-counsel in more than 30 capital cases during her career. She is a longtime ABA member and received the John Paul Stevens Guiding Hand of Counsel Award from the Death Penalty Representation Project in 2019 for being “a leader in the field of capital defense, providing exceptional, client-centered representation to individuals on death row.”

Henry was at the University of Missouri-Kansas City School of Law when she began working with Sean O’Brien, the chief public defender in Kansas City who represented individuals facing the death penalty. When he left to become the executive director of the Missouri Capital Punishment Resource Center, she joined him as his law clerk.

“I felt like if we can understand why people do some of these awful things, then we can figure out how to fix it,” she says. “If we can understand the ways in which food insecurity and housing insecurity and lack of mental health treatment result in murders, we can intervene and help these children. We will prevent these crimes when they get older.”

After Henry graduated in 1991, she worked in the Capital Division of the Missouri State Public Defender and the Capital Habeas Unit in the Office of the Federal Public Defender for the District of Arizona. She joined the Capital Habeas Unit in Nashville in March 2000, right before Robert Coe was set to be the first death row inmate executed in Tennessee in 40 years.

Henry Martin, the federal public defender for the Middle District of Tennessee, says Henry “jumped right into the fire” to defend Coe, a client who had been convicted of the 1979 rape and murder of an 8-year-old girl. After federal courts granted two stays to review Coe’s mental competency, he was put to death by lethal injection.

In their years of working together, Martin has been impressed by Henry’s rare combination of trial experience and understanding of habeas cases.

“It may not seem like there’s a gap, but habeas lawyers are often real strong in the areas of research and analysis of legal issues and application of law to facts, but their courtroom skills are not often well-developed,” he says. “Because they have not been trial lawyers generally, they really don’t understand the dynamics of a trial, and it’s more difficult to understand why somebody might have done something.

“She is great at that because she was a trial lawyer and understands what it’s like to be in that situation.”

Henry currently represents Pervis Payne, a Black man with an intellectual disability who has spent more than three decades on death row in Tennessee. He was 20 when he was convicted of the 1987 murder of a white woman, Charisse Christopher, and her 2-year-old daughter but has maintained his innocence.

Payne was scheduled to be executed on Dec. 3, 2020, but Gov. Bill Lee announced in November that he would be granted a temporary reprieve until April 9 due to “challenges and disruptions caused by the COVID-19 pandemic.”

Also in November, the Tennessee Black Caucus of State Legislators proposed legislation that would prevent the executions of prisoners with intellectual disabilities in their state. The U.S. Supreme Court ruled in 2002 that it was unconstitutional.

Henry says Payne’s legal team is asking the governor to commute his sentence to life for another reason: “We believe that Pervis is innocent.” In January,
Henry and the Innocence Project told the court that an unidentified male’s DNA had been found on the murder weapon after testing evidence from the crime scene. It did not match Payne.

“This result as well as numerous other inconsistencies in the state’s case raise too much doubt to permit an execution,” Henry says. “The risk of executing an innocent man is simply too great.”

The fight continues
When Henry thinks about previous clients, she’s most proud of achieving a sentencing commutation for Gaile Owens. The Tennessee woman had been sentenced to death for hiring a hit man to kill her husband, Ronald, in 1984, but she claimed that years of emotional, physical and sexual abuse had prompted his murder.

Owens was released from the Tennessee Prison for Women in 2011 after then-Gov. Phil Bredesen commuted her sentence to life in prison and made her eligible for parole.

When Owens died at age 67 in November 2019, Henry told the Tennessean that it was “my great honor to be Gaile’s lawyer” and “my profound privilege to call her my friend.”

After watching former President Donald Trump’s administration oversee 13 federal executions since July, Henry hopes to see President Joe Biden sign the Federal Death Penalty Prohibition Act into law. She also hopes that when Congress considers criminal justice reform, it will review portions of the Anti-terrorism and Effective Death Penalty Act that limit habeas review.

When considering her years of work with death row inmates, Henry still feels honored that they have entrusted her to share their stories with the world.

“They have been demeaned and degraded their entire lives, and to be their voice is incredibly humbling,” she says. “It’s really a privilege.”

“There are a lot of things I can’t do very well. I can’t play the piano. I can’t bake a cake. But I can do this.”

When the 2021 ABA Midyear Meeting, the ABA Commission on Racial and Ethnic Diversity in the Profession celebrated five lawyers who strive to achieve a more diverse legal profession.

The Spirit of Excellence Awards are presented annually to lawyers who excel professionally; personify excellence at the national and international
level; and demonstrate a commitment to diversity in the law.

“The commission is redoubling its efforts to eliminate bias and enhance diversity in the legal profession and in our justice system,” commission chair Michelle Behnke said when the award recipients were announced in November. “As we work to advance diversity, equity and inclusion, we also think it is important to pause for a moment to celebrate and herald the leaders who have been championing diversity, equity and inclusion in their respective spheres.”

