

**AMERICAN BAR ASSOCIATION
SECTION OF LITIGATION
REPORT OF THE TASK FORCE ON TRAINING THE TRIAL LAWYER**

June 2003

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INTRODUCTION

Scott Atlas, Chair of the Section of Litigation¹

According to several dictionaries, “litigation” is defined essentially as “the act or process of carrying on a lawsuit.” That process eventually ends in a dismissal, a settlement, or a trial. Most litigators have participated in numerous dismissals and settlements. Many older litigators have conducted numerous trials. But as I talk to Litigation Section members around the country, especially young ones, I hear a common complaint: It is becoming increasingly difficult to take cases to trial. This is unhealthy for litigators who want trial experience, for clients seeking experienced trial counsel, and for the justice system.

I began practicing law in 1976. During my first few years of law practice, when I was what we used to call a “baby lawyer,” my law firm (and most others with litigators I knew well) had literally hundreds of lawsuits with at least a realistic likelihood of going to trial. Although the vast majority settled, it was easy to build a sizable docket of cases that virtually guaranteed a trial every few months – and sometimes every few weeks, or even every week for a while. The cases ranged from workers’ compensation and

¹ An earlier version of this Introduction was published as: Scott J. Atlas, *Where Have All the Trials Gone?*, 28 *Litigation* No. 4, at 1 (Summer 2002). © 2002 American Bar Association.

relatively minor personal injury matters to small commercial disputes. I remember during my first few months of law practice methodically notifying most of the firm's litigation partners and senior associates that I would willingly – in fact, gratefully – accept any “dog” case they had, even the sure losers, if there was some chance of going to trial. My colleagues were only too happy to oblige.

For several years, I tried cases regularly. I lost many of the sure losers, which cured me of an oversized ego as well as any concern about maintaining a perfect record. But occasionally I won one, which usually shocked the client (and, on occasion, even surprised me). More important, I learned the basics of how to pick a jury, introduce documents and other evidence, cross-examine hostile witnesses, and give closing argument. In addition, I improved my storytelling ability, became quicker on my feet in fashioning and articulating cogent and persuasive arguments on legal and factual points, developed a working knowledge of evidence and the applicable law, better understood the significance of careful deposition taking and preparation, and enhanced my appreciation of the importance of dealing with opponents honorably and accurately. I also developed my own “trial personality,” one not much different from the one seen by my family and friends. And I learned the importance of identifying and remaining focused on my ultimate objective, so that I could avoid the mistake about which Casey Stengel once warned, “If you don't know where you're going, you might end up someplace else.”

I believe that these skills and others important for trying cases can be mastered only by sitting first chair in numerous trials. Talented trial advocates are rarely born.

They are a product of observation and experience: watching other lawyers try cases and trying their own. The great Judge Harold Medina, now deceased, had it right when he said, more than 40 years ago:

Only the most arduous application and much practice will suffice to develop proficiency in the formulations of questions to witnesses, and the planning of the involutions, suggestions and hints by which the minds of judges and jurors are guided to a certain conclusion. How close the analogy is between this phase of the trial lawyer's work and that of the skilled and experienced surgeon is all too seldom perceived.

Harold R. Medina, *Introduction* to Lloyd Paul Stryker, *The Art of Advocacy*, at x (1954).

The trial advocacy skills described by Judge Medina are much easier to acquire as a baby lawyer. I could admit my inexperience, join in others' amusement at my awkwardness, and accept constructive criticism more easily in my first few years of practice. Not surprisingly, we can most easily laugh at ourselves making new-lawyer mistakes when we are still new lawyers. It is undoubtedly much more difficult – and more embarrassing – to make those same mistakes after five or 10 years in practice, when your client, opposing counsel, and the judge all assume you are experienced.

But something significant has happened during the last 25 years. All but a handful of law firms have many fewer small cases available for the young lawyer to try. It is now quite possible, and at some law firms almost the norm, for a young litigator to practice for many years without trying a case. Moreover, although the number of civil lawsuits being filed each year has increased, the number of civil cases being tried has steadily declined since the 1970s. In the federal court system, for example, according to the Administrative Office of the U.S. Courts, since 1976 the number of original civil case

filings in the federal court system increased by almost 75 percent (from 117,061 to 203,931), while the number of civil trials **dropped** almost 45 percent, from 11,656 trials to 6,513, a 40-year low. *Compare* Annual Report of the Director of the Administrative Office of the U.S. Courts, 2001, tables S-7, C-7, at www.uscourts.gov/judbus2001/contents.html, *with* Annual Report of the Director of the Administrative Office of the U.S. Courts, 1976, table 16 at 245; *id.* table 56 at 245.

In the state court system, where national totals of case filings and trials are more difficult to obtain due to the large number of independent jurisdictions involved, a recent publication of the Court Statistics Project (a joint project of the Conference of State Court Administrators and the National Center for State Courts (“NCSC”)) entitled “Examining the Work of State Courts, 2001,” indicates that since 1984, civil filings in the state trial courts have grown by 30 percent (at 10, 14, 16). I could not obtain data on the number of trials in state courts, except that the same publication estimates that in 1999 (the only year, according to NCSC officials, that they have attempted the calculation), the number of general civil cases tried in the state court system was 33,125 (at 102).

Even if many of these approximately 40,000 federal and state court trials annually involved multiple attorneys, and even if the Section of Litigation with its more than 50,000 practicing lawyers included every litigator in the country, the unmistakable message sent by these statistics is clear: There simply are not enough trials each year to give the average litigator many trial opportunities.

This phenomenon – experienced litigators with little trial experience – raises several troubling questions. First, how did this happen? Second, what is the likelihood

that this trend will be reversed? Finally, how can young litigators get trial experience without trying cases?

The reasons for the decline in trials are many and varied. The most significant reason is the overall cost of litigation, which has several components. First, hourly rates at most law firms have increased dramatically in recent decades. My recollection is that when I started at the law firm 25 years ago, my going rate was \$50 an hour. Now it is not unusual to see firms billing their new lawyers at several times that.

Second, the amount of time spent in pretrial discovery has skyrocketed. In both federal and state courts, despite scattered experiments to “reform” the process, the courts by and large have not succeeded in managing discovery in ways that keep costs either manageable or predictable. Clients have made many efforts to enhance predictability in their legal costs, but hourly rate litigation defies rational mathematical calculation. The difficulty of predicting the extent of an opponent’s willingness to cooperate in the discovery process and the amount of discovery each side will want are but two of the characteristics of modern litigation that make litigation budget estimates seem like rank speculation. It remains to be seen whether recent changes in the Rule 26 standard for discovery at the federal level and various experiments with limiting deposition time and other discovery in the state courts will make a meaningful dent in this process. But new technology both facilitates and complicates efforts to find a solution. E-mail and voicemail, neither of which existed 25 years ago, have multiplied exponentially the volume and cost of potential discovery.

Third, the loss of professionalism in some parts of the profession, including an increase in Rambo tactics, has increased the cost of litigating while making the practice of law less enjoyable. The Litigation Section and many other groups have adopted codes of behavior and taken other laudable steps in recent years to discourage unprofessional conduct. Many judges have joined in this effort. But the fact remains that litigation in the new millennium is simply more contentious – and thus more time-consuming – than in the “good old days.”

Finally, there is a widespread belief that jury verdicts have become increasingly unpredictable. Tort-reform groups constantly complain of what they claim are runaway punitive damages awards. Respected federal appeals court judge Patrick Higginbotham, in a speech last year to the American Law Institute (“ALI”), argued that punitive damages have become “more loosely defined in practice: whatever somebody says they ought to be given to punish that defendant.” Patrick E. Higginbotham, Address at the ALI Luncheon Honoring New Life Members, at 27 (May 15, 2001). Former Chief Justice of the United States Warren Burger once said, “Our litigation system is too costly, too painful, too destructive, too inefficient for a civilized people.” Quoted in Rob Hoffman, “Reduce Legal Costs by 40 Percent: A Cure for Every Company’s “Common Cold,”” 65 Tex. B.J. 216 (Mar. 2002). Whether or not these complaints are accurate, the belief that they are legitimate often spooks clients into either accepting early settlements or opting out of the court system altogether and embracing alternative dispute resolution. In the last decade, for example, the American Arbitration Association has seen the number of arbitrations it handles more than triple, from 60,808 in 1990 to 218,032 in 2001.

