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First Focus

[Seasoned jury expert shares secrets of voir dire and jury selection]

The *voir dire* and jury selection process is one of the most challenging aspects of a jury trial, says jury research expert Jeffrey T. Frederick. “Conducting effective *voir dire* and jury selection requires developing strategies that secure the necessary information and adapt to the unique circumstances that lawyers face in their trial jurisdictions.” To help lawyers develop those strategies, Frederick recently met with *YourABA*, sharing advice from his 37 years of experience assisting attorneys. *Read more ...*

Around the ABA

[Seven tips on ensuring client satisfaction]

“If clients do not believe that a lawyer is serving their best interests, they will take their business elsewhere,” says law practice management expert Ed Poll. To help ensure that lawyers keep clients, rather than watch them walk out the door, he shares seven tips that focus on effective communications at every stage of the client relationship. *Read more ...*

[Advice on getting a judge to rule in your favor]

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Eye on Ethics

[Ghostwriting]

You have been approached by an individual who intends to file suit pro se against his former business partner for breach of contract. He has asked you to review and comment on the complaint he has drafted, and for general legal advice about how to handle the matter. So far, you have not entered an appearance in the case and the court and opposing party are not aware that you are involved in the matter.

Are you obligated to disclose either to the court or to the opposing party that you have rendered such assistance?

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Technology Translators

[Working with Styles and Templates in Microsoft Word 2007, part one]

“Styles” in Microsoft Word allows you to simultaneously apply multiple formatting options to a document with a click of the mouse.

Learning to use styles and new features introduced in Microsoft Word 2007 such as Quick Style Sets and the Quick Styles Gallery

[A woman's guide to using ambition to power success]
In light of a recent White House report that indicated that American women earn 25 percent less than their male counterparts, a panel of prominent women lawyers used the example of their own high-powered careers to highlight the importance of ambition in achieving career success. *Read more ...*

[Insiders share EEOC trends, insights]
Two district office Equal Employment Opportunity Commission attorneys were part of a panel of experts who met recently for an ABA CLE, "Ask the EEOC," to discuss current trends in EEOC claims practices, investigative tools and best practices. *Read more ...*

[The impact of microinequities in the workplace]
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[Misclassifying independent contractors has serious consequences]
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[Turning legal profession into a business: Project management]
A panel of true believers spoke to legal project management and how it can make the legal profession more efficient and more profitable, can lead to the adaptation of best practices and can lead to a more disciplined approach to doing business. As part of a Tort Trial and Insurance Practice Section-sponsored program during the ABA Midyear Meeting, several general counsel and partners spoke to the emerging trend made all the more timely with client concerns in a down economy. *Read more ...*

[Ethical pitfalls for solo and small firm attorneys]
Client grievances are more likely to be filed against solos and small firm practitioners than other lawyers, and attorneys in those settings can ill afford to spend time responding, including going to court, given that there are often no colleagues to pick up one's case for them. In a recent ABA CLE program, a panel of experts provided advice on avoiding those grievances. *Read more ...*

[Eight tips on getting your first job after law school]
Experts in tort, trial and insurance law shared their secrets of career success during a Midyear Meeting program on the topic. Panelists offered law school students tips on landing their first job in this tough and competitive legal market. They

can save you time in drafting documents.

Read more ...

Membership

[New Robert Redford film sneak peek, related movie resources available to ABA members]

The American Film Company, producer of Robert Redford's movie, "The Conspirator," is offering ABA members sneak previews of the film in select cities before its wide release on April 15. Focused on the role of Mary Surratt in the assassination of President Abraham Lincoln, the film highlights the importance of due process and competent representation for defendants.

Details on the special screenings as well as ABA resources on "The Conspirator" are available.

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Seasoned jury expert shares secrets of ***voir dire*** and jury selection

Jeffrey T. Frederick

The *voir dire* and jury selection process is one of the most challenging aspects of a jury trial, says Jeffrey T. Frederick, director of the Jury Research Services Division of the National Legal Research Group. “Having a list of questions to ask is only a starting point,” he explains in his new ABA-published book, *Mastering Voir Dire and Jury Selection, Third Edition*. “Conducting effective *voir dire* and jury selection requires developing strategies that secure the necessary information and adapt to the unique circumstances that lawyers face in their trial jurisdictions.”

To help lawyers develop those strategies, Frederick recently met with *YourABA*, sharing advice from his 37 years of providing jury research services.

What are some of the most common mistakes that lawyers make when it comes to ***voir dire*** and jury selection?

Probably the most common mistakes lawyers make are focusing too much on the questions being asked (and perhaps advancing a position), and not focusing enough on getting the jurors to talk and not listening to what they are really saying.

In order to be effective in jury selection we must understand how jurors think and feel and what impact that will have on the case. This understanding is achieved through the use of effective communication skills and developing questions that encourage jurors to answer in an open and honest fashion.

You point out that one of the most important goals of ***voir dire*** is information gathering. What kinds of questions or techniques are most effective at getting jurors to reveal information about themselves?

There are a number of techniques that lawyers can employ to foster greater information disclosure by jurors. For example, asking open-ended questions like “How do you feel about ...” or “Tell me about your thoughts on ...” encourage jurors to think and provide more informative answers than your standard yes-or-no-type question. Using the simple technique of “normalizing” a potential answer to a question—for example, “Many jurors have said that ...”—encourages jurors who agree

with the question to respond because the answer is acceptable to at least “many” jurors. When asked in a group setting, normalizing the answer can set the juror’s expectation that he or she will not be alone in responding affirmatively to the question.

Also, avoid words or phrases that lead to the “looking good” or socially acceptable response bias. Asking jurors if they can be “fair and impartial” or if they harbor any “bias” or “prejudice” pretty much telegraphs what the acceptable answer is. Not only are jurors reluctant to admit such negative characteristics, they oftentimes are unable to recognize bias and prejudice in themselves.

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You say that ***voir dire*** is an excellent time for persuasion, since jurors aren’t expecting it so early in the trial process. What can lawyers do to foster persuasion?

One of a number of persuasion techniques I consider in the book is the simple technique of focusing on desirable issues in order to frame the debate. For example, take a case where the plaintiff’s lawyer wants to gauge the willingness of jurors to return a large award sufficient to enable the plaintiff to live in her home. Why not gather this information while also setting a persuasive frame for it? Asking jurors, “How many of you would not have any reservations returning money damages sufficient to enable an injured person to stay at home versus being placed in an institution?” provides the desired information and places the case in a favorable context for the plaintiff.

What are some early warning signs of a difficult juror?