**Meet the honorees**

**Barbara L. Creel** is a professor at the University of New Mexico School of Law, where she teaches courses on Indian civil rights and wrongful convictions and introduces students to federal habeas corpus in the Southwest Indian Law Clinic. She is a member of the Pueblo of Jemez and worked for the Native American Rights Fund as an undergraduate at the University of Colorado. After graduating from the University of New Mexico School of Law, she worked for the National Advisory Council on Indian Education in Washington, D.C., and the Native American Program of Legal Aid Services of Oregon in Portland. She was also an assistant federal public defender in the District of Oregon.

“I, as a Native American person, have a voice. Relying on the people who have gone before me and the things that I have been taught, I can contribute to society and my community not just in peripheral ways but in groundbreaking, earth-shattering ways. Not enough attention is paid to the contributions of indigenous peoples. And so diversity and inclusion are widening that spectrum, and looking at ideas and thoughts and the back-breaking labor of people of color who have improved our lives.”

**Román D. Hernández** is the managing partner of the Portland, Oregon, office of Troutman Pepper. He focuses his national practice in commercial and employment law litigation, and he provides advice on employment policies and practices to employers.

He graduated from Lewis & Clark Law School and was one of three founders of the Oregon Hispanic Bar Association in 2002.

He is a former president of the Hispanic National Bar Association. As the founder and former chairman of the HNBA Legal Education Fund board of directors, he assisted the charitable organization with developing pipeline programs for Hispanic youths interested in pursuing legal careers.

“To receive this award in recognition of my 20-year career of trying to increase the diversity of the legal profession, I’m very honored. We need to make sure that the legal profession and the legal system overall reflects the rich diversity of our country, including people from historically marginalized communities, because all voices should be heard and represented in the administration of justice.”

**Sherrilyn Ifill** is the president and director-counsel of the NAACP Legal Defense and Educational Fund Inc. A graduate of New York University School of Law, she first served as an assistant counsel for the civil rights legal organization and litigated voting rights cases for five years. She then taught at the University of Maryland School of Law for 20 years. When she returned to the Legal Defense Fund in 2013, she became the second woman to lead the organization.

“Our profession is itself diverse, and that should be reflected in every area of
practice. If it’s not, we should be asking ourselves why and making efforts to make it so. There is a need to address the narrowness of perspective that can often come with the decision that particular kinds of practice equip one to serve as a leader. We need to balance our sense of leadership within the profession to ensure that those who are in positions of influence are engaging with lawyers who have a diversity of perspective. This comes from not only differences in race and gender but in backgrounds as well.”

Lori E. Lightfoot is the first Black female mayor of Chicago. Since her election in 2019, she has implemented ethics and good-governance reforms and worker protection legislation, and invested in education, public safety and affordable housing. Before becoming mayor, the University of Chicago Law School alumnus served as a senior equity partner in the litigation & dispute resolution group at Mayer Brown. She was also president of the Chicago Police Board and chair of the Police Accountability Task Force. In addition to her other government roles, she served as the chief of staff and general counsel of the Chicago Office of Emergency Management and Communications and as an assistant U.S. attorney.

“When legal professionals reflect the rich diversity of the communities in which they serve, they not only approach challenges with the values of equity and inclusion in mind, but they also inspire a wave of young people with similar experiences to get involved and pursue a career in law—creating a pipeline of diverse talent for the future of the profession. Lawyers are uniquely situated to help take on and solve our society’s most vexing challenges. We need to be in these conversations and at the table, and the ‘we’ must be diverse.”

John C. Yang is the president and executive director of Asian Americans Advancing Justice | AAJC in Washington, D.C., where he helps advance the civil rights of Asian Americans and create a just society through advocacy, education and litigation.

He graduated from the George Washington University Law School and later served as the principal adviser to U.S. Secretary of Commerce Penny Pritzker on issues related to Asia during President Barack Obama’s administration.

In 1997, he co-founded the Asian Pacific American Legal Resource Center. He is a past president of the National Asian Pacific American Bar Association and member of the ABA House of Delegates. He also served on the Commission on Racial and Ethnic Diversity in the Legal Profession.

“The path forward involves all of us in all our different roles. I currently serve as the leader of a civil rights organization, but having been at a law firm and in-house, I know there is so much good that people can do from those vantage points as well. We have a system right now that is unfortunately at times unequal and uneven. It really is important for all of us to play whatever role we can to get to a place of true equity and inclusion.”

Go to ABAJournal.com/Midyear for more coverage of the 2021 ABA Midyear Meeting and House of Delegates resolutions.
SAVE THE DATE

Spring 2021
For the latest info, go to americanbar.org and click “Events” and “CLE.”