American Arbitration Association, Total Case Filings 1990-2001, e-mail from Kersten Norlin, vice president of corporate communications (Apr. 1, 2002) (on file with author). The number of mediators and cases mediated has experienced similarly explosive growth during that same period.

The result of these and other factors is predictable. Small cases that a client years ago would have readily delegated to a young lawyer charging \$50 per hour are now handled by the client's in-house staff, sent directly to mediation or binding arbitration, or assigned to a firm that bills at a fixed rate or a below-market hourly rate. Many mediated cases settle not because a defendant believes its conduct is blameworthy or even questionable but because the cost of settling is often less than the cost of litigating through pretrial, trial, and appeals. Businesses are inserting arbitration clauses in their agreements with increasing frequency, so business disputes that regularly appeared on court dockets just a few years ago now just as commonly proceed directly to arbitration.

These increased costs have another impact that is detrimental to young litigators. The greater emphasis on the billable hour in law firms, combined with cost controls imposed by clients, makes it more difficult for a young lawyer to second chair a trial with a more senior litigator or for a more experienced lawyer to observe and critique a young litigator trying a small case. This deprives the young lawyer of the mentoring and advice that is invaluable to the learning process. As a result, litigators not only participate in fewer trials, both as first-chair and second-chair lawyers, in their early years of practice, but they also receive less feedback and thus find the experience less valuable.

Clients can suffer as well. They may have to pay much more in legal fees today to receive the same quality of service that they received just a decade ago. Additionally, they may pay more in settlement negotiations when they are represented by litigators who feel an inordinate need to settle because they dread going to trial.

The system of justice is also affected by a reduction in the number of experienced trial lawyers. Legal rights of all types are only as valuable as the quality of the advocates who defend those rights in court. As trial opportunities dwindle, the overall quality of advocacy inevitably suffers. This, in turn, detrimentally affects the ability of lawyers to try cases that involve protecting those rights.

Can this trend toward fewer trials be reversed? Unfortunately, some are asking a different question: Should it? Some people argue that the jury is an imperfect tool for defining appropriate conduct. A college acquaintance, Phil Howard, recently published a book entitled *The Collapse of the Common Good: How America's Lawsuit Culture Undermines Our Freedom* (2002). In it he argues that the last several decades have seen a fundamental shift in legal philosophy from traditional notions of common law, under which courts typically set standards of care and often took cases away from juries, to a view of "individual rights" that seems to recognize the right to be protected from all risk and compensated for any injury. As a result, he claims, a single individual can bring a lawsuit that sets standards for everyone, and even the threat of a legal claim can "bully the rest of society." As examples of the impact of this "legal fear," he cites doctors who prescribe expensive but unnecessary medical procedures to avoid being second-guessed, principals and teachers who feel constrained from disciplining unruly students, and

employers reluctant to give accurate evaluations of former employees. *Compare* Michael Barone, “The Common Good,” at

<http://www.usnews.com/usnews/issue/020325/opinion/25pol.htm>, *with* Stuart Taylor, Jr.,

“How More Rights Have Made Us Less Free,” at

<http://www.theatlantic.com/politics/nj/taylor2002-02-12.htm>. While it is not my purpose to

address the competing arguments on this issue, suffice it to say that it seems unlikely we will see a dramatic increase in the number of jury trials anytime in the foreseeable future.

So what is a young litigator to do? Many lawyers who choose litigation do so in large part because they are eager to try cases. As Chicago trial lawyer (and former Section leader) Manny Sanchez was quoted saying in a recent issue of the *ABA Journal*, explaining why he loves the law: “The practice of law [litigation] is not about depositions or summary judgment motions, it’s about putting yourself in front of 12 people.... It starts as soon as the venire comes in the courtroom, and it doesn’t end until the last word in closing.” William C. Smith, “Challenges of Jury Selection,” *A.B.A.J.*, Apr. 2002, at 35, 39. Think about lawyers just starting practice who aspire to be trial lawyers and want to learn Manny’s love of getting in front of those 12 people. How can they learn to try cases if the number of cases likely to be tried is small and still shrinking? And how can we continue to attract the best and the brightest lawyers to the practice of litigation if the prospect of trying cases is becoming increasingly dim?

Firms have developed many approaches to providing trial experience. First, some actively solicit certain kinds of pro bono cases that seem likely to go to trial. For example, administrative proceedings involving political asylum seekers and those denied

social security benefits offer the equivalent of a nonjury trial after little discovery. Representing someone in a family law dispute and accepting a criminal appointment in felony or misdemeanor court can lead to a jury trial. Second, others offer to discount heavily for a docket of collection, construction, or personal injury cases. Third, many firms send lawyers to courses offered by the National Institute of Trial Advocacy (“NITA”) or similar organizations. Fourth, a few firms even conduct mock trial training in-house. No doubt there are countless other approaches to this problem.

Recognizing the widespread concern in the profession about the increasing difficulty of providing trial experience for the young litigator, the Section called on some of its most accomplished and renowned litigators to examine this issue. Steve Susman and former Section Chair Greg Joseph agreed to co-chair a Section task force that has examined how young lawyers receive trial training. They assembled a group of some of the most experienced and talented trial lawyers in the United States. This group examined how litigators are being trained now, which programs work, what new programs are needed, and whether we are using the best approaches to train new advocates. This Task Force has produced a report that is a must-read for anyone who cares about the best ways of preparing young litigators to become first-rate trial lawyers and effective courtroom advocates for their clients.

REPORT OF THE TASK FORCE ON TRAINING THE TRIAL LAWYER

I. DESCRIPTION OF THE TASK FORCE'S METHODOLOGY

The Task Force canvassed scores of firms differing in size, region and practice area. Members of the Task Force solicited survey responses from law firms in thirty cities spanning twenty-one states. In addition, the National Institute of Trial Advocacy solicited input from hundreds of recent NITA enrollees, generating numerous responses. The Task Force was also the subject of an article in the January 2003 issue of the Section's bimonthly periodical, *LITIGATION NEWS*, through which readers were invited to — and many did — submit their firm experience and ideas to the Task Force.

Firms were asked to describe the methods on which they rely to train junior trial lawyers. The Task Force received responses from more than seventy-five firms and feedback from dozens of individual practitioners. The responding firms varied in size, from fewer than ten lawyers to more than one thousand. The responses reflected several common approaches to training as well as many unique ideas.

The firms' responses were compiled into a chart showing their size and geographic location and which of eleven shared approaches firms reported that they utilize, including: professional trial advocacy programs; professional deposition workshop programs; in-house trial advocacy programs; in-house deposition or other workshops; local continuing legal education courses; outside internships; pro bono work; appointing mentors for training purposes; formal trial skills development benchmarks; and the creation of an in-house position to supervise training of junior lawyers. That chart is

included as Exhibit A to this Report.² In addition, a brief summary of each firm's response was prepared, providing additional details regarding the training approaches used. Those summaries are included as Exhibit B to this Report.

II. THE SURVEY RESULTS

The responses the Task Force received reflect several common approaches to training new trial lawyers, and many original ideas. Highlighted below are the approaches that stand out as innovative, followed by a description of some of the more universally popular methods.

A. Uncommon Training Approaches

1. Internships with Local Prosecutors' Offices

Sending junior lawyers to intern on a part or full time basis in local district attorneys offices provides opportunities to try actual cases before juries. In addition, local district attorneys' offices can often benefit from pro bono assistance.

In Dallas, several firms participate in the "Lawyers on Loan" program whereby associates spend a period of weeks or months part or full time in the local district attorneys' office, trying bench and jury trials in misdemeanor cases. Among the Dallas firms that participate are Fulbright & Jaworski, Haynes & Boone, Locke Liddell & Sapp and Thompson & Knight.