Difficult jurors are those jurors who either don’t like you, or don’t like your client or the client’s case. These jurors often hold biases that if revealed would make them eligible for a challenge for cause or a peremptory challenge.

Some early warning signs include unfavorable nonverbal communication during the judge’s introductory remarks or the initial stages of *voir dire*, possession of “red flag” backgrounds and experiences, initial slightly unfavorable opinions, and association and interaction with “known” undesirable jurors. By identifying potential difficult jurors early, one can structure *voir dire* questioning to encourage the expression of these jurors’ true opinions and increase the likelihood these jurors can be effectively removed from the jury.

You describe a situation called “negative spiraling,” where lawyers are facing jurors who are not providing open, candid answers. How can lawyers deal with negative spiraling?

Negative spiraling usually occurs during prolonged group *voir dire* questioning, where early answers or responses from jurors are relatively open and candid, and later jurors become less willing to participate in an open and candid manner, particularly

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in response to sensitive issues.

It is imperative that lawyers break such negative spiraling early in the process. For example, when jurors start to answer in less informative ways, such as short answers, the use of pat phrases (“I will have to wait until I see the evidence”), or quick agreement with other jurors’ answers, several techniques can be used to break the cycle of superficial responses.

Lawyers can show empathy for jurors having to answer questions in open court, thus fostering increased disclosure. Also, lawyers should reassert control over the process by not letting jurors get away with superficial answers. When jurors give superficial answers such as, “I agree with juror number 1” or a quick yes or no answer, encourage them to elaborate on their answers with follow-ups such as “In what way?” or “Could you tell me a little more about your thoughts on this?” Jurors soon understand that superficial answers will not be accepted and the negative spiral is broken.

What can be done to minimize the threats posed by jurors using the Internet?

The threats and opportunities posed by the Internet in jury trials is a hot topic right now. I devote a chapter to this topic because it is so important. There are numerous opportunities to obtain information relevant to jury selection from the Internet through online searches, online data bases and social networking websites, among others.

But beyond these opportunities are real threats. Jurors have been found searching the Internet for case-related information and legal definitions, watching media coverage of the case during their service, visiting victim websites, posting or tweeting their opinions about trials for which they are jurors, and communicating with their fellow jurors during trial. Numerous findings of juror misconduct have led to mistrials and even sanctions against jurors.

Meeting these threats is a serious challenge. There are several approaches that need to be taken. These approaches include finding out what information relevant to the case is available to jurors on the Internet; establishing the jurors’ “footprint” on the Internet by ascertaining through *voir dire* and juror questionnaires the jurors’ presence and use of Internet resources; developing effective instructions concerning appropriate and inappropriate uses of the Internet by jurors, using concrete examples, Internet vocabulary, and stating the consequences arising from the inappropriate use of the Internet; and monitoring juror activity on the Internet, where possible, to discover any inappropriate usage by jurors.

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What are some good strategies/best practices around exercising peremptory challenges?

There are two basic methods for exercising peremptory challenges, the sequential method and struck method. Each has its unique features. However, there are some general principles that can help. Let me give an example for each method in terms of removing “bad” jurors.

In the sequential method jurors are questioned in panels by each party. The lawyer questions, excuses and replaces jurors until a full accepted panel is passed to the other party. Lawyers should question the panel and remove the minimum number of worst “bad” jurors the judge requires (provided that by doing so the remaining jurors are not “passed” or accepted) and see who replaces the juror or jurors. This small step approach allows greater control over who leaves and who enters the jury box. In this manner, you can most effectively exercise peremptory challenges and have the best chance to remove “bad” jurors without seeing even worse jurors take their places.

How about the struck method?

In the struck system all jurors are screened and peremptory challenges are not exercised until the pool of qualified jurors equals the number of jurors needed plus the number of peremptory challenges available to the parties.

In this situation it is important to make a two-tiered list of the worst “bad” jurors in the pool. The top tier should contain names/juror numbers of the worst jurors equal to the number of peremptory challenges you have. However, this list should be ordered in terms of how obvious it is to the other side that the juror is bad for you.

The second tier of the list should contain a few more jurors who, after the top-tier jurors are removed, should be removed, if possible. However, this second-tier list should be ordered in terms of starting with the next worst juror and continuing in this fashion. By structuring a two-tier list in this manner, you take advantage of errors made by your opponent and, in essence, potentially gain one or more additional peremptory challenge(s).

Your book takes a real soup-to-nuts approach to ***voir dire*** and jury selection. It covers everything from preparing for and conducting ***voir dire***, to insights on jurors’ nonverbal behavior, advice on the Internet and jurors, as well as addressing challenges for cause and peremptory challenges. You even have appendices that provide extensive lists of ***voir dire*** questions for both civil and criminal cases, and a CD with more than 130 supplemental juror questionnaires. What do you want to achieve with this book?

I have been selecting juries and conducting research with jurors for more than 37 years. My goal with this book is to provide lawyers with the necessary tools to understand whom they face as jurors and what they need to know and how to get it as a result of the *voir dire* and jury selection process.

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Seven tips on ensuring client satisfaction

"If clients do not believe that a lawyer is serving their best interests, they will take their business elsewhere," says law practice management expert Ed Poll in his *Law Practice Today* article, "Manage Expectation Through Collaboration." To help ensure that lawyers keep clients, rather than watch them walk out the door, he shares seven tips that focus on effective communications at every stage of the client relationship.

Start on the right foot. Poll explains that a signed engagement letter that states each party's responsibilities for making the engagement a success is a fundamental necessity. Obtain as much information as possible about the goals and desires of the client. Such information should include anticipated strategies, desired outcomes and how much the client wants to pay. "Going through the process of detailing and negotiating to prepare the engagement letter should prevent situations where clients have unrealistic expectations or demands."

Avoid unreasonable clients. "Beware of clients who cannot or will not agree to what they want their lawyer to accomplish," says Poll, explaining that a discussion on the engagement terms will frequently uncover clients whom lawyers should avoid. Telltale warning signs of problem clients include those who cannot articulate what they want to achieve, suggest that they know better than the lawyer what needs to be done, nitpick over budgets and insist that their matter is "life and death."

Be reasonable, not cheap. Lawyers should help clients understand their fees, in addition to obtaining agreement on them. "Do not get on the slippery slope of letting the client dictate what the fee should be," advises Poll, advocating that lawyers educate clients on Rule of Professional Conduct 1.5 on reasonable fees. Deciding on a fair fee involves answering several questions: Is the amount of the fee proportional to the value of the services rendered? Do the lawyer's skill and experience justify the fee? Does the client understand the amount and nature of the fee and consent to it?

