Here we go...

This is a column I never dreamed I’d be writing. But here I am, beginning a term as the president of the Massachusetts Bar Association, and I can’t tell you how humbled I am. The MBA is a marvelous organization that provides help and expertise to the public and to the legal profession. To lead the MBA is a tremendous honor. I just hope I don’t screw it up.

I’m also immensely proud to be the association’s first Hispanic president. My parents are both from Argentina. They moved to this country and provided me with every advantage they could muster. I owe so much to them, and by extension, to my heritage.

As I visit various courts, read our professional journals and talk to myriad people in the course of my work, I can’t help but notice that our legal community is changing. We are becoming more diverse. For instance, in the same year I am the MBA’s first Hispanic president, the American Bar Association has a black woman as its president for the first time. As old barriers fall by one by one, our profession becomes stronger and more representative of our society. I am happy to be part of that changing of the guard.

I think our profession is changing in other ways too — some that aren’t as good. For instance, it seems to me we are becoming less collegial. Some might say that’s the way it has to be — I like to think not. The things I cherish most as a lawyer are the relationships I’ve made, the chance to see familiar faces at the courthouse, the opportunity to work with and learn from people I admire. I’d like to see our profession restore the civility that used to be woven into its fabric. And yes, I’d like to see our members having more fun with our work. I hope I can help the MBA contribute to reaching that goal.

I succeed Past President Marsha Kazarian, and I have huge shoes to fill, though I won’t look as good in them. Marsha was an outstanding president, just as she is a lawyer. I learned so much from her during my year as president-elect, and I am grateful for the experience.

I also want to tip my hat to the Massachusetts Association of Hispanic Attorneys (MAHA). It was through MAHA that I first gained experience in working with the MBA. I wouldn’t be writing this column without MAHA. Everybody has their first love and MAHA is mine.

MaMBA is mine.

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Massachusetts Bar Association President Robert W. Harnais has seen lawyers bring out the best and the worst in people — including themselves.

Harnais saw one extreme early in his career when he was held hostage for several hours by a man who was angry that his lawyer (not Harnais) had lied to him.

“I’ve seen clients rely on lawyers to their own horrible detriment. That’s the worst part of the profession,” Harnais said. “But I’ve also seen lawyers work wonders for clients.”

For Harnais, perhaps no one matched the description of an honorable lawyer better than attorney Peter Muse, one of his best friends, who died in 2012 after a courageous battle with brain cancer. Harnais calls Muse’s death a “beautiful tragedy” — tragic because a good man was taken away too soon, but beautiful in the outpouring of gratitude Muse received from clients in the years before and after his death. Calling Muse “a great mentor,” Harnais said, “He helped me become the lawyer I am, the man I am, the father I am.”

Muse was one of several like-minded lawyers in Quincy to whom Harnais was drawn in the early 1990s, including Daniel Bennett (now state secretary of public safety and security); Juvenile Judge James Tertey; David Mahoney (his law partner); attorneys Daniel O’Malley, Jack Diamond, Steve Jones and John Cascarano; and in recent years Superior Court Judge Rafi Yessayan, Kevin Mullen, George Hardiman, Tom Cavanaugh, Jack Greene, Dan Dilorati and Jack Garland. They practiced in the same courts, shared office space and developed a strong sense of camaraderie.

“It was what the practice of law should be. People got along,” Harnais said. “Just a group of people practicing law — a great bunch of people to bounce things off. We worked hard, had fun doing it and enjoyed the work we did.”

Now as MBA president — the first Hispanic president in the association’s history — Harnais wants to restore that same feeling of camaraderie across the Commonwealth. It’s something he fears has gotten lost as the profession has become more of a business.

“We’re not as civil as we used to be,” Harnais said. “The profession is by nature adversarial. But some have turned it into a street fight and made it more personal. Harnais has a saying — “Look back, step back and pull forward.” It’s all about lifting someone up when he or she needs a hand. Harnais has been the beneficiary of such assistance in his own career, and he feels the MBA, as the statewide bar, should lead the way in pulling the bar forward. He hopes to spread a message, county by county across Massachusetts, that the MBA is the place where all members of the Massachusetts bar can reconnect with that sense of community again.

A community discovered

Growing up in Quincy, Harnais discovered his calling after high school when he saw the film “Breaker Morant,” the 1980 Australian movie about a court martial.

Revisions to the Rules of Professional Conduct: What you need to know

Massachusetts Bar Association member Christa A. Arcos is a solo practitioner based in Stoneham who specializes in defending attorneys in BBO proceedings and appellate matters. She is a member of the MBA’s Judicial Administration Section Council and the MBA’s Committee on Professional Ethics.

Massachusetts Lawyers Journal recently spoke with Arcos about revisions made to the Supreme Judicial Court’s Massachusetts Rules of Professional Conduct, which went into effect July 1, 2015.

In your opinion, what is the most significant change to the rules?

The addition of a definition for “informed consent” and the requirement that it be in writing where the client is consenting to a conflict. The new definition requires attorneys to explain the material risks to the client and discuss the reasonable alternatives. If attorneys don’t engage in a sufficiently detailed discussion and confirm that discussion in writing, the client’s waiver may not be valid. This new definition of informed consent also applies to other rules, including disclosures of a client’s confidential information.

What changes are most likely to surprise attorneys?

The changes to the rule on canvor toward a tribunal. A lawyer is now in violation of that rule if any misrepresentation is made to the court, irrespective of whether that misrepresentation is material. That duty continues to the conclusion of the proceeding, including during any appeals that are taken. Also, the comments to that rule now affirmatively obligate an attorney to take reasonable remedial measures to correct false deposition testimony.
LEGAL NEWS

Norfolk Superior Court now using MassCourts eAccess

Norfolk Superior Court went live with the new statewide docketing system, MassCourts, on Aug. 17. The use of TCIC is now discontinued and in its place the eAccess application should be utilized for both public access and the attorney portal. The Fourcourt program should no longer be relied on to confirm any docket entry.

For instructions on how to access public case information in the District, Housing, Land and Probate & Family Courts as well as instructions for using the Attorney Portal to access Superior Court cases, www.mass.gov/courts.
RULES OF PROFESSIONAL CONDUCT

Continued from page 1

What will be the most welcomed change?

The revisions to Rule 3.5. Attorneys can now have post-trial communications with jurors without first seeking the court's permission, as long as those communications comply with the rules.

What changes do you think will be most difficult to navigate?

The rules on supervising how outsourced tasks are performed. Compliance with these new rules requires attorneys to ensure that vendors, investigators, and other contractors are performing outsourced work in accordance with the attorney's ethical obligations. Investigators can't use rules to gain information from social media websites such as Facebook. Also, when attorneys outsource scanning or copying of pleadings and documents they store the information and when they transmit it. Complying with this rule is problematic if attorneys are using confidential information.

What updates are attorneys now obligated to do to secure a client's confidential information?