² Because the firms were not informed that their responses would be made public and because survey responses were not intended to be exhaustive, the responding firms' names have been omitted from the attached exhibits, with only their size and location provided.

Other cities have similar programs. For example, Shook Hardy & Bacon in Kansas City offers a program whereby incoming associates can work for Legal Aid during the summer that they are studying for the bar exam. In Boston, Hale & Dorr works with the Middlesex County District Attorney's Office, where four associates or junior partners spend six months full time in the office as a special Assistant District Attorney, conducting bench and jury trials. Through a program that has been in place for 25 twenty-five years, Dorsey & Whitney in Minneapolis stations associates in the City Attorney's Office to prosecute misdemeanors for three-month terms. In Los Angeles, Kirkland & Ellis and O'Melveny & Myers, in conjunction with district attorneys' offices in Redondo Beach and Torrance, co-founded the Trial Advocacy Prosecutor's Program, through which associates volunteer to prosecute misdemeanor jury or bench trials. Quinn Emanuel of Los Angeles participates in a similar program through the district attorney's office in Pasadena.

2. Accepting Engagements for Training Purposes

Understanding that there is no substitute for actual trial experience, several firms accept engagements of either a smaller size and/or a less complex nature for the express purpose of providing training to newer lawyers. The particular type of trial is less important than the experience itself: the skills translate, even if the subject matter varies. This often entails a special fee arrangement with one or more clients, to allow matters to be handled by associates on a reduced rate basis. Examples of firms that follow this approach:

- Berskowitz, Stanton, Brandt, Williams & Shaw, a thirty-one lawyer trial firm in Kansas City, handles smaller employment and consumer complaint matters that afford their junior lawyers with trial opportunities.
- Drinker, Biddle & Reath in Philadelphia accepts certain smaller cases, expressly to afford training opportunities.
- The Solomon Tropp Law Group of Tampa relies on a stream of minor collections cases in county court, handled on a contingency fee basis, that can be tried to a great extent by junior lawyers.
- Wildman, Harrold, Allen & Dixon in Chicago has a small case training program whereby the firm takes on a set amount of smaller matters to be handled exclusively by associates on a reduced fee basis.

3. Alternative Dispute Resolution

Advocate. Forms of alternative dispute resolution, including mediation or arbitration, can provide excellent training opportunities. Mediation sessions typically require the presentation of argument or portions of the evidence, while arbitrations share many of the features of actual trials. Particularly in mediation, where the alternative dispute resolution is non-binding, clients are often willing to permit newer lawyers to make some or all of the presentations.

Arbitrator/Mediator. Junior lawyers can also gain experience by serving as arbitrators or mediators. Many courts have programs where pro bono lawyers are appointed to serve as mediators for mandatory settlement procedures. In addition, associates can complete training to become private or volunteer arbitrators. In these

roles, newer lawyers are exposed to presentations by more seasoned lawyers, and gain experience with factfinding and advocacy from a decision-maker's perspective.

4. Mock Juries

When preparing large cases for trial, clients often retain jury consultants to assemble mock juries before whom the case, or some variation on it, can be tried. Frequently, it is important to separate the themes that the jury is to focus on from the advocate who will make the presentation at trial. Allowing junior lawyers to present some or all of the mock case offers a source of training that entails no risk and real benefit. This can be a very effective way to observe the mock jury's reaction to the case's themes.

5. Pro Bono Representations

Pro bono matters provide a good opportunity for junior lawyers to obtain advocacy experience while performing community service and gaining mentoring from the senior colleague who supervises the representation. Among the many types of pro bono matters that firms handle, some stand out as affording particularly valuable trial experience.

Asylum Hearings. Matters before the Bureau of Citizenship and Immigration Services ("BCIS") involve proceedings that are similar to trials in many respects. Heard by administrative law judges, asylum hearings include trial-like features such as opening and closing statements and direct and cross-examination of witnesses.

There is a pressing need for pro bono assistance in this field, particularly in the area of representing unaccompanied minors. Each year, approximately 5,000 unaccompanied children enter the custody of the BCIS. The ABA Section of Litigation's

Children's Rights Litigation Committee has developed a set of written and videotaped materials to efficiently train volunteer lawyers to handle these cases.

Abuse/Neglect and Delinquency Proceedings. Volunteer lawyers are needed to represent children in abuse and neglect, delinquency and adoption proceedings, all of which can also provide valuable training. These proceedings share several features that make them particularly well-suited to training junior lawyers: they are short-lived, and they typically involve contested hearings, including lay and expert witness examinations and the presentation of evidence.

There are pro bono projects that focus on abuse/neglect proceedings, which are cases where the state is attempting to remove children from their parents' custody based upon allegations of abuse or neglect. The cases involve federal constitutional law issues, state law and factual disputes, and are decided by a judge, or in some states, by a jury. The Rocky Mountain Children's Law Center in Denver, Colorado is one example of such a program, and it has enlisted more than 500 pro bono attorneys since 1994.

Delinquency proceedings, which involve the representation of children charged with crimes, are civil cases that resemble criminal trials. In Chicago, associates from Piper Rudnick and Baker & McKenzie participate in a juvenile justice clinic run by Northwestern University School of Law, representing children in delinquency proceedings. Junior lawyers interview clients, prepare witnesses, negotiate with prosecutors, and make decisions in the context of litigation. These cases each involve a hearing, and many go to trial before a judge or jury.

Adoptions. Adoption proceedings can similarly provide valuable training opportunities. At Piper Rudnick in Washington D.C., for example, every first-year associate handles at least one adoption matter, which typically involves an evidentiary hearing and/or an oral argument.

6. Pro Se Panels

Federal district courts around the country appoint volunteer attorneys to both civil and criminal *pro se* matters, often through a *pro se* panel. The civil cases tend to be civil rights actions on behalf of prisoners or on behalf of plaintiffs in employment discrimination cases, while the criminal cases involve representing indigent defendants. Similar programs exist in many state trial courts.

In the Central District of California, for example, lawyers are appointed through the Federal Indigent Defense Panel to represent defendants in criminal cases where the public defender is not available. In some cases, junior lawyers can volunteer on an ad hoc basis to take on such *pro se* matters themselves; in other instances, experienced lawyers are appointed to the panel on an ongoing basis, where they can try cases with assistance from junior lawyers from their firms.

Newer lawyers can also gain experience through similar panels at the circuit court level. For example, in the Ninth Circuit, O'Melveny & Myers participates in a program in which associates handle *pro se* appeals that are pre-selected to be appointed pro bono counsel. Associates draft supplemental briefs and conduct oral argument in each case.

7. Learning by Observing

Observing trials conducted by more experienced lawyers can be an invaluable source of training for junior lawyers. This can include not only cases on which associates have worked, but also cases of particular interest for training purposes. Often firms will target particularly key aspects of trial, such as cross-examination and closing argument, or particular issues in the trial on which an associate has worked.

In a variation on this approach, some firms send newer trial lawyers to observe when a particularly skilled advocate – from any firm – is trying a case in the local courthouse. Local judges can often provide an informal resource to find out when particularly noteworthy trials are set to go forward. Observing and critiquing a multiplicity of approaches to the key stages of trial allows junior lawyers to develop styles of their own on an informal basis.

Part of firms' success in using these methods depends on the ability to allow associates to attend trials when their time is not billable to any client. Quarles & Brady Streich Lang in Phoenix, for example, explicitly allots each associate fifty hours per year to accompany experienced attorneys to trials and hearings. Associates are permitted to treat the hours as billable, even though they are not billable to a client. Other firms have similar policies that operate informally.

8. Public Speaking

Though not direct trial experience, public speaking opportunities – such as appearing on panels and giving presentations – can provide training that translates before judges and juries. These exercises not only build junior lawyers' confidence in speaking

before an audience, but have collateral benefits in terms of both client relations and business development.

In recognition of the importance of public speaking to the development of trial skills, the University of Tulsa College of Law offers a course on Oral Communication and Persuasion.

9. Judicial Outreach Programs

Many courts sponsor mock trial programs for students in their communities, often in conjunction with local bar associations, to educate students about the judicial system and to stimulate interest in the law as a potential career. These programs can allow associates to perform valuable community service with the local bar and bench, while gaining experience appearing in front of an audience.