Lawyers should ask their clients, "How am I doing?" Only when lawyers understand client expectations can they satisfy their

Consider a performance guarantee. Lawyers cannot ethically guarantee a result (MRPC 7.1), but they can guarantee a certain degree of effort, writes Poll. "Establishing a budget at the start of an engagement can do this by showing clients that their

clients, says Poll.

lawyers are sensitive to their needs and giving the client a sense of what to expect. It's only a short step from this level to guaranteeing satisfaction with the level of service and offering to make adjustments in the fee if necessary if the client were dissatisfied.

Visit and listen. Sending regular status reports can help clients understand what is being done for them. However, such communication only conveys information from the lawyer to the client. "Far more important for managing client expectations is to find out what clients themselves think," advises Poll. Lawyers should ask their clients, "How am I doing?" Only when lawyers understand client expectations can they satisfy their clients.

Provide solutions. Lawyers should strive to create what marketers call unique selling propositions—offering something that competitors don't or can't, and creating something new that clients need or want. "Clients may send out an RFP that signals they are looking for their current firms to do something to justify continuing the relationship," explains Poll. "A firm can establish its [unique selling proposition] by going outside the RFP and suggesting ways of managing an IP portfolio more effectively, offering to submit electronic invoices that itemize and detail services provided, or demonstrating how to pare back litigation discovery costs by reducing depositions." Providing solutions moves clients away from "what does it cost me" to "what does it do for me."

Build trust and loyalty. "Being a qualified lawyer is not the key to managing client expectations," says Poll, advising lawyers to set a higher standard. "Based on skill level, clients can't tell the difference among lawyers." Lawyers should commit to creating a collaborative relationship with their clients that includes regular two-way communications—focusing on understanding what their clients value and expect, and providing the reasons behind the advice they provide.

"Manage Expectation Through Collaboration" appears in the Oct. 2010 edition of *Law Practice Today*, a publication of the Law Practice Management Section.

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Advice on getting a judge to rule in your favor

It's often a lawyer's violation of the most common sense rules of the court that make it hard for a judge to rule in the lawyer's favor, said Magistrate Judge Jeffrey Cole of the U.S. District Court for the Northern District of Illinois, speaking in a Section of Litigation audio program, "Tips to Get a Judge to Rule in Your Favor, Part 1."

In particular, Cole cited local rules that lawyers find burdensome or don't realize are important. "The local rules are there for a reason, and they are designed to be followed. The more you adhere to those rules, the more professional your presentation will seem, the more the court will appreciate it, and the less you will run into difficulty with things you should not have a problem with," he said, advising lawyers to create a checklist of the important local rules in the jurisdiction in which they are practicing.

Cole gave the example of local rule 37, "which says that you can't present certain kinds of discovery motions until you've either had a face-to-face or telephonic conference with your opponent to try to resolve the particular dispute."

Cole explained that the rule helps to alleviate court congestion, yet "the rule is violated as often as it is honored."

When rule 37 isn't followed, "the judge will simply say, 'you haven't complied with the rule, and I won't hear the motion,' and you will have taken time away from the judge and he or she will remember. You will have spent your time needlessly, and your client's money needlessly," Cole warned, indicating that one of his colleagues will even sanction lawyers who fail to follow rule 37.

> One way to improve briefs: don't use canned ones. "A canned brief signifies you've given the matter no thought at all, and you're leaving it up to the judge to do all the work," Cole said.

In addition to following the local rules, Cole urged lawyers to improve the quality of their briefs. "It is very important to write a brief in support of whatever it is you are asking the judge to do that explains in a meaningful way what the issue is, and explains what the law is, and makes a principled and supported argument.

"Do not assume that judges know what the case is about in the way that you do," he said, elaborating that judges have hundreds of cases on their calendars. "I promise you that the

best and smartest of them do not remember all their cases."

Cole continued, "There is a rule in our court of appeals that skeletal evidence-supported arguments are waived. That is something a lot of lawyers do not know."

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One way to improve briefs: don't use canned ones. "A canned brief signifies you've given the matter no thought at all, and you're leaving it up to the judge to do all the work," Cole said. "Explain why it's meaningful. If the motion is worth making, it's worth supporting."

Also regarding briefs, Cole advised lawyers to review what the deciding judge has said on the issue at hand. The judge will be more impacted by his own decisions than he will by the decisions of his fellow judges, Cole said.

Other common sense tips from Cole:

- Be courteous and professional. "Show sufficient respect for the system in which you are operating."
- Listen to the judge, and answer her questions, rather than evade them. "Listening can turn a case around. If you can satisfy a judge's question, you now have the upper hand."
- Come to court yourself; don't send an associate in your place. "Judges see hundreds of lawyers and it's difficult to remember who's who. If you're in court with regularity, the judges tend to remember who you are, and you wind up getting a greater measure of credence to the things that you do and say."

"Tips to Get a Judge to Rule in Your Favor, Part 1" is part of the Section of Litigation Sound Advice Library, which also includes "Tips to Get a Judge to Rule in Your Favor, Part 2."

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A woman's guide to using ambition to power success

A recent White House report billed as the most comprehensive report on the state of American women in 50 years revealed that women earn 25 percent less pay than their male counterparts, despite making strides in education. That came as no surprise to the panelists of the Commission on Women in the Profession program "Women and Power: Getting Ambitious About Ambition," during the ABA Midyear Meeting in Atlanta.

Keynote presenter Dr. Anna Fels—a noted psychiatrist who highlighted her extensive research on women and power—and other panelists posited that a portion of the equality gap is attributed to the fact that "ambition" is a taboo topic for many women.

The speakers, all prominent women lawyers, used the example of their own high-powered careers to highlight the importance of ambition in achieving career success.

All agreed that developing a personal plan is the first step for anyone seeking advancement. Whether you call it ambition or goal-setting, "you need to picture for yourself what it is that you're hoping to achieve, and then what steps you need to take on a monthly, yearly, every-five-years basis to get there," said Hilarie Bass, global operating shareholder of Greenberg Traurig LLP and, until recently, the national chair of its 500-member litigation department.

"I don't think you get to powerful positions without being ambitious. No one is just going to say, 'Oh yes, become the head of this department because we like you,'" noted Bass. "If you're going to achieve power, it's going to be because you have set out a game plan for yourself."

Bass and Fels were joined by Cathy Hampton, Atlanta city attorney, and Leslie M. Turner, general counsel for The Coca-Cola Company.

Hampton advised attendees to build personal advisory boards. "It's important to surround yourself with folks [outside your organization] who have different backgrounds, who are as different from you as possible. That way, your strategic plan may grow and broaden in ways that it wouldn't if everyone is thinking the same way," she said.