Attorneys must make reasonable efforts to safeguard a client's confidential information against unauthorized access and inadvertent disclosures, both when they store the information and when they transmit it. Complying with this rule could be problematic if attorneys are using free Internet-based services to store or share client files, although the rules don't necessarily require any special security measures. Whether an attorney's efforts are reasonable will depend on an analysis that assesses the sensitivity of the information at issue, as well as the likelihood of disclosure and the cost and difficulty of employing safeguards.

What duties do attorneys now have if they inadvertently receive another party's confidential information?

These new rules impose an affirmative obligation on attorneys to promptly notify the sender if they receive another person's confidential information. Whether the receiving attorney can review or use the inadvertently disclosed information will be an issue governed by state law and is beyond the scope of the ethics rules.

Did the rule on confidential information preserve exceptions that allow disclosure of confidential information in certain instances?

The exceptions were preserved and expanded. Lawyers are now allowed to disclose confidential information to prevent substantial injury to significant non-economic interests, as well as to prevent substantial financial injury or bodily harm. The expanded exceptions also expressly provide for disclosure to a tribunal if necessary to remedy false testimony and false statements. In limited circumstances attorneys may also make disclosures to mitigate or rectify injuries.

What changes were made to the rules governing competency?

The new rules impose an affirmative obligation on attorneys to keep abreast of the risks and benefits of using technology in their practice as well as engaging in continuing education. Additionally, before a lawyer retains or contracts with lawyers outside of the lawyer's firm for services, the lawyer must reasonably believe that the other lawyer's services will contribute to competent representation of the client and will comply with the ethics rules, particularly the rules on safeguarding confidential information. The lawyer also has to obtain the client's informed consent before contracting with outside lawyers.

How do the new advertising and solicitation rules impact attorneys?

The new rules clarify that all of an attorney's electronic communications are subject to the ethics rules. The SJC also retained the longstanding prohibition on oral solicitations if they don't fall under one of the exceptions and the rules now define that term to include "real-time electronic contact" which covers social media communications. One helpful change for new attorneys and those who want to develop a new practice area is the revision to Rule 7.4, which now allows attorneys to indicate practice areas without making a claim of specialization. The new rules also eliminated the requirement that written advertisements and solicitations be retained for two years. However, the best practice is to retain copies in the event compliance is questioned.

What do attorneys need to know about changes to the rules on how they handle client funds?

There were three major changes to Rule 1.15. The first change requires attorneys to deposit advances for expenses into their IOLTA account, rather than their operating account. Attorneys must also track these funds with a client ledger. The second change prohibits attorneys from using IOLTA accounts and third parties to perform at the client's expense. The third change prohibits attorneys from using IOLTA accounts and third parties to perform for the client's benefit or the benefit of a third party without the client's informed consent.

The changes are extensive and only a few could be discussed here, so I would encourage attorneys to take advantage of a free two-hour CLE program on Oct. 27 ("Risk Management and the SJC's Revisions to the Rules of Professional Conduct") that discusses the changes in more detail. Also, as attorneys encounter ethical issues under the new rules, I would encourage them to call the BBO helpline at 617-728-8750 (Monday, Wednesday and Friday, 2-4 p.m.) or reach out to the MBA's Committee on Professional Ethics by emailing Jean Stevens at the MBA (jstevens@massbar.org). Both of these services are free to Massachusetts attorneys.

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PROUD MEMBER BENEFICIARY
Scott Harshbarger further expanded his role for then-Middlesex District Attorney school working as a bilingual investigator at the School of Law (now New England Law) school in the evenings at New England Law. A longtime friend and his daughter’s godfather, he got noticed and was offered a chance to volunteer at the clerk’s office. Later, when Arthur Tobin became clerk magistrate, it turned into a paying job.

Working in the clerk’s office was the beginning of a series of opportunities that exposed Harnais to the legal world even more. One of his most interesting experiences occurred when his transfer to the Probation Department at Quincy Court involved being a part of the state’s first electronic monitoring program. As the first official test subject to wear one of the electronic bracelets, Harnais had “the most famous ankle at the time,” he said, with officials visiting from other states to see how it worked.

With the support of his Quincy District Court colleagues, especially the help of a longtime friend and his daughter’s godfather, Larry Falvey, Harnais attended law school in the evenings at New England School of Law (now New England Law | Boston). A subsequent job during law school working as a bilingual investigator for then-Middlessex District Attorney Scott Harshbarger further expanded his horizons.

It didn’t take Harnais long after his admission to the bar in 1990 to see how much good he could accomplish as a lawyer. Harnais recalls that on one of his very first cases he represented a woman who was seeking to get her children back. While she couldn’t afford to pay him, she sent him a thank-you card.

“The fact that she took time to thank me gave me a great sense of satisfaction — a feeling [that] you can help someone,” Harnais said.

“And that’s what we should be doing,” he added. “Making money is expected, but making a difference is respected.”

However, Harnais feels his greatest accomplishment is his family. He and his wife Leslie have three children: Courteney, an RN and graduate of the University of Maine, where she played soccer all four years; Rob, a freshman at Ohio Wesleyan, where he was recruited out of Worcester Prep School to play football; and Josh, a junior at Archbishop Williams High School, where he plays on the basketball team. He also has a stepdaughter, Jackie. Despite his busy schedule, Harnais always makes it a point to attend his children’s activities. He is very thankful for his wife’s understanding about the commitment he has made to his profession and his clients.

The bar connection

Harnais spent the next decade building a general practice where helping people is a daily occurrence. It still is today. He handles both criminal and civil cases, including municipal work, and he also serves as general counsel to Norfolk County Sheriff Michael Bellotti, who gave Harnais an “incredible opportunity.”

He has particularly enjoyed his criminal defense work, in part because of the close-knit nature of the criminal law bar.

“I really enjoy the camaraderie that there is in the courts among criminal attorneys,” he said. “DAs and defense attorneys.”

Harnais has a similar feeling at bar associations like the MBA and the Massachusetts Association of Hispanic Attorneys (MAHA), where he first became active in bar work. He credits attorney Julio Hernandez for introducing him to MAHA, which was where he first realized the value of camaraderie and networking on a grander scale. He soon became very involved, and was ultimately elected president of MAHA.

“I’m in awe that MAHA let me be their president,” said Harnais with deep appreciation. “MAHA gave me an incredible opportunity.”

Part of that opportunity included representing MAHA on the MBA’s House of Delegates. He said he was immediately impressed by the MBA’s CLE and networking opportunities — and, most of all, the ability to interact with lawyers all over the state who did the same things he did.

“I looked around at the HOD and said, ‘They’re just like me,‘” Harnais recalled. “I saw a lot of people I could connect with.”

Now with many years of active MBA leadership under his belt, Harnais understands all the ways the MBA works for the bar and how user-friendly it is with its educational and networking opportunities. He also wants people to continue to look to the MBA as a powerful voice on issues of importance to the bar.