10. Acting Techniques

On the theory that every trial is a story, and stories are best told in the theater, several firms hire trained professionals to provide acting lessons as a means of training junior lawyers. Videotaping participants' performances for critique is a useful part of this exercise. For example, Jenkens & Gilchrist in Dallas offers a one-day course, taught by actors, that focuses on posture, breathing, voice exercises, voice projection, stage presence, stage movement and storytelling.

11. Training to Train Others

Encouraging associates to volunteer as faculty members of professional training programs can also provide valuable training. Through teaching others, associates gain insight to the advocacy process and practice speaking before an audience. Jackson &

Campbell of Washington D.C. reports that most of its associates who have participated in the NITA national trial skills program have gone on to become faculty.

B. Common Training Approaches

1. Professional Trial Advocacy Programs

Firms overwhelmingly reported that they send young lawyers to trial advocacy programs such as those sponsored by NITA. Many firms offer all lawyers the opportunity to attend, while others select associates based on either their level of experience or merit. Some firms find such programs to have the greatest value for associates with five to six years of litigation experience and/or with some previous trial experience, while others send associates as early as in their first year of practice.

Other trial advocacy programs mentioned include those offered by the International Academy of Defense Counsel, the Litvin-Haines Academy of Advocacy in Philadelphia, and the National Criminal Defense College.

Some universities also run trial institutes. For example, the University of Virginia, George Washington University, and Tulane sponsor trial advocacy training programs. Many firms invite faculty from either professional trial advocacy programs or local law schools to teach at in-house continuing legal education programs.

2. In-House Trial Advocacy Programs

Many firms run in-house advocacy programs, ranging from one- or two-day deposition workshops to week-long mock trials. Some creative suggestions here include the use of actual court reporters; the use of professional actors to play the parts of witnesses; videotaping; conducting parts of the programs in courthouses; and asking local

judiciary to participate as judges. In addition to trial and deposition workshops, firms conduct workshops on motion practice, evidence, the use of experts and negotiation.

Highlights of some of the programs include:

- Bingham McCutcheon in Boston runs an in-house program for first and second year associates where each associate argues a mock motion and conducts a mock bench trial before a member of the local bench, in an actual courtroom.
- Fulbright & Jaworski in Dallas conducts a one-week trial advocacy program for new litigators, culminating in a mock trial before a retired judge and senior partner, with local high school students serving as the jury.
- Hale & Dorr in Boston conducts an in-house mock trial program where personnel from accounting firms serve as expert witnesses, paralegals or assistants as lay witnesses, and summer associates as jurors.
- Jenner & Block in Chicago has a three-day “academy” for new associates in each office, that follows a uniform national curriculum. The firm also conducts a four-day national academy for more experienced litigation associates, co-taught by firm partners and NITA faculty.
- Jenkins & Gilchrist in Dallas conducts an in-house mock trial program which culminates in a trial at the Dallas County courthouse, using secretaries and paralegals as jurors and partners as judges.

- Kirkland & Ellis of Chicago sponsors the Kirkland Institute for Trial Advocacy, once for associates and once for summer associates each year.
- Latham & Watkins of Los Angeles conducts an annual mock trial competition for junior litigators from across the firm.
- Piper Rudnick in Washington D.C. runs an annual in-house mock trial program, where sitting and retired state and federal judges preside over the trials, and four to six partners provide immediate feedback on associates' performance.

3. Bar Association Seminars

Many firms send associates to continuing legal education seminars sponsored by local, state and national bar associations, as well as by private providers such as the Practicing Law Institute.

Local bar associations often sponsor excellent programs that include members of the local judiciary. For example, many local bar associations sponsor advocacy sessions where members of the state and federal judiciary lecture on trial and appellate procedure.

4. Mentoring

Mentoring is key to training junior trial lawyers. Part of mentoring is ensuring that advocacy opportunities are being distributed equally among associates through the work assignment process. Many larger firms, for example Dorsey & Whitney in Minneapolis, Foley & Lardner in Milwaukee, Hale & Dorr in Boston, Hughes Luce in Dallas, Lane Powell Spears & Lubersky in Seattle, Shearman & Sterling in New York, Shook, Hardy & Bacon in Kansas City, and Vedder, Price, Kaufman & Kammholz in

Chicago, have appointed directors of professional development to supervise – in some cases full-time – the training of newer attorneys.

Jones Day in Chicago has appointed a partner to be in charge of training firmwide and a partner in charge of litigation training in each office. Similarly, Gibson Dunn & Crutcher has appointed a training partner in each office to administer a firmwide training curriculum.

Stoel Rives in Portland has appointed one of its experienced partners to be an “Associate Coach,” who will work one-on-one with associates, attending depositions and hearings that they conduct and providing feedback and mentoring.

As another example of targeted mentoring, O’Melveny & Myers’ New York office has instituted a series of training sessions specifically addressed towards developing women’s trial skills. As part of this program, women attorneys view and discuss the ABA Section of Litigation Woman Advocate Committee video entitled, “The Best of Both Worlds: Strategies for Balancing the Home Court and the Trial Court,” in which judges and practitioners share the strategies that have helped them balance work and parenting.

To improve partners’ mentoring skills, Thompson & Knight in Dallas requires partner mentors to attend a training program on how to be a better mentor. Banner & Witcoff of Chicago established an Education Committee within firm management to review annually the success of its in-house training and mentoring programs. To encourage partners to excel at mentoring, Dorsey & Whitney of Minneapolis bestows annual “Partner-of-the-Year” awards to commend leadership in training and mentoring.

Another mechanism is the creation of formalized benchmarks for advocacy experiences that junior lawyers should attain by different stages in their careers. For example, Foley & Lardner in Milwaukee publishes a Professional Development Manual that sets forth a checklist of progressively more complex litigation skills associates should acquire.

III. CONCLUSION

The best trial training is trying cases. Failing that, the best trial-training program for a particular law firm is a function of many factors. This Report is intended to supply firms with alternative approaches in use around the country, to make an informed selection possible.

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JoAnne A. Epps
William T. Hangle
William F. Lee
Linda L. Listrom
Martin R. Lueck
Hon. Barbara M.G. Lynn
Barry F. McNeil
Barry R. Ostrager
Jerold S. Solovy
Dan K. Webb
Theodore V. Wells, Jr.
Phillip A. Wittmann

Amy J. Longo, Reporter

EXHIBIT A

**ABA TASK FORCE ON TRAINING THE TRIAL LAWYER:
SURVEY RESPONSES**

No.	DESCRIPTION OF FIRM BY SIZE OF FIRM AND LOCATION OF RESPONDING OFFICE	NITA TRIAL COURSE	NITA DEPOSITION COURSE	IN-HOUSE TRIAL COURSE	IN-HOUSE DEPOSITION OR OTHER WORKSHOPS	LOCAL CLE COURSES	OUTSIDE INTERNSHIPS	PRO BONO	OUTSIDE FACULTY	TRAINING MENTORS	FORMAL BENCH-MARKS	IN-HOUSE TRAINING POSITION
1.	1,800-lawyer firm in Chicago, Illinois	✓		✓	✓	✓		✓	✓			✓
2.	1,704-lawyer firm in Chicago, Illinois	✓	✓		✓	✓						
3.	1,125-lawyer firm in New York, New York	✓	✓		✓	✓			✓			
4.	1,000-lawyer firm in Milwaukee, Wisconsin	✓	✓	✓	✓	✓		✓	✓		✓	✓
5.	950-lawyer firm in Washington, D.C.	✓	✓						✓			✓
6.	942-lawyer firm in San Francisco, California	✓	✓							✓		