In the same vein, Fels advised attendees to identify and establish sources of recognition. "Successful women create an archipelago of supporters throughout their lives."

Additional strategies for success that were shared both by program participants as well as by panelists include:

"I don't think you get to powerful positions without being ambitious," said Bass. "If you're going to achieve power, it's going to be because you have set out a game plan for yourself."

Ask for what you want

Bass urged women to speak up if they're not happy with their compensation. "Even if you don't get an extra dime out of the process, [your employer] needs to know that you value yourself. You need the opportunity to articulate how you're providing value to the firm, and you can't be afraid to fail because even if you don't get anything out of it, you're going to feel good about yourself and you will have created a new environment for you and your boss."

Related advice came from a program participant: "If you want origination credit, look for opportunities to work with someone who is successful at it. You have to ask."

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Find a champion

Finding a mentor is important, panelists agreed. However, they urged attendees to find mentors who do more than just listen and advise. Seek sponsors who can serve as champions—those with access to power brokers who will go to "bat" for you.

Develop a sales pitch

Panelists urged women to develop a standard sales pitch that articulates who they are and what they want. "Stand in front of the mirror and create that one-minute elevator speech, and practice so that it's natural," said a program participant.

Realize the importance of interpersonal interactions

While building interpersonal relationships may seem unrelated to developing a successful career, panelists disagreed. Women lawyers were advised to take someone to lunch once a week to learn about his or her career path.

Listen to free audio from "Women and Power: Getting Ambitious About Ambition."

- "Powerful Women Reflect on Their Successes" – Program panelists share how they got to the top.
- "Noted Expert on Women and Power Discusses Her Findings" – Dr. Anna Fels discusses her research on the drivers of ambition—mastery and recognition—and the social, cultural and psychological factors that impact women's ambition and their pursuit of power.
- "Insights and Ideas for Embracing Ambition and Pursuing Power" – Both panelists and program participants share insights and ideas generated in small group discussions.

One participant suggested joining in community activities, such

as doing *pro bono* work, to connect with other like-minded people.

Look for ways to be indispensible at your firm

Becoming invaluable can provide women with the leverage they need to get what they want. Look around your work environment and identify projects you could champion and take the lead on, advised panelists.

Never let them see you sweat

Perceptions are really important, said panelists. “Be the duck: look calm on top while paddling like hell under the surface. That will inspire confidence; you’ll look like you have it all together even when deep down you may not.”

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Insiders share EEOC trends, insights

Two district office Equal Employment Opportunity Commission attorneys were part of a panel of experts who met recently for an ABA CLE, "Ask the EEOC," to discuss current trends in EEOC claims practices, investigative tools and best practices.

For the first time, retaliation charges have surpassed gender charges in claims brought before the EEOC, said Mary Jo O'Neill, regional attorney in the commission's Phoenix office. Race claims continue to be high, with religion and age charges increasing, though they are still a relatively small number by comparison.

Diane Smason, supervisory trial attorney, Chicago district office of the EEOC, explained that the commission has the authority to broaden the scope of a charge, for example, when there's an allegation of bias against hiring minorities. A respondent can best cooperate with an investigation by providing evidence that discrimination is not occurring.

Smason also provided some dos and don'ts in dealing with the EEOC:

- Do treat investigators with respect. Investigators may or may not be lawyers, but they are trained in these issues. Don't be condescending.
- Try not to go around investigators. This, of course, does not hold in the event a lawyer believes there is misconduct on the part of the investigator.
- Don't argue the law with an investigator. Of course, you may provide it, but don't push.
- Don't badmouth the charging party. It falls on deaf ears. Provide evidence, certainly, but don't get into the realm of the negative.
- Give the investigator what is requested. Resistance tends to arouse suspicion.

Investigative tools the EEOC has at hand were also discussed. Among them: mediation; fact-finding conferences, which are on the rise; hand service of charges; on-site visits by investigators, to include interviews there; audiotaped interviews; and a consolidation of cases so that one investigator handles all charges brought before one employer.

"Ask the EEOC: Current Insights on Enforcement and Litigation" was sponsored by the Section of Labor and Employment Law, and the Center for Continuing Legal Education. In addition to O'Neill and Smason, J. Randall Coffee, Fisher & Phillips, LLP; and Richard Rosenblatt, Richard Rosenblatt & Associates, LLC, served as panelists. The program was moderated by Rachel Geman, Lieff Cabraser

Heimann & Bernstein, LLP.

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The impact of microinequities in the workplace

"Wow, you speak English so well!" is a comment that Hispanic lawyer Carlos Cruz-Abrams of Gibson, Dunn & Crutcher LLP has heard often throughout his life. While the statement is usually meant as a compliment, Cruz-Abrams said that it's actually a subtle insult, coined by psychiatrist Chester M. Pierce during the seventies as a "microaggression." At the program "Diversity in the Workplace: Microinsults," during the ABA Midyear Meeting in Atlanta, Cruz-Abrams and other panelists shared how such slights can devalue individuals and negatively impact the workplace when they happen on the job.

"I'm Cuban. Somebody asks, 'Have you ever been to Cuba? ' That's not a microaggression," explained Cruz-Abrams, who cautioned that a change of just a few words—"When was the last time you went back to Cuba? "—can turn such an innocuous question into an insult. "The implication there is that you are 'other.' You're from somewhere else. You are not from here."

"Microinequities require a measured response," cautioned Cruz-Abrams. "The response should be tied to the level at which the aggression is being given."

Microaggressions fall under the umbrella term of "microinequities." Drawing from definitions from Pierce and Columbia University psychologist Derald Wing Sue, microinequities are subtle verbal or nonverbal slights that convey rudeness or insensitivity and demean a member of a minority group.

According to panelist Dr. Terry Mills, dean of the Division of Humanities & Social Sciences at Morehouse College, "Microinequities are cumulative in effect. They devalue, discourage and impair performance in the workplace. And they inevitably affect overall productivity."

Microinequities are usually unintended and so subtle that perpetrators are often unaware that they are offending others, said panelists. "People don't know they are discriminating. And if you were to try to prove there was discriminatory intent, it would be next to impossible to do," said Cruz-Abrams.

So how should people respond to microinequities?

"Microinequities require a measured response," cautioned Cruz-Abrams. "The response should be tied to the level at which the aggression is being given."

“To have a vehement response to someone who is clearly not meaning to be insulting would be detrimental to you—especially in the workplace,” continued Cruz-Abrams. “You have to figure out the level at which you are comfortable with whatever your response is. You don’t want to escalate a situation.”