For example, Harnais said he will continue the MBA’s advocacy on behalf of eliminating mandatory minimums for certain drug crimes. It’s an issue he’s particularly attuned to because of his practice. Not only has he defended people accused of drug crimes, but he’s also seen through his work with the sheriff’s office how valuable treatment options can be when they’re available.

“What we’re looking at is alternatives to mandatory sentences. Nobody is saying people should never go to jail. Jail has a place. But what happens when you let them out? Nothing.” Harnais said. “We’re talking about an epidemic of people dying, families being destroyed. We need to make sure there is some kind of treatment.”

Harnais is also looking forward to continuing the MBA’s strong relationship with the courts. “Everyone who walks in the courthouse door expects the system to work,” he said. “It’s up to us — lawyers and the courts — to work together so that it won’t fail.”

Of course, Harnais also won’t forget about what drew him to the bar in the first place — a place where he could hang out with people just like him, unwind and even have some fun. The MBA has been a great place to help him escape, he said, “not from work, but from the pressures of work. We all need people to hang around with who know what we’re going through and have the same pressures.”

As president, Harnais is planning to visit with small groups of people around the state to hear what people have to say — or even just to swap stories. In this small way, he hopes to return the “community” to our legal community, and restore the civil and professional nature that attracted so many people — including him — to the bar in the first place.

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MBF awards $1.92 million for access to justice

The Massachusetts Bar Foundation recently awarded more than $1.92 million in grants through its annual Interest on Lawyers’ Trust Accounts (IOLTA) Grants Program. This year’s grants will fund 82 programs conducted by 54 nonprofit organizations throughout Massachusetts.

MBF IOLTA grants support projects that either offer civil legal services to people who could not afford them, or improve the administration of justice in the commonwealth. Grants providing direct legal services include support to domestic violence programs, special education advocacy, humanitarian immigration assistance and homelessness prevention. Grants to improve the administration of justice include efforts such as court-connected mediation and lawyer of the day programs.

“We are especially proud to announce that for the first time since 2009, the MBF has awarded more funding than it did in the previous year,” said MBF President Robert J. Ambrogi of Rockport. “While the increase is modest — just over $22,000 — we hope it represents a turning point and look forward to helping our grantees’ critically needed programs grow in the future.”

This year, the MBF is pleased to be able to award grants to many of its longtime grantees and provide funding for five new programs:

• Center for New Americans — Immigration Program
• Community Legal Aid — District Court Debt Collection Project
• Housing Families Inc. — Pro Bono Legal Project
• MIRA Coalition — Justice AmeriCorps Program
• Lawyers Clearinghouse — Mass. Legal Clinic for the Homeless

Funds for these grants are provided by the Massachusetts Supreme Judicial Court’s IOLTA program. The MBF is one of three charitable entities in Massachusetts that distributes IOLTA funds. Additional information about the Foundation and its IOLTA Grants Program, as well as a complete listing of the 2015–16 IOLTA grant recipients, is available at www.MassBarFoundation.org.

“With the IOLTA Grant program, we are able to keep the promise of justice alive for the poor in our state. To learn more, or to join, visit www.MassBarFoundation.org. We are committed to giving back to the profession and supporting legal services for people who could not afford them, or improve the administration of justice in the commonwealth. This service to the MBF also affords me valuable opportunities to expand my network to attorneys and other professionals that I would not otherwise encounter in my daily practice.”

The MBF Society of Fellows includes Massachusetts attorneys and judges who are committed to giving back to the profession and supporting legal services for the poor in our state. To learn more, or to join, visit www.MassBarFoundation.org.
BAR NEWS

Make the most out of your MBA membership this year

The Massachusetts Bar Association offers a wide range of ways for you to get involved during the new association year, no matter how busy your schedule is. Learn how you can participate and make invaluable connections with our statewide network of attorneys.

Provide legal advice to those in need: For more than 20 years, the MBA has hosted a monthly Dial-A-Lawyer program, which provides callers with free basic legal information the first Wednesday of the month. Volunteer a few hours of your time and answer questions from the public on a wide range of legal topics. The MBA also offers a Dial-A-Lawyer program specifically for Western Massachusetts residents twice a year. All practice areas and levels welcome. Email LRS@massbar.org to volunteer.

Publish an article: Submit an article for the Massachusetts Lawyers Journal, Section Review or Law Review. Share your analysis of a case or recent or pending legislation, or practice advice. Interested? Visit www.massbar.org/publications for submission guidelines.

Help build the future of the profession: Encourage the next generation of lawyers by getting involved in one of the MBA’s many educational partnerships. Volunteer with students at the high school, undergraduate, and law school levels to give them an understanding of the legal profession and an awareness of the career opportunities available to them, through the MBA’s Tiered Community Mentoring Program. Assist the seniors in your community by giving a free presentation about elder law in celebration of Law Day this May. Become an instructor, supervisor and mentor to students participating in the Judicial Youth Corps Program, which gives high school students from urban communities the opportunity to learn about the court system and the law. Volunteer with the MBA’s Statewide Mock Trial Program and serve as an attorney-coach or judge for a trial. Contact communitieservices@massbar.org to learn more and get involved with these programs.

Give back to the community: Through the year, the MBA provides support to communities in need. Drop off coats and gloves during for our annual Gear Up For Winter Drive with Cradles to Crayons, donate blood when we host the American Red Cross and sign up to take part in the MBA’s night at the Greater Boston Food Bank.

Sharpen your skills with FREE CLE: From in-person seminars to programs delivered through live-streaming video, the MBA has many convenient ways to fit continuing legal education (CLE) into your busy schedule – for free! Attend a CLE program to gain new knowledge on the latest trends in the legal community, or help plan an upcoming education program and volunteer to serve a faculty for a seminar or conference. Learn more at www.massbar.org/FREECLE.

Get active with a section: Make connections with other attorneys in your practice area by joining one of the MBA’s 18 sections or Young Lawyers Division. Sections typically develop more than 100 education programs per year, as well as monitor and develop legislation, propose legislative positions to the House of Delegates and participate in the development of legal publications, articles and special projects. Unlimited section membership is included as part of your MBA membership. Visit www.massbar.org/access to join a section.

Connect on the go: Connect with more than 9,000 Massachusetts Bar Association members using My Bar Access, the MBA’s virtual community where members can share information with each other. Get your name out there by posting a blog or participating in your sections’ listservs. Use this practice tool to share tips of the trade and network with fellow members online. Visit www.massbar.org/access today.

Attend a networking reception: Join in the MBA’s free socials and receptions. Integrate yourself into the MBA community and meet judges and fellow attorneys. Visit www.massbar.org/events to register for upcoming networking opportunities.