No.	DESCRIPTION OF FIRM BY SIZE OF FIRM AND LOCATION OF RESPONDING OFFICE	NITA TRIAL COURSE	NITA DEPOSITION COURSE	IN-HOUSE TRIAL COURSE	IN-HOUSE DEPOSITION OR OTHER WORKSHOPS	LOCAL CLE COURSES	OUTSIDE INTERNSHIPS	PRO BONO	OUTSIDE FACULTY	TRAINING MENTORS	FORMAL BENCH-MARKS	IN-HOUSE TRAINING POSITION
7.	900-lawyer firm in Chicago, Illinois	✓	✓	✓	✓			✓				
8.	900-lawyer firm in Chicago, Illinois	✓	✓	✓	✓	✓		✓	✓			✓
9.	900-lawyer firm in Los Angeles, California	✓	✓		✓			✓				
10.	816-lawyer firm in Washington, D.C.	✓	✓		✓			✓				
11.	800-lawyer firm in San Francisco, California			✓	✓				✓			
12.	800-lawyer firm in Dallas, Texas			✓			✓		✓	✓	✓	
13.	800-lawyer firm in Dallas, Texas	✓	✓		✓	✓					✓	
14.	719-lawyer firm in New York, New York				✓				✓			
15.	700-lawyer firm in Richmond, Virginia			✓	✓							

No.	DESCRIPTION OF FIRM BY SIZE OF FIRM AND LOCATION OF RESPONDING OFFICE	NITA TRIAL COURSE	NITA DEPOSITION COURSE	IN-HOUSE TRIAL COURSE	IN-HOUSE DEPOSITION OR OTHER WORKSHOPS	LOCAL CLE COURSES	OUTSIDE INTERNSHIPS	PRO BONO	OUTSIDE FACULTY	TRAINING MENTORS	FORMAL BENCH-MARKS	IN-HOUSE TRAINING POSITION
16.	700-lawyer firm in Minneapolis, Minnesota			✓	✓	✓	✓	✓	✓	✓		
17.	687-lawyer firm in Pittsburgh, Pennsylvania and Oakland, California			✓	✓				✓			
18.	666-lawyer firm in New York, New York	✓			✓	✓			✓			
19.	592-lawyer firm in New York, New York	✓	✓	✓					✓			
20.	568-lawyer firm in Kansas City, Missouri				✓		✓	✓				
21.	501-lawyer firm in New York, New York				✓	✓		✓				
22.	490-lawyer firm in Boston, Massachusetts			✓	✓				✓		✓	✓

No.	DESCRIPTION OF FIRM BY SIZE OF FIRM AND LOCATION OF RESPONDING OFFICE	NITA TRIAL COURSE	NITA DEPOSITION COURSE	IN-HOUSE TRIAL COURSE	IN-HOUSE DEPOSITION OR OTHER WORKSHOPS	LOCAL CLE COURSES	OUTSIDE INTERNSHIPS	PRO BONO	OUTSIDE FACULTY	TRAINING MENTORS	FORMAL BENCH-MARKS	IN-HOUSE TRAINING POSITION
23.	487-lawyer firm in New York, New York			✓				✓				
24.	457-lawyer firm in Philadelphia, Pennsylvania			✓	✓			✓	✓			
25.	450-lawyer firm in Philadelphia, Pennsylvania			✓	✓			✓	✓			
26.	450-lawyer firm in Dallas, Texas	✓	✓				✓					
27.	447-lawyer firm in Phoenix, Arizona			✓	✓			✓		✓		
28.	425-lawyer firm in Dallas, Texas			✓	✓				✓			
29.	400-lawyer firm in Chicago, Illinois	✓	✓		✓			✓				
30.	400-lawyer firm in Atlanta, Georgia	✓	✓	✓	✓							
31.	400-lawyer firm in Dallas, Texas	✓	✓		✓		✓					

No.	DESCRIPTION OF FIRM BY SIZE OF FIRM AND LOCATION OF RESPONDING OFFICE	NITA TRIAL COURSE	NITA DEPOSITION COURSE	IN-HOUSE TRIAL COURSE	IN-HOUSE DEPOSITION OR OTHER WORKSHOPS	LOCAL CLE COURSES	OUTSIDE INTERNSHIPS	PRO BONO	OUTSIDE FACULTY	TRAINING MENTORS	FORMAL BENCH-MARKS	IN-HOUSE TRAINING POSITION
32.	350-lawyer firm in New York, New York				✓							
33.	350-lawyer firm in Detroit, Michigan	✓	✓				✓	✓				
34.	345-lawyer firm in Portland, Oregon	✓		✓	✓	✓				✓		✓
35.	341-lawyer firm in Atlanta, Georgia	✓	✓	✓	✓							
36.	324-lawyer firm in Dallas, Texas	✓			✓		✓					
37.	320-lawyer firm in Chicago, Illinois	✓	✓		✓	✓			✓			
38.	307-lawyer firm in Washington D.C.	✓	✓	✓	✓			✓				
39.	300-lawyer firm in Reston, Virginia	✓						✓				✓
40.	300-lawyer firm in Los Angeles, California	✓	✓	✓				✓				

No.	DESCRIPTION OF FIRM BY SIZE OF FIRM AND LOCATION OF RESPONDING OFFICE	NITA TRIAL COURSE	NITA DEPOSITION COURSE	IN-HOUSE TRIAL COURSE	IN-HOUSE DEPOSITION OR OTHER WORKSHOPS	LOCAL CLE COURSES	OUTSIDE INTERNSHIPS	PRO BONO	OUTSIDE FACULTY	TRAINING MENTORS	FORMAL BENCH-MARKS	IN-HOUSE TRAINING POSITION
41.	281-lawyer firm in Chicago, Illinois	✓	✓	✓	✓							
42.	271-lawyer firm in Philadelphia, Pennsylvania			✓	✓			✓	✓			✓
43.	250-lawyer firm in Dallas, Texas			✓	✓							
44.	223-lawyer firm in Minneapolis, Minnesota	✓	✓	✓	✓				✓	✓		
45.	221-lawyer firm in Baton Rouge, Louisiana	✓	✓									
46.	217-lawyer firm in Chicago, Illinois			✓				✓				
47.	204-lawyer firm in Chicago, Illinois	✓	✓	✓	✓					✓		✓
48.	200-lawyer firm in Chicago, Illinois									✓	✓	

No.	DESCRIPTION OF FIRM BY SIZE OF FIRM AND LOCATION OF RESPONDING OFFICE	NITA TRIAL COURSE	NITA DEPOSITION COURSE	IN-HOUSE TRIAL COURSE	IN-HOUSE DEPOSITION OR OTHER WORKSHOPS	LOCAL CLE COURSES	OUTSIDE INTERNSHIPS	PRO BONO	OUTSIDE FACULTY	TRAINING MENTORS	FORMAL BENCH-MARKS	IN-HOUSE TRAINING POSITION
49.	200-lawyer firm in Los Angeles, California				✓							
50.	200-lawyer firm in Seattle, Washington	✓	✓		✓	✓		✓		✓		✓
51.	161-lawyer firm in Boston, Massachusetts			✓		✓		✓	✓			
52.	150-lawyer firm in Dallas, Texas	✓	✓	✓	✓	✓		✓		✓	✓	✓
53.	150-lawyer firm in New York, New York			✓					✓			
54.	150-lawyer firm in San Francisco, California			✓			✓					
55.	150-lawyer firm in Stamford, Connecticut			✓	✓							
56.	125-lawyer firm in Chicago, Illinois	✓			✓				✓			

No.	DESCRIPTION OF FIRM BY SIZE OF FIRM AND LOCATION OF RESPONDING OFFICE	NITA TRIAL COURSE	NITA DEPOSITION COURSE	IN-HOUSE TRIAL COURSE	IN-HOUSE DEPOSITION OR OTHER WORKSHOPS	LOCAL CLE COURSES	OUTSIDE INTERNSHIPS	PRO BONO	OUTSIDE FACULTY	TRAINING MENTORS	FORMAL BENCH-MARKS	IN-HOUSE TRAINING POSITION
57.	90-lawyer firm in Dallas, Texas	✓	✓		✓				✓			
58.	85-lawyer firm in Houston, Texas	✓			✓	✓			✓	✓	✓	
59.	84-lawyer firm in Chicago, Illinois			✓	✓					✓		
60.	60-lawyer firm in Atlantic City, New Jersey				✓							
61.	55-lawyer firm in New Orleans, Louisiana	✓	✓					✓	✓			
62.	50-lawyer firm in Minneapolis, Minnesota	✓	✓		✓				✓			
63.	45-lawyer firm in New York, New York			✓	✓							
64.	43-lawyer firm in Orlando, Florida	✓	✓						✓			