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ABA Day 2021
Advocate for important issues by engaging Congress online and at home

The ABA works hard to serve as the voice of the legal profession on Capitol Hill, but the most important voice members of Congress want to hear is yours, their constituent’s. Senators and representatives need to hear directly from you to help shape their opinions on developing policy issues.

That is why the ABA has been hosting an annual advocacy conference since 1997 called ABA Day, where hundreds of ABA, state and local bar leaders and members have gathered in Washington, D.C., to talk to members of Congress about issues important to the legal profession.

For 2021, the ABA again had to cancel the in-person portion of ABA Day because of the ongoing coronavirus pandemic. With congressional offices remaining closed to the public for the last year, the ABA also has had to adjust its advocacy strategy and techniques. We now look forward to hosting our second fully virtual event in April, building on the successes and lessons learned from last year and helping ABA Day participants do the same so that together we can advance our issues in the digital space.

This year marks the 25th ABA Day. The ABA Governmental Affairs Office looks forward to hosting, on April 20 and 21, thousands of bar leaders, attorneys, law students and other legal professionals as they connect with their members of Congress both online and in their home districts where conditions allow.

The importance of our constituent engagement with elected officials cannot be overstated. Three years ago, over 300 ABA Day participants successfully lobbied Congress and helped preserve the Legal Orientation Program, which each year provides legal rights presentations and self-help workshops to more than 50,000 detained migrants nationwide.

Last year, instead of having more than 300 ABA members in Washington, D.C., thousands of legal professionals engaged online through live panels, Twitter takeovers, tweetstorms and virtual meetings. The result? Three weeks after our event, the House of Representatives passed the Heroes Act, a major COVID-19 relief bill that contained many of our advocacy issues, including increased funding for legal services for low-income Americans; student loan debt relief; help for homeless veterans; and more funding to expand internet access to rural America.

This year, the ABA’s goal is to support the voices of the legal profession even more. How? By learning from the past and expanding for the future. We will continue to provide the training, issue papers for meetings, online communication tools and panel discussions on which our members rely. We have, however, shortened the formal programming to half-day schedules, added congressional and nonlawyer leaders to the agenda, reduced the number of ad-
vocacy issues and created more sample products that participants can use in their states, including letters to the editor, impact video clips and thank-you notes. Knowing the first session of the 117th Congress will be busy, we are also planning to add a second association-wide advocacy event this summer or fall for other key issues expected to develop.

Our first advocacy event in April will focus on getting relief to those devastated by the COVID-19 pandemic. Low-income Americans desperately need access to legal help to respond to unprecedented housing, employment and health care challenges, so we are fighting to increase funding for the Legal Services Corp. Young lawyers, along with millions of other Americans, also need relief from onerous student debt obligations, and this issue will be addressed in a subsequent association-wide advocacy event.

ABA members, along with state and local bar leaders, have been the heart and soul behind ABA Day and its 24 years of proven success, and we urge you and your colleagues to join us again this year. This is your opportunity to engage on issues important to our profession and to the communities we serve. We need all our collective voices to show Congress what a united legal front can do! Visit ambar.org/abaday to learn more about this year’s events.

Don’t have time to attend the entire event? Then sign in when you can to quickly advocate on this year’s issues. Preformatted emails, phone call scripts and social media posts are posted on the ABA website. This type of coordinated campaign will flood member offices with every type of communication and compel the Hill to listen to the voices of their constituents and our legal profession. To start helping now, join our ABA Grassroots Action Team at ambar.org/grassroots or follow us @ABAggrassroots.

This report is written by the ABA’s Governmental Affairs Office and discusses advocacy efforts by the ABA.

ABA Notices

For more official ABA notices, please visit ABAJournal.com in May.

STATE DELEGATE VACANCY ELECTIONS (ALABAMA AND PENNSYLVANIA)

Pursuant to Section 6.3(e) of the association’s Constitution, the states of Alabama and Pennsylvania will hold elections to fill the state delegate positions that will become available due to the nominations of Jennifer “Ginger” Busby of Alabama and Thomas G. Wilkinson Jr., of Pennsylvania to the Board of Governors. The deadline for filing petitions is Friday, May 7. Petitions must be filed electronically at StateDelegateElections@americanbar.org. The Board of Elections will certify the election results, and the unexpired term will commence at the end of the 2021 annual meeting and will expire at the conclusion of the 2022 annual meeting. Go to ambar.org/AL-PASTDELVACANCY for petition instructions and procedures. Contact the ABA Policy and Planning Division/lana.rivera@americanbar.org if you are interested in filing and would like to obtain a petition or if you have questions.

ACTION OF THE NOMINATING COMMITTEE AT THE 2021 MIDYEAR MEETING

In accordance with Section 9.1 of the ABA Constitution, the House of Delegates Nominating Committee, at its meeting on Feb. 20, nominated Deborah Enix-Ross of New York for president-elect (2021-2022) and individuals as members of the Board of Governors (2021-2024). For the list of all the nominees, go to ambar.org/NomCtteActions.