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ADDRESSING SEXUAL ASSAULT ALLEGATIONS IN K-12 SCHOOLS, COLLEGES AND UNIVERSITIES

Thursday, Sep. 24, 5-7:30 p.m., Massachusetts College of Liberal Arts, 175 Church St., North Adams

This interactive panel of expert practitioners will discuss an array of complex legal and practical issues involved in addressing sexual assault allegations in K-12 schools, colleges and universities. Specific topics include:

- Title IX legal requirements
- Compliance issues, challenges and best practices in sexual assault investigations, and disciplinary proceedings
- Inclusion measures
- Chapter 258E Harassment Prevention Orders
- Systemic and individual remedies
- Issues whose criminal investigations are pending or criminal charges are possible

Faculty: Richard W. Cole, Esq., program chair; Michael Aiken, Esq.; Rebecca L. Huntsman, Esq.; Rachel Iannone, ADA; Janet Ellis Fauquier, Esq.; LeAnn Peetrehn, Esq.; Dennis F. Corrino

ESTATE PLANNING

ESTATE PLANNING 101: THE NUTS AND BOLTS

Tuesday, Sept. 15, 4-7 p.m., MBA, 20 West St., Boston

We all know that the only certain things in life are death and taxes. Learn how to help your clients plan for both of these eventualities. This program is designed to guide new attorneys through the estate planning process, including how to conduct the initial interview to the best practices for the signing ceremony. Our experts will explain the process using their own sample forms. Topics include:

- Conducting the initial client interview
- Assembling the necessary information
- Estate tax
- Directing the execution of the estate plan

Faculty: Kristin L. Monac, Esq.; Jennifer G. Taddeo, Esq.

GENERAL

RISK MANAGEMENT AND THE SJC’S REVISIONS TO THE RULES OF PROFESSIONAL CONDUCT

Wednesday, Sept. 23, 5-8 p.m., MBA, 20 West St., Boston

There are countless malpractice hazards, even for the most diligent practitioner. Having a working knowledge of the Rules of Professional Conduct is an attorney’s best chance to recognize and avoid the most common pitfalls.

The Supreme Judicial Court recently adopted revisions to the Rules of Professional Conduct which went into effect July 1, 2015. Our panel of experts will walk you through the changes and how these changes will impact your practice. Don’t put your livelihood at risk. Attend this program and be prepared.

Faculty: Zsuzsa Czegi, Esq.; Scott Burke, Esq.; Terrence Keefe

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HOW TO BE AN ADVOCATE WITHOUT BEING ARROGANT

Wednesday, Sept. 30, 5-7 p.m., MBA, 20 West St., Boston

The practice of law is often considered adversarial by nature; two or more opposing parties are in a disagreement, and it is the attorney’s job to zealously assert their client’s interests. Our panels will facilitate and engage in an interactive discussion that will address fundamental methods and approaches to resolving disputes rationally, efficiently, and peacefully. Topics will include:

- Civility in the profession: interactive discussion and analysis
- Defining what it is to be a professional and how to be effective counsel.
- Managing professional relationships
- Dealing with opposing counsel and court personnel
- The attorney/client relationship: using legal language without using legalese

Faculty: Christopher F. Sullivan, Esq., moderator; Hon. Nancy Holitz (ret); Lindsay Manning Burke, Esq.; Scott Hildreth, Esq.; Craig B. Lerry, Esq.

LITIGATION

As a Litigation Committee panel, we will discuss tips and recommendations for success in practicing and defending cases in the Massachusetts District Courts. This seminar will provide valuable insights for new attorneys and seasoned litigators, and attendees will be given an opportunity to pose questions to the panel.

Monday, Sept. 28, 4-6 p.m., Massachusetts School of Law, 560 Federal St., Andover

Topics include:

- The role of deponents and how they can help you
- The basics — from notice of appearance to small claims complaint forms
- Pre-trial — from discovery to effective use of motions in limine, to how to get your evidence admitted
- Commonly misunderstood or misused rules and case law
- Frequently made mistakes by counsel
- Civil and criminal litigation tips

Faculty: Michael L. Carey, Esq., co-moderator; Matthew P. Mocniak, Esq., co-moderator; Assistant Clerk Wagner Stoffel Springfield, Spring, Esq.; Clerk Magistrate Dore Stansfield, Esq.
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For more information, visit massbar.org/events/calendar

Continued on page 9
ABA Annual Meeting

Former Massachusetts Bar Association Young Lawyers Division Chair Courtney C. Shea served as a Massachusetts delegate at the American Bar Association Annual YLD assembly in late July.

AVIATION LAW

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ABA Annual Meeting

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ABA Annual Meeting

Former Massachusetts Bar Association Young Lawyers Division Chair Courtney C. Shea served as a Massachusetts delegate at the American Bar Association Annual YLD assembly in late July.

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Join fellow Massachusetts Bar Association members at the “2015 Solo & Small Firm Summit: Strategies for Success,” which is presented by the ABA Solo, Small Firm, and General Practice Division. The program will take place Sept. 24-26 at the InterContinental Boston.

The MBA is a co-sponsoring entity of the summit and a discounted registration rate is available for our members (save up to $100 for ABA members and up to $200 for non-ABA members) when you include code GP1509CS when reserving your seat. Conference attendees will enjoy:

• A concise, all-in-one environment for networking with colleagues, a legal marketplace ( expo), and idea sharing.
• The Difference Makers Awards Luncheon with featured keynote speaker Judy Smith, America’s #1 crisis management expert and the inspiration for ABC’s “Scandal.”
• Programming focused on tools and resources to help solo and small firm attorneys become more effective practitioners.
• Opportunities to connect with other attendees during eight networking events.

Detailed information about the summit is available at www.ambar.org/Summit.

MBA co-sponsor ‘Remedies under the Uniform Commercial Code’ conference

On Oct. 1, 2015, the New England Law | Boston’s Business Law Center will host a conference on “Remedies under the Uniform Commercial Code.” This event will take place at 154 Stuart St. in Boston and will run from 12:30 p.m. until 5:30 p.m. This is the fourth annual conference devoted to the exploration of current issues in commercial law. The conference will be co-sponsored by the Massachusetts Bar Association and the Uniform Commercial Code – Digest. The panelists will address issues arising under Articles 2, 2A, 3, 5 and 9 of the Uniform Commercial Code with a heavy focus on remedies. All of the speakers will be practitioners or professors highly regarded for their expertise in code-related matters. Panelists include Edwin Smith, long-time Uniform Laws Commissioner for Massachusetts, and Bill Henning, who has long served as a commissioner and is now executive professor of law, Texas A&M University School of Law. Modera-

tors will be Ingrid Hillinger, a professor from Boston College Law School, and Frank Morrissey, who also serves an adjunct professor at New England Law | Boston. Anyone whose practice or academic interest in any way involves the code will find this conference interesting and rewarding.

There is no cost to attend, but the Business Law Center does encourage early registration to assist us in making final plans for the conference. Additional conference details can be found at www.nesl.edu/UCCconference.

Questions? Contact Gmersonud@nesl.edu or call (617) 422-7256. To register, email ggressham@nesl.edu or jchavez@nesl.edu.