No.	DESCRIPTION OF FIRM BY SIZE OF FIRM AND LOCATION OF RESPONDING OFFICE	NITA TRIAL COURSE	NITA DEPOSITION COURSE	IN-HOUSE TRIAL COURSE	IN-HOUSE DEPOSITION OR OTHER WORKSHOPS	LOCAL CLE COURSES	OUTSIDE INTERNSHIPS	PRO BONO	OUTSIDE FACULTY	TRAINING MENTORS	FORMAL BENCH-MARKS	IN-HOUSE TRAINING POSITION
65.	43-lawyer firm in Washington D.C.	✓		✓	✓							
66.	39-lawyer firm in Philadelphia, Pennsylvania	✓								✓		
67.	33-lawyer firm in Newark, New Jersey									✓		
68.	30-lawyer firm in Kansas City, Kansas									✓		
69.	29-lawyer firm in Houston, Texas	✓		✓	✓		✓			✓		
70.	27-lawyer firm in Alexandria, Louisiana									✓		
71.	20-lawyer firm in Lafayette, Louisiana	✓		✓	✓	✓				✓		
72.	19-lawyer firm in Chicago, Illinois			✓	✓	✓				✓	✓	
73.	18-lawyer firm in Jacksonville, Florida	✓				✓				✓		

No.	DESCRIPTION OF FIRM BY SIZE OF FIRM AND LOCATION OF RESPONDING OFFICE	NITA TRIAL COURSE	NITA DEPOSITION COURSE	IN-HOUSE TRIAL COURSE	IN-HOUSE DEPOSITION OR OTHER WORKSHOPS	LOCAL CLE COURSES	OUTSIDE INTERNSHIPS	PRO BONO	OUTSIDE FACULTY	TRAINING MENTORS	FORMAL BENCH-MARKS	IN-HOUSE TRAINING POSITION
74.	16-lawyer firm in Dallas, Texas	✓	✓							✓		
75.	12-lawyer firm in Tampa, Florida	✓	✓									
76.	9-lawyer firm in Richmond, Virginia					✓				✓		
77.	8-lawyer firm in Indianapolis, Indiana	✓			✓	✓				✓		

EXHIBIT B
ABA TASK FORCE ON TRAINING THE TRIAL LAWYER:
SUMMARIES OF SURVEY RESPONSES

1,800-lawyer firm in Chicago, Illinois

Partner assigned to be responsible for training firmwide, and one partner per office responsible for training.

Series of mandatory in-house skills-building workshops for new associates covering litigation basics.

Three-day Academy for new associates covering litigation and other topics, taught by firm attorneys, based on a firmwide curriculum.

Associates encouraged to attend local CLE programs.

Four-day Litigation Academy trial advocacy program, taught by NITA faculty and firm attorneys, includes advanced training for more senior associates.

National firmwide training curriculum includes two- to three-day NITA style workshops taught by firm attorneys and NITA faculty on selected topics such as depositions and evidence.

Selected fifth and sixth year associates attend NITA trial course.

Pro bono matters encouraged, including INS asylum hearings.

Special fee arrangement with one client allows junior lawyers to try small, non-complex matters.

1,704-lawyer firm in Chicago, Illinois

Junior litigators attend NITA deposition workshop; mid-level and senior litigators attend NITA trial workshop.

Outside CLE programs on litigation-related topics.

Several-day in-house training course for new associates.

Regular lunch presentations on CLE topics.

1,125-lawyer firm in New York, New York

Yearlong in-house litigation training curriculum taught by firm attorneys and outside faculty covering litigation basics such as legal writing, document production, depositions, motion practice, trial preparation and negotiations, as well as substantive topics including bankruptcy, antitrust, securities and white collar criminal defense.

Associates encouraged to attend NITA and other outside CLE programs.

1,000-lawyer firm in Milwaukee, Wisconsin

Annual in-house national and regional fundamental trial skills programs taught by firm attorneys, NITA, and other visiting faculty, including programs on motion practice, fact investigation, depositions and experts, as well as a four-day trial advocacy workshop culminating in a mock jury trial.

Associates encouraged to attend NITA or equivalent and other CLE programs.

Firm employs director of professional development.

New associates' orientation weekend includes substantive litigation topics.

Associates encouraged to take pro bono matters.

Benchmarks for associates' skills development.

950-lawyer firm in Washington, D.C.

Firm recently hired a Professional Development Manager to formalize and coordinate a comprehensive firmwide professional development program.

Associates attend NITA programs and firm brings in outside consultants to lecture on trial-related topics.

942-lawyer firm in San Francisco, California

Lets associates choose whether to come to training so there is a large self-selection present.

NITA deposition and trial training.

Individual mentoring sessions.

900-lawyer firm in Chicago, Illinois

Pro bono and small matters staffed with junior associates.

In-house NITA-style trial training program offered twice each year. Training sessions leading up to videotaped mock trials, taught by firm attorneys. Offered to associates and summer associates.

Associates encouraged to attend NITA.

900-lawyer firm in Chicago, Illinois

Yearly training program for new associates covering litigation basics.

In-house deposition and trial workshops taught by NITA and firm faculty.

Firm purchases tickets for CLE programs at a volume discount from the local bar association.

Encourage associates to work on pro bono matters.

Firm has a national director of professional development and a professional development intranet listing available in-house and external CLE programs.

900-lawyer firm in Los Angeles, California

Three-day seminar for new associates covering litigation basics.

Weekly training classes for junior litigators on areas including in-house deposition workshop alternating between fact and expert witness depositions and periodic negotiation workshop.

Firm co-founded the Trial Advocacy Prosecutors' Program ("TAPP") whereby associates try misdemeanor cases pro bono with the local district attorney's office (Southern California).

Encourage associates to take on pro bono matters.

Encourage associates to attend NITA trial and deposition workshops.

816-lawyer firm in Washington, D.C.

Three-day workshop session for new litigators on the basics of trial practice taught by firm attorneys.

Annual trial lawyer retreat where associates try one-day mock cases before firm partners and sitting and retired state and federal judges.

Periodic in-house training courses.

Associates encouraged to take on pro bono matters, including adoption hearings with the Children's Law Center (D.C.); a juvenile justice clinic in conjunction with Northwestern University (Chicago); the Federal Indigent Defense Panel (L.A.); and disability and asylum hearings.

Selected associates attend NITA deposition and trial programs.

800-lawyer firm in San Francisco, California

In-house NITA-style training program taught by local law professors covering motion hearings, depositions and trials. Course is videotaped and mock juries deliberate.

Firm also conducts separate in-house one-week trial courses for junior and senior associates.

800-lawyer firm in Dallas, Texas

Pre-trial training class for new litigation associates.

In-house week-long NITA-style workshop taught by firm attorneys and visiting faculty, culminating in a mock trial.

Associates spend six weeks in the local district attorney's office.

Associates are assigned partner-mentors to monitor their achievement of skills-related benchmarks.

800-lawyer firm in Dallas, Texas

Associates encouraged to attend NITA and local CLE programs.

Firmwide litigation training curriculum covering discovery, evidence, depositions, experts, etc.

One partner in each office designated to administer curriculum.

719-lawyer firm in New York, New York

Year-long litigation in-house CLE training curriculum for new associates and midlevel or senior associates, taught by firm attorneys and visiting faculty.

Program addresses discovery, depositions, trial prep, experts and internal investigations, as well as specialized areas including employment, securities, bankruptcy, appellate, and product liability.

700-lawyer firm in Richmond, Virginia

Multi-day "Litigation School" for first- through third-year litigators, including lectures and interactive demonstrations taught by firm faculty. Associates prepare and argue a summary judgment motion and receive individualized feedback.

Multi-day “Trial School” for third- through sixth-year litigators, including lectures and interactive demonstrations by firm faculty, oral argument exercises and a hearing in the local courthouse.

