



PRESIDENT'S MESSAGE

When law firms span generations

Bar demographics show how varied the needs are

Peggy Probasco

By the end of 2007, we will be talking about a clear and growing digital divide between technology-forward and technology-backward firms. It will happen slowly, barely perceptibly in some cases, but we will see growing evidence of that gap and a restructuring of the practice of law.

– Introductory paragraph to “Seven Legal Technology Trends for 2007: Widening the Digital Divide in Law Practice,” by Dennis Kennedy, 2001 TechnoLawyer of the Year. www.LRX.com

What does this mean? I received a call the other day from the agency I work for, asking me to help create a workable product for free public

access on an open source, freeware-shareware program. This occurred on the heels of an ABA mid-year meeting I attended where all materials were provided via a flash drive, and just prior to my participation in a medical-legal panel in which all materials were presented on a disk.

I was struck by how rapid advances in the technological world affects lawyers every day, and how much we are expected to know.

The practice of law is changing. Montana is certainly not exempt from these changes as we try to cope with a large geographical area, relying more and more on the electronic world to give us a presence in Choteau while actually in Butte – or when we electronically file a motion in federal court within deadline requirements that are impossible to meet with snail mail. However, the ability of individual attorneys to adapt is as varied as the Bar membership.

DESPITE A RELATIVELY SMALL Bar population, the State Bar of Montana’s 2005 Membership Survey revealed a diversity that underscores the challenge of the Bar to meet members’ needs, as well as the challenges faced by the members to effectively and efficiently practice

law in this century. Thirty percent are sole practitioners and another 20 percent work for the government. That means 50 percent are in firms, but a majority of those firms have only two to five attorneys. Sixty-two percent of Montana attorneys are between the ages of 41 and 60. It is not surprising that in conjunction with this statistic, 30 percent of our members have been in practice 10 years or less.

From other statistics around the nation, this is the first time in history that the workforce contains as many as four generations. Consider for a moment the divergence of a law practice with one attorney with 40 years in practice looking at retirement or semi-retirement; one with 20 years in practice, juggling her work while caring for her parents and her high school senior; one attorney five years into the practice with a wife and a baby; and the brand-new associ-

ate who is single, tech savvy and able to shepardize a brief in one-fifth the time of the senior attorney. How does this firm meet the needs of each member; how does the Bar help?

For that matter, how does the Bar assist the sole practitioner with one assistant, as well as the county attorney trying to meet the civil legal needs of the county commissioners and address a countywide drug problem?

What can the Bar provide to the lawyer in the megafirm who has built a reputation as a successful trial practitioner, but whose personal life is a shambles? What information can the Bar offer to the three-person firm looking to expand and upgrade its practice when none are particularly computer proficient? How can the Bar help a new brave, young lawyer set up a competent office and accounting system?

The answers to those questions are: with difficulty, but with persistence; with a positive attitude, but not always with success. Without successful assistance, Bar members feel disenfranchised, hopeless, angry and anxious with themselves, their practice and the Bar.

On the basis of the Bar survey – the changing technology, the generational issues, the diversity of practices – the State Bar is looking forward to bringing you resources to

How do you help a firm that has a lawyer with 40 years' experience working alongside a new lawyer with less than one year's experience?

Bar's score 7-0 so far in session

With the Montana Legislature past the halfway point of the 2007 session, bills actively supported by the State of Montana are still progressing through the Legislature, while the bills the State Bar has actively opposed have been killed.

As of Feb. 12, the State Bar of Montana had taken active interest in 10 bills and three resolutions introduced in the 2007 Legislative session.

Of those bills, the Bar testified in hearings in support of three of them and in opposition to four of them.

BILLS ACTIVELY SUPPORTED by the State Bar that are still alive in the legislative process are:

■ **HB 60**, titled The Montana Access to Civil Justice Act, was amended and approved by the House Judiciary Committee on Feb. 14, but failed on House floor two days later. It was sent to the House Appropriations Committee for reworking. This act, introduced by House Minority Leader Rep. John Parker, D-Great Falls, an attorney, appropriates \$750,000 to establish a self-help law program for Montana citizens, to be administered by the Montana Supreme Court. The act is designed to make Montana's court system more accessible by providing all Montanans with user-friendly information through technology and volunteer services, and improve court proceedings for self-represented litigants.

■ **HB 361**, introduced by Deborah Kottel, D-Great Falls, would revise the law on proxy marriage, requiring one party to be a member of the U.S. Armed Forces on federal active duty or a resident of the U.S. The bill was passed by the House and transmitted to the Senate on Feb. 7. It is now in the Senate Judiciary Committee.

■ **SB 202**, provides candidates for election to the Montana Supreme Court with the option of a publicly financed election campaign. It was passed by the Senate and transmitted to the House on Feb. 27. This bill was introduced by Sen. Jesse Laslovich, D-Anaconda, an attorney. The Bar testified in support of the bill at a hearing in the Senate Judiciary Committee on Jan. 25.

ALL FOUR BILLS ACTIVELY OPPOSED by the State Bar have died:

■ **HB 165**, requiring a candidate for the office of district judge to meet certain minimum civil or criminal trial experience qualifications, failed to make

it out of the House by the Feb. 27 deadline by which the House was required to transmit it to the Senate. Introduced by Rep. Ken Peterson, R-Billings, an attorney, the bill was tabled by the House Judiciary Committee on Jan. 22.

■ **HB 229**, which would require disqualification of a judge from a case when an attorney in the case has made a reportable campaign contribution to the judge, also missed the Feb. 27 bill-transmittal date after it was tabled by the House Judiciary Committee on Jan. 30. The bill was introduced by Scott Mendenhall, R-Clancy. The State Bar testified against the bill in a hearing before the Judiciary Committee.

■ **SB 476**, a bill by Sen. Jerry O'Neil, R-Columbia Falls, to make the unauthorized practice of law a crime, died when it was tabled by the Senate Judiciary Committee on Feb. 23. It was argued that Sen. O'Neil, who lost a case in Montana courts in which he was charged with the unauthorized practice of law, was using this bill, as he did in a failed effort in 2005, to change the regulation of the practice of law.

■ **SJ 8**, also introduced by Sen. O'Neil was a resolution urging the Montana Supreme Court to allow any person to take the examination for

More *LEGISLATURE*, Page 19

improve your practice and address your concerns.

The Board retreat in June will focus on the changing practice of law, so we can make programs and information available to all members. Short CLEs on specific topics for individual sections will continue to be available by telephone over lunch hours at a reasonable cost. Technological information of for the protection of your electronic files will be shared both in seminars and on the State Bar web pages. We will explore options to address the needs of the 40 percent of attorneys who find the practice less rewarding. But if you did not see yourself in any of the categories mentioned here, contact the Bar with

your particular needs and concerns.

As noted at the beginning of this message, the practice of law is changing – technologically and personally. We can watch or participate or simply close up shop and call it a day. Your choice should be driven by your own circumstances and desires.

Whatever you choose, be honest and open, first with yourself and then with your family and colleagues. We cannot stop the changes that are occurring, but we can choose the best path for ourselves in response to those changes. ○