Gary Mersonud is a professor at New England Law | Boston and teaches Contracts, Modern Remedies, UCC Sales and UCC Secured Transactions.
Mentors, supporters celebrate 2015 Judicial Youth Corps graduates

The 2015 Supreme Judicial Court Judicial Youth Corps program drew to a close on Aug. 13, when 41 high school students from Boston, Worcester and Springfield took part in JYC Appreciation Day at the John Adams Courthouse in Boston.

The JYC program gives urban high school students an opportunity to experience the judicial system and learn about the law through educational sessions and hands-on internships in the courts from May through July each year. The SJC first established the summer program in Boston in 1991. The Massachusetts Bar Association has partnered with the SJC since 2007 to expand the program to Worcester. For the second year in a row, the MBA also partnered with Western New England University School of Law to bring the JYC program to Springfield.

Following a group lunch and a mock trial program, the students joined family, friends and mentors for the graduation ceremony. Retired SJC Chief Justice Roderick L. Ireland, who has been a part of the JYC program since its inception, welcomed the graduates.

BY JASON M. SCALLY

Student reflections from the Judicial Youth Corps

One of the most interesting things I recall from my internship was ...

"Helping the scared people get some kind of comfort when they came back from court while I handed them a copy of their restraining/no harassment order."

"Watching the activity in a courtroom when it was in session … and watching an actual trial."*

"Taking a tour of the other courts — it was cool to see how the different courts functioned."

"A defense attorney’s cross-examination — he kept asking questions that the witness did not know the answers to."

"I really enjoyed observing an armed robber case and the closing arguments of the attorneys."*

One of the more interesting things I recall from my internship is ...

"Mediations with one mediation specialist are very calming; mediations with another mediation specialist are very energetic. It is interesting to see their different styles."

"We witnessed people asking for a change of counsel. We had never seen this happen before but we saw so many in the past week."

"Watching a woman walk into the clerk’s office with a man and then calling out: ‘I have a restraining order against this man!’"

"People watching … something different every day."*

One of the funniest things that I witnessed during my internship ...

"A man came to the counter and he was wearing a bathing suit."

"‘It’s all fun and games until you go to D.O.R.’"

"We encountered people who would ask the workers to speed up their divorce case because their partner was driving ’em crazy."*

*excerpt from Jason’s reflections

"A defense attorney’s cross-examination — he kept asking questions that the witness did not know the answers to."*
Tia’s Summer Social draws crowd

The Massachusetts Bar Association hosted its final Summer Social networking reception on the Boston waterfront on Aug. 13. More than 150 friends and members of the legal community joined the social/networking event.

PHOTOS BY JOHN BLAZO
Drivers license suspension for drug offenders

We feel that a penalty for a particular offense ought to be tied into the action of the offense. Taking away someone’s ability to earn a living and provide for their family may not be the smartest way forward in fighting drug addiction or drug usage. It doesn’t make sense to further penalize folks for certain behavior that has nothing to do with operation of a motor vehicle.

THEN-MBA PRESIDENT MARSHA V. KAZAROSIAN, WBZ NEWSRADIO 1030, JULY 27
Kazarosian was interviewed by WBZ NewsRadio 1030 about a hearing in which lawyers for James “Whitey” Bulger asked the federal First Circuit Court of Appeals to grant Bulger a new trial because he was not allowed to testify and present an immunity defense at his 2013 racketeering trial.

Where available, news clips — including audio/video — can be found on our website at www.MassBar.org.

Smartphone privacy in Brady suspension

Smartphones are something that we’ve never had in history before where your entire life is on a smartphone: your financial records, your personal photographs, your private, romantic communications. Every inch of your life is on that smartphone.

MBA CRIMINAL JUSTICE SECTION VICE CHAIR PETER ELIKANN NECN, JULY 29
Elikann was interviewed by New England Cable News on the issue of smartphone privacy in light of the NFL’s suspension of New England Patriots quarterback Tom Brady.

Appeal of Bulger conviction

The argument holds water, meaning it’s a valid argument on appeal and that’s obviously why the Appeals Court feel it’s something that they have to hear and entertain. Whether they’re going to determine that based on the evidence on the record in the lower court — which is the Trial Court, District Court — whether the evidence bears that out is another story.

THEN-MBA PRESIDENT MARSHA V. KAZAROSIAN, WBZ NEWSRADIO 1030, JULY 27
Kazarosian was interviewed by WBZ NewsRadio 1030 about a hearing in which lawyers for James “Whitey” Bulger asked the federal First Circuit Court of Appeals to grant Bulger a new trial because he was not allowed to testify and present an immunity defense at his 2013 racketeering trial.

Fairness of show cause hearings

How can a lawyer put up a defense if they have no idea what they are defending against? If justice is truly our goal, why wouldn’t we want to have a level playing field?

MBA CRIMINAL JUSTICE SECTION VICE CHAIR PETER ELIKANN MASSACHUSETTS LAWYERS WEEKLY, JULY 30
Elikann was quoted in a story about the fairness of show cause hearings at District Courts across the state. Some criminal defense attorneys have recently been denied access to police reports in advance of show cause hearings for their clients.

Mandatory minimum drug sentences

There is a nonsensical notion that repealing mandatory minimum sentences for drug offenders would allow drug offenders to avoid jail altogether. It would not. It would simply put the decision of appropriate punishment back to the person whose job it is to know more about an individual’s offense than any one-size-fits-all sentencing guideline could possibly contemplate: the Massachusetts judge.

THEN-MBA PRESIDENT MARSHA V. KAZAROSIAN, BOSTON GLOBE, JULY 17
Kazarosian penned the “yes” answer to the point-counterpoint feature in the Boston Globe’s North Edition which posed the question: Should Massachusetts repeal its mandatory minimum drug sentences?
Robert W. Harnais, president

Robert W. Harnais is the Massachusetts Bar Association’s first Hispanic president. During his presidency, Harnais plans to promote a return to civility in the profession with a sense of camaraderie statewide, while also continuing the MBA’s advocacy for access to justice and criminal justice reform, including the elimination of mandatory minimum sentences for drug-related crimes. A general practitioner with Maloney & Harnais in Quincy, Harnais has volunteered his service to the MBA for many years, serving as an officer and a member of the MBA’s Executive Management Board and House of Delegates. He has also served as co-chair of the MBA’s Crime Lab Task Force and chair of the MBA’s Diversity Task Force. Harnais is a past president of the Massachusetts Association of Hispanic Attorneys (MAHA) and a past regional president of the Hispanic National Bar Association, and remains highly involved with both organizations. In 2014, MAHA honored Harnais with its Leadership Award for his dedication to the Hispanic bar. That same year he received the Quincy Bar Association’s Alfred P. Malaney Award, commonly referred to as the “Man of the Year Award,” for distinguished legal services. Harnais is also a past recipient of the Norfolk County Bar Association Pro Bono Award (2011). Harnais has served on the Race and Ethnic Advisory Board for the Massachusetts courts since 2007. A Braintree resident, Harnais is chairman of the Braintree Planning Board and enjoys being a football official in his spare time.