700-lawyer firm in Minneapolis, Minnesota

Five-day training program for new lawyers covering trial and other litigation skills, as well as year-long curriculum of basics and more specialized topics.

Four-day trial skills workshop offered annually in conjunction with state bar, taught by judges and firm faculty.

Firm provides a “Partner of the Year” award to partners who provide leadership and excellence in training.

Formal training mentors monitor trial skills development, including seeking out appropriate work assignments.

Joint program with the city attorney’s office where associates prosecute misdemeanors for a three month stint.

687-lawyer firm in Pittsburgh, Pennsylvania and Oakland, California

In-house trial workshop.

Periodic in-house seminars on trial skills.

Outside faculty brought in for seminars.

666-lawyer firm in New York, New York

Second year litigators attend an in-house two- and one-half day deposition training workshop taught by firm attorneys and visiting NITA faculty.

Fifth year litigators attend NITA’s trial workshop.

Lecture series for incoming associates on litigation basics.

Associates encouraged to attend local CLE programs.

592-lawyer firm in New York, New York

Associates attend a two and one-half day in-house mock trial program taught by firm attorneys and visiting faculty.

Associates are encouraged to attend NITA programs.

568-lawyer firm in Kansas City, Missouri

Yearlong in-house litigation training curriculum spanning all aspects of litigation.

Associates encouraged to take local internships and pro bono cases, including through billable credit for pro bono hours.

501-lawyer firm in New York, New York

Questions whether you can train trial lawyers in a big firm context.

In-house CLE programs and deposition training.

Encourages recruits to do clerkships and to go off and try cases somewhere else, then return to the firm.

Large pro bono department.

490-lawyer firm in Boston, Massachusetts

Firm has a full-time director of professional development.

Four-month in-house training program for new litigators taught by firm attorneys, covering all aspects of a case and including mock depositions and oral argument.

Monthly department educational meetings, occasionally taught by visiting faculty.

In-house annual skills workshop taught by firm attorneys, and periodic mini-deposition workshops.

In-house mock trial program for first and second year associates taught by firm attorneys.

Six-month internships for associates at the local district attorney's office.

Formal benchmarks for associates' trial skills.

487-lawyer firm in New York, New York

In-house NITA-style workshops.

Associates encouraged to take on pro bono trial work.

457-lawyer firm in Philadelphia, Pennsylvania

Annual two-day in-house NITA-style CLE deposition workshop taught by firm attorneys and outside faculty from local law school, geared towards first through third year associates.

Annual one-day in-house evidence workshop taught by outside faculty from local law school, also geared to first through third year associates.

Bi-annual in-house NITA-style motion practice workshop, half-day session.

Bi-annual in-house negotiation workshop taught by outside faculty.

Four-day in-house NITA-style trial advocacy workshop every several years for fourth year associates and up orientation lectures for new associates on practical litigation skills.

Pro bono matters.

450-lawyer firm in Philadelphia, Pennsylvania

Litigation basics monthly lunchtime CLE programs, mandatory for first years.

Topical CLE curriculum for more advanced litigators.

Best and worst videotaped depositions highlights shown in-house.

Send senior associates to Litvin Haines Academy of Advocacy.

450-lawyer firm in Dallas, Texas

Sends two lawyers per year to local district attorney's office.

Encourages associates to give speeches and develop public speaking skills. Firm has considered a public speaking coach.

Sends associates to NITA deposition and trial programs.

447-lawyer firm in Phoenix, Arizona

In-house lecture series for first and second year associates covering litigation basics.

In-house multi-day NITA-style deposition and trial workshops.

Pro bono organized through local bar association.

“Side by side” program affording associates fifty hours per year, counted toward billable hours but not billable to the client, to attend depositions, hearings and trials.

425-lawyer firm in Dallas, Texas

Associates attend an in-house trial training program as well as in-house programs on depositions, ethics, and various substantive areas.

The in-house trial training meets twice a week for eight weeks in an associate's first year at the firm, and covers voir dire, opening, direct, cross, experts, evidence and closing. The program culminates in a mock trial held in a local court.

The firm also provides a one-day course taught by actors on public speaking.

400-lawyer firm in Chicago, Illinois

In-house CLE classes.

NITA deposition and trial programs.

Pro-bono program where associates take on political asylum cases.

400-lawyer firm in Atlanta, Georgia

Eight-hour litigation "boot camp" for first year associates.

Weekly in-house CLE lectures.

NITA programs.

400-lawyer firm in Dallas, Texas

Several month in-house training program culminating in two mock trials per lawyer, taught by firm attorneys. Other topics covered include depositions, voir dire, and evidence.

Associates encouraged to attend NITA deposition and trial workshops.

Six week internships with local district attorney's office.

New associate training program covering research, writing, ethics, client interaction and practical tips.

350-lawyer firm in New York, New York

Yearlong in-house CLE litigation training curriculum spanning topics from drafting pleadings, briefs and discovery to depositions, working with experts, and oral advocacy. Also covers substantive areas of law including ethics, accounting, intellectual property and cybercrime.

350-lawyer firm in Detroit, Michigan

NITA trial and deposition workshops.

Pro bono matters.

Creating program with local district attorney's office where associates will spend several months full-time on staff as prosecutors.

Associates deputized as city attorneys to prosecute traffic and other misdemeanors in local courts.

345-lawyer firm in Portland, Oregon

In-house two-day workshop covering litigation basics, including discovery and motion practice.

All associates attend the NITA trial workshop.

NITA faculty conduct in-house seminar on trial practice.

Each associate assigned a partner "mentor/coach."

Associate coach (a senior trial lawyer) works one-on-one with associates to provide mentoring and feedback.

Associates encouraged to attend local CLE programs.

341-lawyer firm in Atlanta, Georgia

Associates encouraged to attend NITA.

In-house training program consisting of one to two hour sessions covering litigation basics such as privilege, evidence, depositions, negotiation and discovery.

Firmwide CLE seminars on substantive topics.

Planning in-house NITA-style oral advocacy workshop.

324-lawyer firm in Dallas, Texas

In-house associate basic training program regarding litigation basics.

Annual training workshop on particular litigation skills, *e.g.* depositions.

Third, fourth and fifth year associates required to attend NITA trial workshop or an equivalent.

Permit associate attendance at trials or hearings though time is non-billable.

Local district attorney's office internships.

Required mentoring training for partner mentors.

320-lawyer firm in Chicago, Illinois

Second year associates attend NITA deposition training.

Fifth year associates attend NITA trial course.

Associates encouraged to attend local CLE programs.

In-house writing and motion practice workshops taught by outside faculty.

307-lawyer firm in Washington, D.C.

Periodic in-house deposition and trial workshops.

Associates encouraged to attend NITA and undertake pro bono representations.

Able to involve associates in more arbitrations and trials because of firm size.

300-lawyer firm in Reston, Virginia

Sends junior associates to trial advocacy programs by NITA or the University of Virginia.

Pro bono civil and criminal law cases. Pro bono programs run in-house by former legal-aid attorney

Firm has some smaller matters that provide training.

300-lawyer firm in Los Angeles, California

Sends first and second-year lawyers to NITA.

Three day in-house mock trial program taught by firm faculty.

Encourage newer lawyers to watch trials by firm attorneys, though non-billable.

281-lawyer firm in Chicago, Illinois

In-house NITA-style training programs first year devoted to trial preparation and second year to trial skills, culminating in a mock jury trial.

Associates encouraged to attend NITA.

271-lawyer firm in Philadelphia, Pennsylvania

Firm employs a director of litigation training and pro bono.

Monthly or bimonthly in-house seminars and workshops on litigation basics, including privilege, document production, witness preparation and depositions, and evidence.

In-house mock trial workshops before sitting judges.

Annual litigation retreats feature topical programs taught by outside faculty.

Associates encouraged to take on pro bono matters.

250-lawyer firm in Dallas, Texas

Extensive in-house training program modeled on NITA.

Week-long seminar for new litigation associates.