2021 DELEGATE-AT-LARGE ELECTION

Pursuant to Section 6.5 of the ABA Constitution, six delegates-at-large to the House of Delegates will be elected at the 2021 ABA Annual Meeting for three-year terms beginning with the adjournment of that meeting and ending with the adjournment of the 2024 annual meeting. Candidates for election as delegate-at-large are to be nominated by written petition. The deadline for filing nominating petitions for the 2021 election is Wednesday, May 19. Go to ambar.org/delegate-at-large for rules and procedures.

GOAL III MEMBERS-AT-LARGE ON THE NOMINATING COMMITTEE

The ABA president will appoint one Goal III LGBT member-at-large, one Goal III minority member-at-large and one Goal III woman member-at-large to the Nominating Committee for the 2021-2024 term. These appointments will be made from nominations from the diversity commissions, sections, divisions and forums; state and local bar associations; and the membership at large. If you are interested in submitting a nomination or have questions, contact Leticia Spencer at 312-988-5160 or leticia.spencer@americanbar.org by Monday, May 10.
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The Strange Disappearance of Aimee Semple McPherson

BY ALLEN PUSEY

Aimee Semple McPherson was used to being noticed. Between her faith-healing tent revivals, her Sunshine Hour radio broadcasts beamed from Los Angeles and the pageantry of her “illustrated sermons” at her Angelus Temple, “Sister Aimee” was one of the most recognizable women in America. So when she vanished while swimming off California’s Venice Beach on May 18, 1926, it was odd that no one noticed where or how she disappeared.

Born in Canada as Aimee Elizabeth Kennedy, McPherson was as enigmatic as she was famous. Her Foursquare Gospel was both mystical and practical. She eschewed Old Testament damnation in favor of healing in every sense. Her followers believed the vibrations of her voice could cure through hands placed on their radio sets. Her charities attended to the abandoned babies and pregnant young women who showed up on her doorstep. The Ku Klux Klan donated to her ministry, only to be scorned for its bigotry from her pulpit.

But at 35, she was a single mother, already twice married; first widowed by Robert Semple, then divorced from Harold McPherson. Her reluctant beauty and confident charm generated adoration and imitation—and gossip.

Her disappearance drew a massive police search, widespread mourning and 2-inch headlines. Grief, however, was quickly overcome by suspicion and hysteria: thousands of sightings, phony kidnap demands and a belief among the Southern California establishment that the whole thing was a farce. Thus, by the time the evangelist reappeared 36 days later in a tiny Mexican border town across from Douglas, Arizona, the hunt for her body had become a full-scale criminal probe.

The story
A dazed but healthy McPherson recounted being lured away from the beach by a couple asking her to help their sick baby. Once out of sight, she was pushed into a car and chloroformed, only to awake inside a small desert shack. She said the couple and their driver held her prisoner for more than a month before she managed to cut through her bonds and escape into the desert, wandering for 17 hours before finding the Mexican couple who took her in.

As her improbable story unfolded, relief gave way to tawdry suspicion: a publicity stunt, an abortion, an affair. Attention turned to Kenneth Ormiston, a married audio engineer who’d developed the evangelist’s radio station. Earlier that year, Ormiston had left both the church and his wife. McPherson’s disappearance fueled gossip about their easygoing friendship; her reappearance propelled throngs of reporters to a small cottage in Carmel, California, where witnesses claimed they had spotted the couple during the time McPherson described being in Mexico.

In Los Angeles County, District Attorney Asa Keyes convened a grand jury to investigate her disappearance, proceedings that quickly turned on McPherson and her mother/manager, Minnie Kennedy. Both testified extensively, and the grand jury refused to bring charges against them. But when defense witness Lorainne Wiseman approached Keyes with a new, more sordid story, the politically ambitious Keyes brought charges. After her earlier testimony, Wiseman had been arrested on bad check charges. When the evangelist refused her bail money, Wiseman turned to Keyes, claiming McPherson and her mother had hired her to testify that her sister had been the woman seen with Ormiston in Carmel.

At their six-week preliminary hearing, throngs of reporters and spectators elbowed each other for glimpses of Sister Aimee, while in newspapers and even in the courtroom she faced vulgar names and accusations. On Nov. 3, McPherson and her mother were bound for trial for obstruction of justice and jeopardizing public morals. Though her mother urged a low profile, McPherson literally preached her innocence—both from the pulpit with costumed devils named for prosecutors and politicians, and in daily interviews with the press. But by the end of the year, Wiseman had withdrawn her claim, and on Jan. 10, 1927, all charges were dropped.

McPherson died at age 53 with her disappearance never fully resolved; no kidnappers were ever found, and no part of her story was ever convincingly refuted.
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