Jeffrey N. Catalano, president-elect

Jeffrey N. Catalano is a partner at Todd & Weld LLP in Boston, where he represents victims of catastrophic injuries in the area of medical negligence, product liability, auto accident, class action and other personal injury cases. A past MBA vice president, secretary and treasurer, Catalano has also chaired the association’s Volunteer, Recognition, Recruitment and Retention Task Force and served as chair of the MBA’s Civil Litigation Section Council, and as a member of the MBA’s Executive Management Board and House of Delegates. In 2011, Catalano launched the MBA Pro Bono Prescription program, a pioneering initiative that brings together volunteer attorneys and medical professionals to promote the health and well-being of low-income patients through legal advocacy. Catalano is also a member of the executive committee for the Massachusetts Academy of Trial Attorneys, where he received the President’s Award for his dedication to justice and consumer rights. In addition, Catalano was recently selected to serve on the Board of Advisors for the National Patient Safety Foundation, a non-profit that partners with patients and families, the health care community, and key stakeholders to advance patient safety and disseminate strategies to prevent harm. In 2015, The Boston Globe and Wall Street Journal named Catalano a “2015 New England Best Lawyer” for Products Liability Litigation-Plaintiffs. Catalano has also been named a 2016 Best Lawyers in America in Personal Injury Litigation. From 2009 to 2014, Super Lawyers selected Catalano as a New England “Super Lawyer.” In 2014, he was named one of “Boston’s Top Rated Lawyers” in Medical Malpractice by Legal Leaders, signifying the “highest level of professional excellence.” Catalano lives in West Roxbury.
LEADERSHIP

Christopher A. Kenney, vice president

Christopher A. Kenney is a founding member and managing shareholder of Kenney & Sams PC in Boston. He has tried cases before every level of the state and federal trial court system in Massachusetts and has served as an appellate advocate before the Massachusetts Appeals Court, Massachusetts Supreme Judicial Court and the United States Court of Appeals for the First Circuit. A past MBA secretary, Kenney chairs the MBAs Consumer Advocacy Taskforce and is a member of the MBAs Executive Management Board and Membership Committee. Kenney has also served in the MBAs House of Delegates and is a former chair of its Civil Litigation Section. In addition to his work with the MBA, Kenney is a former president of the Massachusetts Defense Lawyers Association (MDLA), president of the former Massachusetts Chapter of the Federal Bar Association and former co-president of the Boston Inn of Court. The MDLA named Kenney the 2012 “Massachusetts Defense Lawyer of the Year.” Kenney has served as adjunct faculty at Boston University School of Law and frequently writes and lectures for business groups, trade associations and bar associations.

Jeffrey N. Catalano is a partner at Todd & Weld LLP in Boston, where he concentrates in civil jury trials in complex litigation, including financial and securities cases and intellectual property disputes. Catalano is a chair of the MBAs Membership Committee and has served on the MBAs Executive Management Board and House of Delegates. In the past, Sullivan sat on the MBAs Civil Litigation Section Council and served as chair of the Federal Practices and Procedures Committee. In 2014, Sullivan helped launch the Massachusetts SOLACE Chapter with the Federal Bar Association (JBA), which connects judges of the legal community to provide critical aid in times of need. An accomplished trial lawyer, Sullivan has been named a Massachusetts or New England “Super Lawyer” by Super Lawyers since 2004. In addition to his MBA involvement, Sullivan is a past president of the Massachusetts Chapter of the FBI and a former FBI vice president for the First Circuit. He is a Massachusetts Bar Foundation Fellow, the philanthropic partner of the MBA. He is also a fellow of the American Bar Foundation and of the Foundation of the Federal Bar Association. Recently, Sullivan was appointed a Board of Overseers Hearing Officer, with a term lasting through 2017. Sullivan graduated from the College of the Holy Cross in Worcester and is currently an executive board member of the Holy Cross Lawyers Association. He received his J.D. from Fordham University Law School and is a New England Chapter vice president of the Fordham University Law School Alumni Association. Sullivan is a Hingham resident.

Christopher P. Sullivan, treasurer

Christopher P. Sullivan is a partner at Robins Kaplan LLP in Boston, where he concentrates in civil jury trials in complex litigation, including financial and securities cases and intellectual property disputes. Sullivan is a chair of the MBAs Membership Committee and has served on the MBAs Executive Management Board and House of Delegates. In the past, Sullivan sat on the MBAs Civil Litigation Section Council and served as chairman of the Federal Practices and Procedures Committee. In 2014, Sullivan helped launch the Massachusetts SOLACE Chapter with the Federal Bar Association (JBA), which connects judges of the legal community to provide critical aid in times of need. An accomplished trial lawyer, Sullivan has been named a Massachusetts or New England “Super Lawyer” by Super Lawyers since 2004. In addition to his MBA involvement, Sullivan is a past president of the Massachusetts Chapter of the FBI and a former FBI vice president for the First Circuit. He is a Massachusetts Bar Foundation Fellow, the philanthropic partner of the MBA. He is also a fellow of the American Bar Foundation and of the Foundation of the Federal Bar Association. Recently, Sullivan was appointed a Board of Overseers Hearing Officer, with a term lasting through 2017. Sullivan graduated from the College of the Holy Cross in Worcester and is currently an executive board member of the Holy Cross Lawyers Association. He received his J.D. from Fordham University Law School and is a New England Chapter vice president of the Fordham University Law School Alumni Association. Sullivan is a Hingham resident.

John J. Morrissey, secretary

John J. Morrissey is a founding partner of Morrissey, Wilson & Zafropoulos LLP in Braintree, where he has a trial practice handling personal injury claims, including wrongful death, catastrophic injury and workers’ compensation. He also represents individuals and businesses in commercial and real estate disputes. Morrissey serves as a member of the MBA Executive Management Board, an arbitrator with the MBA Fee Arbitration Board and a member of the Workplace Safety Task Force. He is a practicing member of the House of Delegates, and as a chair of the MBA Judicial Administration Section Council. In 2013, Morrissey volunteered for the MBA’s Marathon Bombing Victims’ Legal Assistance Program, where he provided free legal services to victims of the Boston Marathon bombings. Morrissey was recently appointed by the Supreme Judicial Court to the Board of Bar Overseers and he is also a member of the Massachusetts Academy of Trial Attorneys’ Board of Governors. He is a life fellow and a member of the Grant Advisory Committee of the Massachusetts Bar Foundation and serves as a director of Independent Bank Corp. Morrissey was appointed a commissioner of the Hingham Conservation Commission by the Board of Selectmen in 2014. An accomplished lawyer, Morrissey has been named a New England “Super Lawyer” by Super Lawyers every year since 2005.