“It takes a lot of mental and emotional energy to figure out what you’re going to do in these situations,” added panelist Lovita Tandy, a former employment lawyer with King & Spalding, encouraging those facing microinsults to find support from others who can understand their situation.

Law firms can address microinequities in the workplace. Mills suggested that law firms increase awareness and provide training around the issue to “make the invisible visible” and establish sensitivity to these types of aggressions.

“Diversity in the Workplace: Microinsults” was sponsored by the Young Lawyers Division.

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Misclassifying independent contractors has serious consequences

In makes good business sense for many employers to use independent contractors, but labor and employment lawyer Sarah Bryan, Littler Mendelson P.C., warns that misclassifying workers has serious consequences.

In her article "The Fundamentals of Independent Contractors," Bryan shares examples of both large and small companies paying out big money for their classification errors. FedEx settled a case of improper classification for $3 million, while a much smaller company, a Southern California maid service, recently paid out $3.5 million for similar violations.

Generally speaking, an independent contractor retains a certain amount of control over her working conditions, unlike an employee, whose working conditions are more restricted by the employer. Despite the simplified definition, determining employment status is not as easy as it may seem.

"Assessing whether or not a worker is accurately classified as an independent contractor is a fact-intensive analysis," says Bryan, advocating the IRS' 20-factor test as a good starting point.

"Assessing whether or not a worker is accurately classified as an independent contractor is a fact-intensive analysis," says Bryan, advocating the IRS' 20-factor test as a good starting point.

Some of the factors include level of control, method of payment, the provision of work tools, the availability of the worker to the public and the amount of training the employer provides the employee.

Evaluating an employee with the IRS test is just a starting point. "Many courts have developed their own test," warns Bryan. "Although they are similar across different jurisdictions, they are not identical.

"To complicate matters even further, different federal statutes use different tests," says Bryan, citing the "right to control" test under the National Labor Relations Act and the "economic realities" test under the Fair Labor Standards Act. "Finally, attorneys, companies and workers should be aware of state and federal laws that supersede any of these analyses.

"No one factor is outcome determinative," concludes Bryan. Determination of employment status is a judgment call. "Given the real risks of large penalties, it is prudent to resolve close

cases in favor of employment status."

"The Fundamentals of Independent Contractors" is an article from the Young Lawyers Division 101 Practice Series, an online resource for new lawyers covering basic training in both substantive and practical aspects of law practice.

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Turning legal profession into a business: Project management

A panel of true believers spoke to legal project management and how it can make the legal profession more efficient and more profitable, can lead to the adaptation of best practices and can lead to a more disciplined approach to doing business.

As part of the ABA presidential showcase program during the ABA Midyear Meeting in Atlanta, "Back to the Future: Value Billing for the Legal Profession," sponsored by the Tort Trial and Insurance Practice Section, several general counsel and partners spoke to the emerging trend made all the more timely with client concerns in a down economy.

Susan DiMickele, partner, Squire, Sanders & Dempsey LLP, cautioned that when implementing project management, no one size fits all. In her firm, a project management committee that meets weekly was formed.

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Steve Barrett, principal, LegalBizDev, teaches project management. "We've evolved as we've taught clients these last 12-14 months." It's about small increments of efficiency. While project management can be instructed by mass training, Barrett does not believe that is as effective as training six or so thought leaders within a firm. DiMickle agreed that it's helpful to have champions, and that the new way of doing things is supported at the top.

Barrett also pointed out that it's helpful to conduct a "brain drain" initially: What is the firm currently doing by way of project management?

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Given the diversity of the panel, discussion also focused around how in-house and firm lawyers can work together. Murray Garnick, vice president and associate general counsel, Altria Client Services, Inc., stated that his company doesn't have specific forms relative to project management, but do communicate their expectations: "This is where we want to be six months down the road." David Boies, managing partner, Boies, Schiller & Flexner LLP, stated that a firm can still utilize project management even if in-house counsel doesn't buy into it, but "it's not as effective."

So how do true believers encourage others to adopt project management principles? Thomas Sager, vice president and assistance general counsel, DuPont Company, emphasized that the tone of the topic is critical. One's passion will come through and be infectious. People will see efficiencies; you have to walk the talk.

The question was posed as to whether project management extends beyond lawyers themselves to other persons within the firm. Garnick said that formal training of non-lawyers may not occur, but it becomes "part of the culture."

If project management is so wonderful, why haven't firms adapted it sooner? "We've enjoyed an economy where we haven't had to embrace it," noted DiMickele. That is certainly the case no longer.

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Ethical pitfalls for solo and small firm attorneys

Client grievances are more likely to be filed against solos and small firm practitioners than other attorneys, and those lawyers can ill afford to spend time responding, including going to court, given that there are often no colleagues to pick up one's case for them.

In a recent ABA CLE program, "Ethical Pitfalls for Solo and Small Firm Attorneys," a panel of experts provided tips to help avoid grievances.

Panelist Paula Frederick, general counsel for the State Bar of Georgia, outlined the problem of the lack of adequate communication with one's client. The issue of communication is covered in Model Rule 1.4. Rule 1.4.4 relative to "promptly" replying to the client can be tricky and may cause the most problems, said Frederick.

Lawyers can use their staff to help service clients, but attorneys must ensure that unauthorized practice of law does not occur, said panelists.

In order to curtail problems, a lawyer should manage the expectations of his client. In doing so, understanding that there may be generational differences is helpful. Among a generation that routinely uses instant messaging, "promptly" may be a very high bar indeed. Frederick noted that instant messaging is a very casual form of communication, and may not be appropriate for lawyer-client communications.

Discussing expectations and setting parameters at the initial consultation with a client or potential client is wise. A client needs to understand that you may not be reading your e-mail at 9 p.m.

Regular communicating, even when there is nothing new to report on a client's case is also a good idea. Lawyers may want to send out a letter once each month on a given date, Frederick advised. Clients then know that they are still on their lawyers' radar screen.

Lawyers can use their staff to help service clients, but they should ensure they're properly trained, continued Frederick. Staff can answer many questions about upcoming court dates and similar administrative issues. It is the staff who often have the client's file, after all, but a lawyer as supervisor needs to make sure that unauthorized practice of law does not occur.

While lawyers are often reluctant to talk about money, panelists said it's a must. Not doing so leaves the door open to clients being surprised when bills come, and can lead to their filing grievances.

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Two additional tips offered by Frederick: "Don't practice in isolation" and "Treat people with respect." Solos may not have colleagues down the hall from them, but there are resources available. SoloSez, a LISTSERV available to ABA members and non-members alike, allows lawyers to post questions and solicit input from fellow solos or small firm practitioners. Additional bar resources include law practice management assistance and a venue to develop mentor relationships. As to treating clients with respect: "Be firm, but treat them with respect. If you're wrong, apologize," said Frederick.