223-lawyer firm in Minneapolis, Minnesota

Bring in NITA professors to meet in small groups or individually with associates to develop as to specific cases: (a) succinct statement of the case, (b) formulating direct and cross, (c) practice cross examination.

Well developed classroom programs on Civil Procedure and Evidence.

Mock cases in front of local judges.

Send associates to NITA programs.

Small cases for trial, with direct mentoring relationships to enhance skills.

221-lawyer firm in Baton Rouge, Louisiana

Associates encouraged to attend NITA or its equivalent.

217-lawyer firm in Chicago, Illinois

Small case training program whereby associates try non-complex matters.

Associates given billable credit for pro bono work.

In-house mock trial workshops taught by firm attorneys.

204-lawyer firm in Chicago, Illinois

Training program for new litigators including motion practice seminar.

In-house monthly training workshop covering initial client contact through trial.

Associates encouraged to attend NITA trial and deposition programs.

Firm employs a full-time director of associate development and assigns senior associates to mentor junior associates.

200-lawyer firm in Chicago, Illinois

Associates attend NITA trial program.

Partners mentor associates and monitor their progress against loose benchmarks.

200-lawyer firm in Los Angeles, California

Finds great deal of self-selection among associates interested in trial work.

Three-day program for new associates, focusing on litigation-orientated educational materials.

Two-day fall program for new litigators and laterals, and two-day spring deposition program that includes one day of lectures and one day of taking and defending mock depositions.

Summer associates participate in a “Trial of Wyatt Earp” mock trial program, which may be extended to first-years. Associates given only three or four days’ advance notice.

200-lawyer firm in Seattle, Washington

NITA deposition program for first and second year associates.

NITA trial program for third and fourth year associates.

161-lawyer firm in Boston, Massachusetts

NITA-style in-house trial practice workshop for fifth through seventh year associates, taught by firm faculty, culminating in mock trial, with staff and junior associates as jurors and a retired jurist as the judge.

Pro bono cases and outside CLE courses encouraged.

150-lawyer firm in Dallas, Texas

Full-time in-house attorney devoted to training.

In-house biannual trial and pretrial advocacy seminars.

Formal benchmarks for associates’ trial skills development.

Mentor partner assigned to each associate.

Associates encouraged to attend local CLE programs, as well as NITA trial and deposition skills workshops.

Ten-week in-house NITA-style basic skills course for new associates.

Associates encouraged to take on pro bono matters.

150-lawyer firm in New York, New York

Third and fourth year associates attend an in-house five day Trial Advocacy Institute taught by firm attorneys and NITA faculty. The program culminates in competitive mock trials.

150-lawyer firm in San Francisco, California

Trial firm, handles only litigation matters.

Selectively hire associates who want to try cases; most have moot court, trial advocacy, clinical or prosecutorial experience.

Give junior lawyers roles in mock jury trials for actual cases.

Participate in volunteer prosecutor program in Pasadena.

In-house trial program conducted in actual courtrooms.

Handle smaller cases at reduced rates for training purposes.

150-lawyer firm in Stamford, Connecticut

Weekly in-house sessions for junior litigators on pre-trial and trial skills.

In-house NITA-style trial training program taught by firm attorneys for mid-level and senior associates.

125-lawyer firm in Chicago, Illinois

Associates required to attend NITA trial workshop.

Periodic in-house programs taught by NITA faculty and firm attorneys.

90-lawyer firm in Dallas, Texas

Six-month in-house litigation training curriculum offered to first and second year litigators (attached). Taught by firm attorneys, and covering such topics as ethics, drafting pleadings, motions and discovery, depositions, experts, settlements, ADR and appeal.

Offsite multi-day litigation training program for new associates.

Periodic lunchtime CLE presentations by outside faculty.

Third year litigators encouraged to attend NITA.

85-lawyer firm in Houston, Texas

Annual calendar of weekly lunch programs on trial-related topics, taught by senior attorneys and outside speakers, such as jury consultants.

Development of trial skills monitored by list of formal benchmarks, and written and oral reviews given every year, except for new attorneys, who are reviewed every six months.

Formal mentoring program.

NITA trial program.

At least one associate attends and has a minor speaking role in every arbitration or trial, even if the billed time must be reduced.

Some cases taken on a reduced-fees basis to obtain trial experience for junior lawyers.

84-lawyer firm in Chicago, Illinois

Multi-day in-house trial “boot camp” covering all aspects of trial. Includes lectures and workshops taught by firm faculty.

In-house Education Committee annually reviews firm’s training programs. At periodic firm seminars, major trials are given in a post-mortem.

Encourage associates to attend trials by firm lawyers.

60-lawyer firm in Atlantic City, New Jersey

Monthly training session for all litigators, with topics suggested by members of the department.

Lectures and interactive sessions taught by partners in the department.

55-lawyer firm in New Orleans, Louisiana

55-lawyer firm of which two-thirds are in litigation.

Associates encouraged to take on pro bono matters, although they often do not result in trials either.

Herb Stern’s in-house videos.

NITA deposition and trial training.

Firm has certain smaller cases – insurance defense and products liability – that younger associates can try.

50-lawyer firm in Minneapolis, Minnesota

NITA trial and deposition workshops.

In-house lectures and workshops conducted by firm attorneys, including seminars by members of the local judiciary.

45-lawyer firm in New York, New York

In-house trial and pretrial advocacy workshops.

43-lawyer firm in Orlando, Florida

NITA courses.

“Fundamentals of Trial Technique” by Thomas Mauet.

43-lawyer firm in Washington, D.C.

Associates encouraged to attend NITA trial program, and to serve as NITA faculty.

Some in-house training.

39-lawyer firm in Philadelphia, Pennsylvania

Partner works directly with junior associates and tries to train them as “trial dramatists.”

Sends associates to the Trial Academy in Philadelphia.

33-lawyer firm in Newark, New Jersey

All litigation firm, uses apprentice-model of on-the-case training.

Bring associates to hearings, depositions and trials.

30-lawyer firm in Kansas City, Kansas

Firm's practice consists primarily of trials, allowing associates to gain trial experience.

Associates work with experienced trial lawyers as mentors until they are prepared to first-chair.

29-lawyer firm in Houston, Texas

In-house curriculum covering aspects of trial practice taught by firm attorneys and outside faculty.

Each associate assigned a partner mentor.

Associates sent to two-week NITA trial course.

Considering allowing associates to intern with district attorney's office.

27-lawyer firm in Alexandria, Louisiana

Experienced litigators actively mentor newer trial lawyers.

Bring new lawyers to watch court hearings and trials at firm's expense.

20-lawyer firm in Lafayette, Louisiana

Allow associates to participate in trials even if time is not billable.

Encourage associates to attend NITA or the equivalent.

In-house training program and partner mentor system.

Local CLE programs.

19-lawyer firm in Chicago, Illinois

Business litigation boutique.

In-house seminars on topics in litigation and business development, taught by firm members.

NITA and local CLE courses.

Emphasis on one-on-one mentoring; efforts are made to carefully monitor the assignments process.

Periodic “skills inventories” of associates.

18-lawyer firm in Jacksonville, Florida

Associates attend local CLE programs and a multi-week AIDC trial workshop.

Firm emphasizes mentoring of junior litigators in-house and through local bar associations.

16-lawyer firm in Dallas, Texas

Small firm with niche trial practice.

Hire junior lawyers who have gained good experience.

Frequently use mock argument as part of interview process.

Assign junior lawyers speaking parts in trials, more of an apprentice model.

12-lawyer firm in Tampa, Florida

Litigators attend NITA programs after several years at the firm.

Minor collections practice staffed by junior associates. Cases taken on a contingency fee basis; associates are responsible for all aspects of trial and collecting any judgment awarded.

9-lawyer firm in Richmond, Virginia

Boutique trial firm, hires lawyers with 2-3 years of experience.

Involve junior lawyers in all aspects of trial, including strategy and a role at trial.

Emphasis on individual feedback and mentoring.

8-lawyer firm in Indianapolis, Indiana

Eight-person firm, holds monthly in-house training program.

Associates encouraged to attend local CLE programs and NITA trial training program.

Size of firm permits significant mentoring.