Martin W. Healy, chief legal counsel and chief operating officer

Martin W. Healy serves as the Massachusetts Bar Association’s chief legal advisor, as well as the MBAs liaison to the legislative, executive and judicial branches. He is responsible for providing legal advice in corporate matters and legal support in issues of public policy concerning the practice of law and the administration of justice. In addition, he serves as counsel to the MBA leadership team and its House of Delegates and Executive Management Board. In his capacity as a registered legislative and executive agent, Healy works with the MBAs sections and committees in analyzing legislation, drafting bills and testifying before legislative committees. Healy also serves as executive secretary to the Joint Bar Committee on Judicial Appointments. A National Uniform Law Commission for Massachusetts member, Healy also serves to the MBAs Consumer Advocacy Taskforce and as a member of the MBA’s Judicial Administration Section Council (CPCS) Board. A long-term member of the Massachusetts Lawyers Weekly Editorial Board, Healy is a regular contributing columnist of the publication, writing the feature “Healy on the Hill.” He was honored with Massachusetts Lawyers Weekly’s 2014 “Lawyer of the Year” award for his work in making attorney-conducted voir dire a reality in Massachusetts. He serves as a volunteer juvenile law attorney with the CPCS Youth Advocacy Project and has served as a hearing committee member with the Board of Bar Overseers and as an adjunct professor at Suffolk University in its Masters in Criminal Justice program. The Massachusetts Juvenile Bar Association (MJBA) presented Healy with a Chief Justice Francis J. Portrait Award for his advocacy on behalf of youth in the child justice system, including his efforts to increase compensation for attorneys who handle juvenile cases through CPCS. Healy previously served as a commonwealth of Massachusetts bar examiner. Healy was recently appointed to the Firearm Licensing Review Board. Prior to joining the MBA staff, Healy worked in the Suffolk County District Attorney’s Office Appellate Division and as a legislative aide in the Massachusetts Senate.
FOR YOUR PRACTICE

Embracing on a new legal career

Suffolk Law director has some tips for finding a job

David S. Merson, associate director of professional and career development, Suffolk University Law School

The most common job-search pitfall new lawyers fall into today? Getting locked into work. Not that they are complacent, but they forget about their professional development: [or] don’t stay active enough. Always be moving, even if you think you are going to be at a job for 10 or 15 years.

What is the best thing lawyers can do to ensure their networking efforts are meaningful and lasting? LinkedIn is great. It constantly keeps you connected with your contacts with out having to personally reach out to them. It helps you maintain professional contacts — that you might not need now, but might down the line.

What is one piece of advice you give now that you wish someone had told you when you were starting out in your own legal career? When you are a law student and a new lawyer there is always this expectation that you always need to be climbing this ladder — that you are supposed to be doing something for three years then doing something else. They blindly follow this career progression without figuring out what they like to be doing. It is fine for your first couple years, but four or five years out you need to figure out what you like doing.

The most asked question "How can bar associations, such as the MBA, enhance your job search?" For students especially it can be helpful in a lot of ways. They can meet new attorneys to not only grow their professional network, but also their knowledge base.
Overdoing it only works for so long

By Dr. Jeff Fortgang

Q: I’ve been earning my own money since before college, and learned well how to rely on myself, doing well in college and moving into a bookkeeping/accounting job for a large corporation. Last year, approaching my mid-40s, I decided to pursue something that might give me a greater sense of accomplishment, and started law school at night. It’s going very well academically, and I’m also generally keeping up with the work at my job, but I’m getting less sleep and starting to see myself making accounting errors I never made before, as well as sometimes forgetting side tasks. I have always prided myself on the excellence of my product, so that is distressing. My teenage son (I have shared custody with my ex-wife) has also gotten more involved in my own money making business in the process. I’ve been away from college for some time now, and learned through experience how to rely on others and delegating. Even if money is tight, think of the benefits of having someone else help with cleaning, laundry, errands, etc. One of the people to whom you might be able to delegate is your son — allowing him to assist to in this way (and make a few bucks in the process), and also to join you in pleasurable and exercise-related activities during any time that is freed-up, could be relationship-enhancing.

A: Before considering various forms of treatment, let’s recognize, as I’m sure you do, the central problem — from what you describe, you are overwhelmed because you’re over-extended. You are justifiably proud of your accomplishments and self-reliance, and of taking on the challenge of law school with a high level of success. The problem is that you’re just one person. Many concerns are vying for space in your mind, and at the same time you are not getting enough sleep. This combination of factors is likely contributing to your increased error rate on the job, and before long, the effects may well start to affect your studies. We know it’s easier said than done, but getting back to a consistent bed time might make a huge difference in how you feel and might even reduce the chances of another panic attack. (If you’re using caffeine to counteract fatigue, that can also add to anxiety symptoms.)

It won’t come as news that your life is out of balance — too many demands versus too little replenishment, relaxation and pleasure. And so we come back to my recurrent recommendations — more exercise, meditation, artistic exposure (e.g., music, theatre, photography, museums), and maintaining your social supports (not only online). Your response will be, “Sure, but where do I find the time?” Some thoughts on that:

• As someone who has long relied so heavily on doing things for himself, it’s time for you to experiment with relying on others and delegating. Even if money is tight, think of the benefits of having someone else help with cleaning, laundry, errands, etc. One of the people to whom you might be able to delegate is your son — allowing him to assist to in this way (and make a few bucks in the process), and also to join you in pleasurable and exercise-related activities during any time that is freed-up, could be relationship-enhancing.

• Perhaps you can identify some tasks that are less important, and on which you could allow yourself to perform at a “good-enough” level rather than applying standards of excellence to everything you do (again, as a way to shift some time and energy toward more balance).

And yes, seeing a therapist/counselor or would help, including as a means of helping you follow through on the kinds of lifestyle changes that will allow you not only to progress toward life as an attorney but to enjoy the process.

Dr. Jeff Fortgang is a licensed psychologist and licensed alcohol and drug counselor on staff at Lawyers Concerned for Lawyers of Massachusetts, where he and his colleagues provide confidential consultation to lawyers and law students, and offer presentations on subjects related to the lives of lawyers. Q&A questions are either actual letters/emails or paraphrased and disguised concerns expressed by individuals seeking LCL’s assistance. Questions may be emailed to DrJeff@LCLMA.org.
67 percent of firm leaders say that the future of the legal market appears to manage ambiguity and adapt to the business with competencies that are implemented iteratively.

When firms employ a growth strategy by acquisition or merger, the expected return on financial investment and time is not realized because the law firm business model and consequent culture do not support the expansion of business from current clients through cross-selling, and instead encourages lawyers not to share access to their clients and not to spend the time to develop trust and communication with new partners and across practice groups. Coincidentally, the model and culture also drive lawyers to a low-water mark that creates organizational vulnerability.

Even assuming that the empowered leaders of a law firm want to change their business model and culture, actually doing so is still a significant challenge, demanding external support, development of new competencies and a well-executed, planned, change strategy.