Jeffrey Allen, principal of Graves & Allen in Oakland, Calif., provided additional advice. He cautioned that no form of communication, other than sitting in the same room as a client, is completely secure. He noted that while e-mail has its potential dangers, snail mail sometimes doesn't reach its destination and can also be "hacked."

Another tip from Allen: "If you're using technology, use it properly and have the adequate training."

The CLE program was sponsored by the General Practice, Solo & Small Firm Division, Center for Professional Responsibility, and Center for Continuing Legal Education.

In addition to Frederick and Allen, Judge Jennifer Rymell, Tarrant County Court of Law #2, Fort Worth, Texas, served as a panelist; James L. Schwartz, James L. Schwartz & Associates, Chicago, moderated the program.

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Eight tips on getting your first job after law school

Experts in tort, trial and insurance law shared their secrets of career success during the program, “I’m Getting My J.D. Now What? A Forum on How to Get Your First Job,” at the ABA Midyear Meeting in Atlanta. Panelists offered law school students tips on landing their first job in this tough and competitive legal market. They emphasized to law students that setting themselves apart from other applicants is key.

The panel consisted of Jim Myrick, head of litigation for Buist, Moore, Smythe, McGee, P.A., in Charleston, S.C.; Marlo Orlin Leach, Atlanta-based litigator; Christopher Shelton, law student; Robert Caldwell, business attorney at Kolesar & Leatham in Las Vegas; and Vanessa Williams, vice president and deputy general counsel at R. L. Polk & Co in Michigan.

The following are eight tips given by panelists:

1. Networking: All panelists stressed the importance of networking—not just when starting a legal career, but all throughout it. Leach urged law students to begin networking now, noting that “it starts in law school and ends when you retire.” Williams emphasized that networking will “help your career progress because of connections you make.”

2. Get involved: Caldwell said that being involved in the organized bar or other activities pertaining to the law sets a candidate apart because it “shows a deep commitment to your profession,” something he says he values in the job applicants he hires. He also stressed that also being involved in community activities can lead to new business.

3. Be yourself: Myrick said, “You be you… everyone else is taken,” urging students to be original in their approach to applying and interviewing for jobs. If you don’t, he continued, “you have nothing new to offer.”

4. Be courteous: Myrick stated that it is important to always be courteous, because ultimately, landing a job is “all about human relationships.” By treating people well, you can build a good reputation, bring in clients and ultimately, bring in money.

5. Tailor your cover letter and resume: All panelists urged applicants to have professional looking cover letters and resumes and to pay attention to detail. Williams said that, “you’ll want to blow them away.” She

explained that “by setting yourself apart and showing what unique things you have to offer, you can get the interview.” Panelists also advised students to focus on relevant information.

6. Select an appropriate writing sample: Caldwell urged applicants to choose writing samples that are appropriate for the firm to which they are applying. Also, applicants should stay within the requested page limit and make sure their sample is truly their work.

7. Do your research: Panelists advised students to research the firms that call them for job interviews, and to think about “interesting and knowledgeable” questions to ask interviewers.

8. Send thank you cards: Caldwell expressed that sending handwritten thank you cards after an interview sets applicants apart from the competition. He said it is something rarely done and is appreciated.

“I’m Getting My J.D. Now What? A Forum on How to Get Your First Job” was sponsored by the Tort Trial & Insurance Practice Section and the Law Student Division.

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Do you have a question about legal ethics that affects your practice? ETHICSearch can help. For quick and confidential research assistance, click here to send your questions.

Ghostwriting

By Peter Geraghty, Director, ETHICSearch

You have been approached by an individual who intends to file suit pro se *against his former business partner for breach of contract. He has asked you to review and comment on the complaint he has drafted, and for general legal advice about how to handle the matter. So far, you have not entered an appearance in the case and the court and opposing party are not aware that you are involved in the matter.*

Are you obligated to disclose either to the court or to the opposing party that you have rendered such assistance?

ABA Formal Opinion 07-446

In ABA Formal Opinion 07-446 *Undisclosed Legal Assistance to Pro Se Litigants* (2007), the ABA Standing Committee on Ethics and Professional Responsibility stated that lawyers can furnish such assistance without disclosing to the court or to the opposing party that they had done so provided that the failure to disclose would not amount to fraudulent or dishonest conduct by clients. The opinion stated:

> Whether the lawyer must see to it that the client makes some disclosure to the tribunal (or makes some disclosure independently) depends on whether the fact of assistance is material to the matter, that is, whether the failure to disclose that fact would constitute fraudulent or otherwise dishonest conduct on the part of the client, thereby involving the lawyer in conduct violative of Rules 1.2(d), 3.3(b), 4.1(b), or 8.4(c). In our opinion, the fact that a litigant submitting papers to a tribunal on a pro se basis has received legal assistance behind the scenes is not material to the merits of the litigation.

The committee noted that such assistance is a form of "unbundling" whereby a lawyer performs a limited set of tasks relating to the representation under Model Rule 1.2(c) as opposed to handling all aspects of a matter.

The committee stated that some of the arguments advanced against allowing lawyers to provide such assistance include the concern that *pro se* litigants are accorded special treatment by the court, so that to permit lawyers to provide such assistance without notifying the court would result in an unfair advantage

for the litigant. The committee found this to be without merit, since it would be obvious on the face of the pleadings as to whether a lawyer was involved. Furthermore, the committee noted, the fact that the litigant has received assistance should not result in an unfair advantage simply because pleadings filed with the court must pass muster on their own merit:

> …A court that refuses to dismiss or enter summary judgment against a non ghostwritten *pro se* pleading that lacks essential facts or elements commits reversible error in the same manner as if it refuses to deny such dispositive motions against an attorney-drafted complaint – Goldschmidt, In Defense of Ghostwriting, 29 Fordham Urb. L.J. 1145 (2002)

Finally, the committee noted that the lawyer would not be acting dishonestly in providing such assistance unless the client were to "make a statement that could be attributed to the lawyer that the documents were prepared without legal assistance.

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State bar ethics opinions; case law

There have been a number of state bar ethics opinions that pre-date the ABA Formal Opinion. As discussed and cited in New Jersey Advisory Committee on Professional Ethics Opinion 713 (2008), some of these opinions do not require disclosure. See, Los Angeles County Bar Ass'n Professional Responsibility and Ethics Comm. Op. 502 (1999); Los Angeles County Bar Ass'n Professional Responsibility and Ethics Comm. Op. 483 (1995) and State Bar of Arizona Comm. on the Rules of Professional Conduct Op. 05-06 (2005).