Responding Effectively and Changing When Change is Hard

“When you can’t anticipate the change to come, it’s important to be capable of adapting to the situation that arises.”

— Edward E. Lawler, III & Christopher G. Worley, Built to Change, 2006

Adapting to change is a process and situational adaptability is a competency that people can learn and master. Law firm leaders are responsible for creating law firm competencies to deal with an unfolding future as it unfolds. Doing so is “extremely difficult because it often requires the development of new core competencies and ... changes in structures and [processes] that were built for stability,” Lawler and Worley wrote in their book, Built to Change.

However, leaders achieve success with an understanding of how intentional, strategic change is created. Organizational changes include:

1. Planned culture changes to improve adaptability, communication, leadership, business development and client management over the past 10 years.
2. Non-traditional competitors in the legal services sector continue to grow with the added pressure to non-law firm vendors.
3. 63 percent of businesses are in-sourcing legal work.
4. In firms where the profits-per-partner measure of firm performance has grown steadily, it is mostly a function of significant cost-cutting. This is not a growth strategy that would drive organizational profit through expansion of services and legal work for existing clients and client retention through succession planning. Exactly where are they now?
5. Approximately 75 percent of change initiatives fail, often between the survivor of the organization, create substantial disruptions to the business, or otherwise leave an organization worse off than before the strategy was implemented. Successes, mild or otherwise, seem to hover around 10-15 percent, according to Kim S. Cameron and Robert E. Quinn in Diagnosing and Changing Organizational Culture. Law firm leaders who design growth strategies or conduct evaluation of the those possibilities of strategic change increase the likelihood of success and minimize substantial threats to their organization.

The four principles of strategic change are:

1. Strategic change begins with a clear vision and goals. What is the law firm trying to change and why?
2. Strategic organizational change requires leadership. In particular, it needs a leader who is able to communicate, drive vision, goals, engagement and persuade others take on their part in making the strategy successful.
3. Strategic change succeeds when those involved in the planning or implementation and those affected by the changes created have the right competencies. The predominate competencies are the ingredients of the firm’s culture and ability to implement the change strategy.
4. Change is difficult and uncomfortable for everyone, but it is easy for the process to stall. Leaders must be able to diagnose and address obstacles when they arise.

Principle #1: Strategic change is strategic

Strategy is a process of noticing change in the legal landscape, leading an organized series of decisions, and taking action that causes forward movement toward goals and a vision of the future. Astute leaders recognize change in the legal landscape, analyze them and decide the possible and likely opportunities and threats that will shape the future in the near future. These key elements include your clients and their business or personal needs, wants, expectations, pain points and preferences, your vision for the future, and the general economic environment.

They also identify organizational strengths available to access those opportunities and constraints, and then develop a plan. Today, present tense leaders are routinely discussing with their teams the present situations and forecasts of the legal environment. They discuss their organization’s values, identity and vision. They evaluate their organizational culture of whether it is aligned with the organizational vision and goals. If not aligned, culture will serve as an extremely strong source of resistance. Given the massive changes in the legal industry, effective responses and new growth strategies for law firms of any size often require the assistance of law firm consultants.

Principle #2: Strategic change requires leadership

Intentional, strategic, organizational change starts when a leader becomes aware of growth opportunities and threats to continued performance levels, develops ideas about what to do to improve organizational performance, creates a vision, communicates what to do and why and engages empowered people to support the implementation of a strategic plan.

Organizational change is a team process. The law firm management partner or CEO leads the change leadership team, often composed of office management partners, executive or policy committee lawyers, practice group leaders and the partners in charge of talent development or business development. Each member of the change leadership team leads his or her component team in implementation of the change strategy action plan. Change plans are implemented in a cascading fashion from the highest levels of formal authority down.

Principle #3: Those leading a change initiative and those affected must have the right competencies

The most important competencies required of leaders and employees are:

1. Understanding the legal industry, the industries of key clients and the relevant perspectives that may be global and culturally different, and applying the knowledge to advance organizational strategy and goals.
2. The ability to make good and timely decisions that may involve moving forward the law firm’s growth strategy and in particular the specific changes associated with, among other things, a lot of information that is complex and appears contradictory.
3. The ability to anticipate and address the success, failure or rejection of a plan with contrary interests and concerns.
4. The ability to be action oriented and drive results even under difficult circumstances — to take on difficult challenges with a positive, energetic and resourceful attitude.
ways of doing things. In other words, implementing strategies built on familiar processes and the competencies, parts of the organization’s structures, project, requiring adjustments to many a new market (geographic, industry or cross-selling. Successfully moving into depends on a culture that encourages growth through merger or acquisition anticipated. For example, a culture change also takes more time than is often an - to approach the future. Strategic chang- lies that change should be slow, risks avoid to bring into consideration the future development. Law firms also can build a robust change leadership team by using a consultant certified and trained to use resources such as the Korn Ferry Lead- ership Architect and Voices 360.

Principle #4: Change is a difficult and uncomfortable process

Change is hard and filled with discomfort because of the loss of familiar routines and the challenge of learning new skills. It is particularly difficult for people and cultures ingrained with beliefs that change should be slow, risks avoided, stability is best and the past is a good source of information about how to approach the future. Strategic changes also take more time than is often anticipated. For example, a culture change takes years to achieve. Organizational growth through merger or acquisition depends on a culture that encourages cross-selling. Successfully moving into a new market (geographic, industry or expertise needed) is a multi-faceted project, requiring adjustments to many parts of the organization’s structures, processes and the competencies, thinking and behaviors of the people. Most people resist change and implement strategies built on familiar ways of doing things. In other words, they try to change the problem situation by using the strategic plans, thinking and behaviors that it.

Examples:

• A law school with a declining applicant pool, following rising unemployment or underemployment for its graduates, adds new law practice management courses without changing its business model.
• A job hunter has received few interviews and submits more applications without changing where to look for job openings, the types of jobs considered or the content of a resume and cover letter.
• A law firm hires a consultant to create a strategic plan for organizational growth and then is unable to implement any changes. The leadership group meets regularly to discuss the plan, and every meeting has the same people arguing the same positions and reaching decisions they can implement without resistance.

The legal landscape continues to change. Law firm management tactics aimed to maintain stability are not effective. Only those law firms, with leaders prepared to respond intention- ally and strategically, will survive and thrive.

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The Annual State of the Judiciary Address

SUPREME JUDICIAL COURT
CHIEF JUSTICE RALPH D. GANTS

HON. PAULA M. CAREY
Chief Justice of the Trial Court

LEWIS H. "HARRY" SPENCE
Court Administrator of the Trial Court

A special reception with complimentary wine, beer and hors d’oeuvres will follow.

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Snapshots from around the MBA

YLD sets sail

The Massachusetts Bar Association’s Young Lawyers Division hosted an End of the Summer Boat Cruise and Networking Reception on the Spirit of Boston on Aug. 21.
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