Other opinions have found that ghostwriting is unethical per se. See, Iowa Supreme Court Bd. of Professional Ethics and Conduct Op. 94-35 (1995); Iowa Supreme Court Bd. of Professional Ethics and Conduct Op. 96-31 (1997); Association of the Bar of the City of New York Comm. on Professional and Judicial Ethics Op. 1987-2 (1987); New York State Bar Ass'n Comm. on Professional Ethics Op. 613 (1990).

Still other opinions find that there is a duty to disclose when the lawyer's assistance is extensive, substantial or significant. See, Alaska Bar Ass'n Ethics Comm. Op. 93-1 (1993); Connecticut Bar Ass'n Comm. on Professional Ethics Op. 98-5 (1998); Delaware State Bar Ass'n Comm. on Professional Ethics Op. 1994-2 (1994); Florida State Bar Ass'n Comm. on Professional Ethics Op. 79-7 (2000); Massachusetts Bar Ass'n Comm. on Professional Ethics Op. 98-1 (1998); New Hampshire Bar Ass'n Ethics Comm., *Unbundled Services -- Assisting the Pro se Litigant* (1999); Kentucky Bar Ass'n Op. E-343 (1991); Utah State Bar Ethics Comm. Op. 74 (1981).

The New Jersey Committee began its analysis by noting the changes made to ABA Model Rules 1.2(c) and the addition of Model Rule 6.5 *Nonprofit And Court-Annexed Limited Legal Services Programs* that were proposed by the ABA Ethics 2000 Commission that demonstrated the ABA's "concern for

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expanding legal assistance to the unrepresented."

The New Jersey Committee discussed the applicability of Rule 1.2(c), stating that the recipient of such assistance must "understand, and agree to the extent of the limited assistance." The committee also noted the full applicability of Rule 1.6(a) *Confidentiality of Information* to the limited representation scenario.

The New Jersey Committee did, however find that disclosure would be required under circumstances

> …where such assistance is a tactic by a lawyer or party to gain advantage in litigation by invoking traditional judicial leniency toward *pro se* litigants while still reaping the benefits of legal assistance, there must be full disclosure to the tribunal. Similarly, disclosure is required when, given all the facts, the lawyer, not the *pro se* litigant, is in fact effectively in control of the final form and wording of the pleadings and conduct of the litigation. If neither of these required disclosure situations is present, and the limited assistance is simply an effort by an attorney to aid someone who is financially unable to secure an attorney, but is not part of an organized program, disclosure is not required.

In North Carolina Opinion 2008-3 (2008), the Ethics Committee of the North Carolina State Bar, agreeing with the ABA committee's analysis stated that a lawyer may provide such assistance without disclosing to the court or opposing unless required to do so by substantive law or court order. The North Carolina committee noted further that the lawyer must also comply with the prohibition against asserting frivolous claims under Model Rule 3.1 *Meritorious Claims and Contentions*. It also stated that to advise a client to

> …appear *pro se* for the sole purpose of gaining the tactical advantage of judicial leniency is providing incompetent legal advice in violation of Rule 1.1 and such conduct is prohibited on this basis regardless of whether there is disclosure to the court of the lawyer's assistance.

State Bar of Michigan Opinion RI-347 (2010), also in substantial agreement with the ABA opinion, stated that disclosure of the lawyer's role in a litigation setting is not required unless the client makes an affirmative representation that he is unrepresented. The Michigan committee also considered whether the lawyer could disclose the fact that he had provided assistance without the consent of the *pro se* litigant if ordered to do so by the court. The committee stated:

> …both MRPC 1.6(c)(2) and the Model Rule permit disclosure when required by law or court order. We do not purport to interpret the question whether a court rule is a "law or court order" as that is beyond the scope of this opinion. To avoid the possibility of a confidentiality issue, should it later become necessary for the lawyer to disclose his or her involvement, a lawyer providing limited

> legal service should at the outset of the representation obtain the consent of the assisted party that the lawyer's participation may be disclosed to the court.

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See Also New York County Opinion 742 (2010). This opinion provides an extensive analysis of the applicable case law on this subject and concluded as follows:

> Disclosure is necessary when mandated by (1) a procedural rule, (2) a court rule, (3) a particular judge's rale, (4) a judge's order in a specific case, or in any other situation in which the failure to disclose an attorney's assistance in ghostwriting would constitute a misrepresentation or otherwise violate a law or an attorney's ethical obligations. In cases where disclosure is necessary, unless required by the particular rale, order or circumstance mandating disclosure, the attorney need not reveal his or her identity and may instead indicate on the ghostwritten document that it was “Prepared with the assistance of counsel admitted in New York.”
>
> Notably, there is some concern that if permitted, the limited representation of a pro se litigant might become so expansive that the lawyer will be de facto acting as litigation counsel without ever having to appear before the court or having his or her identity disclosed to the adversary. This is one circumstance where disclosure to the court and/or adversary of the attorney's involvement may very well be necessary because a failure to disclose could constitute a misrepresentation or otherwise violate a rule of professional conduct.

Note that the New York version of Rule 1.2(c), unlike the ABA Model Rule specifically addresses the disclosure issue under limited scope representation situations. The New York rule states:

> (c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances, the client gives informed consent *and where necessary notice is provided to the tribunal and/or opposing counsel*.(emphasis added).

The New York committee observed that the New York courts have yet to interpret this rule.

Nevada Opinion 34 (originally issues on 12/11/06; revised on 6/24/09) takes a more restrictive view. The Nevada committee stated that under circumstances where a lawyer provides “substantial” legal assistance to a *pro se* litigant, such assistance must be disclosed to the court “upon every paper filed with the court for which the “ghost-lawyer” gave “substantial assistance” to the *pro se* litigant by drafting or otherwise.” The committee also found that a “ghost lawyer

would also be required to notify opposing counsel of his assistance in non litigation settings. The committee stated:

> This Committee rejects the new view of the ABA Standing Committee on Ethics and Professional Responsibility expressed in ABA Formal Opinion 07-446 (May 5, 2007). The Committee believes that the better view is one which strikes a proper balance between the public policy of serving clients with unbundled legal services and the view that even disclosed "ghost-lawyering" is improper. This Committee adopts the rule that it is unethical to act as a "ghost-lawyer," unless both the "ghost-lawyer's" assistance and identity [8] are disclosed to the court by the signature of the "ghost-lawyer" under Rule 11 upon every paper filed with the court for which the "ghost-lawyer" gave substantial assistance to the pro se litigant by drafting or otherwise.

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Case law

There is case law on this subject, much of it finding that ghostwriting is violative of Rule 11 or is otherwise unprofessional. See the following excerpt from the chapter entitled, "Rule 11" as it appears at page 61:101 of the *ABA/BNA Lawyers' Manual on Professional Conduct* (last updated in 2008):

> ...Lawyers who help a pro se litigant by "ghostwriting" a pleading or other court document without revealing their role in creating the document are arguably circumventing their Rule 11 obligation to certify that the pleadings have merit. See Ellis v. Maine, 448 F.2d 1325, 1328 (1st Cir. 1971); In re Merriam, 250 B.R. 724 (Bankr. D. Colo. 2000); Johnson v. Bd. of County Comm'rs, 868 F. Supp. 1226 (D. Colo. 1994), aff'd on other grounds, 85 F.3d 489 (10th Cir. 1996); Laremont-Lopez v. Se. Tidewater Opportunity Ctr., 968 F. Supp. 1075, 1077 (E.D. Va. 1997), aff'd, 172 F.3d 44 (4th Cir. 1999); see also Ricotta v. California, 4 F. Supp.2d 961, 987 (S.D. Cal. 1998), aff'd, 173 F.3d 861 (9th Cir. 1999) (ghostwriting 75-100 percent of litigant's pleadings deemed unprofessional); Ostrovsky v. Monroe (In re Ellingson), 230 B.R. 426, 435 (Bankr. D. Mont. 1999) (ghostwriting violates court rules and ethics); Wesley v. Don Stein Buick Inc., 987 F. Supp. 884, 885-86 (D. Kan. 1997) (expressing legal and ethical concerns); United States v. Eleven Vehicles, 966 F. Supp. 361, 367 (E.D. Pa. 1997) (implicates attorney's duty of candor to court, interferes with court's ability to supervise litigation, and misrepresents litigant's right to more liberal construction as a pro se litigant); see also New York City Ethics Op. 1987-2 (1987) (requiring disclosure); New York State Ethics Op. 613 (1990) (same).

For a scholarly analysis of the issues involved in the ghostwriting context, See, Robbins, “Ghostwriting, Filling in the Gaps of Pro Se Prisoner’s Access to the Courts,” 23 Geo. J. Legal Ethics 271 (2010); Johnson, “Happy Birthday Rule 11: Integrating Legal Ethics & Professional Responsibility With Federal Rule of Civil Procedure 11,” 37 Loy. L.A. L. Rev. 819 (2004); Goldschmidt, “In Defense of Ghostwriting,” 29 Fordham Urb. L.J. 1145 (2002).

As always, in view of the divergence of opinion on this topic, check your local rules, ethics opinions and case law before agreeing to provide undisclosed legal assistance to clients.

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The ABA Legal Technology Resource Center, an ABA member benefit, provides a hotline for personalized technology assistance, as well as many other resources. Visit us online at www.lawtechnology.org or call the LTRC hotline at 312-988-5465.

Did you know—ABA members receive significant discounts on more than two dozen technology products and services through ABA TechEZ? Visit the ABA TechEZ website to learn about the savings available to you.

Working with Styles and Templates in Microsoft Word 2007, part one

A video tutorial accompanying this article is available for ABA members.

Learning to use styles and new features introduced in Microsoft Word 2007 such as Quick Style Sets and the Quick Styles Gallery can save you time in drafting documents.

Styles for one-click formatting

"Styles" in Microsoft Word allows you to simultaneously apply multiple formatting options to a document with a click of the mouse. For example, imagine that you have to format certain text in Garamond font, 12 point, blue, bold and small caps, as well as apply single-spacing and left-side paragraph indentions of 1-inch. Instead of applying those options one by one, you can save all your formatting choices as a style and apply them with a single mouse click.

Saving new styles

Once you draft text with your formatting choices, there are two ways of saving that formatting as a style for future use.

One method is to select the formatted text, then click on the diagonal arrow in the lower right-hand corner of the Styles group on the Home tab of the Ribbon. On the Styles pane that appears, click on the New Style icon (an image of double A's with a yellow spark) in the lower-left corner. In the New Style window that appears next, type in a name for your new style.

Note that if you want your new style saved as a template, thereby making it accessible to future documents, click on the radio button labeled "New documents based on this template," otherwise your new style will only apply to the Word document in which it was created.

Another method of saving a style is to right-click on the formatted text and select "Styles," then "Save Selection As A

New Quick Style." To save your formatting choices to your template, rather than just your current document, click on the Modify button and select "New Documents Based on This Template" in the Modify Style window that will appear.

Note that in the Modify Style window, if the Style type dropdown menu is set to "Paragraph," your style will be applied to the entire paragraph, not just the selected text. If the menu is instead set to "Linked (paragraph and character)," the style will only impact your selected text.

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Use built-in styles for easy document navigation/summarization

Styles is also a useful tool when reviewing long, dense documents. Word's Outlining and Document Map features can show you at a glance how a document is organized. Outlining presents your document in outline form, while Document Map aggregates your document's headers as links in a separate window so you can easily navigate to their associated paragraphs without slogging through each and every text block.

Styles provides the formatting standardization necessary to render a document as an outline or map. Use one of several available pre-formatted, hierarchically organized styles to take advantage of the Outlining and Document Map features.

To further ensure that Word can properly format your document as an outline or map, enter your body text using the Body Text style instead of the default Normal style. Any formatting alterations in Normal style will cascade and cause changes to the other document styles. Using the Body Text style has no such ill effects.

Modifying existing styles

Microsoft Word offers many built-in styles that you can modify to suit your needs.

One method is to right-click on the style you'd like to change after locating it in the Quick Styles Gallery or on the Styles pane; then select the Modify option, which allows you to change the style properties as you desire. To save these changes to your template, click on "New documents based on this template."

The other method involves making changes to your text first, then updating the style to reflect those changes. After changing the formatting of your text created with a certain style, right-click on the text and select Styles, then "Update (style name) to Match Selection." To save these changes to your template, right-click on the style name in the Gallery or Styles pane and select the "New documents based on this template."

After applying a change to a certain style, you may want to have that change automatically apply to the whole document. To do so, right-click on the style you'd like to update, select Modify, then select the checkbox labeled "Automatically update." For example, if you have one of your Heading 1 lines re-styled in Arial font from Times New Roman font, all

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instances of Heading 1 will automatically be updated from Times New Roman to Arial.

Next month: Part two will explore reusing documents and styles with templates, Quick Style Sets and the Quick Styles Gallery.

New Robert Redford film sneak peek, related movie resources available to ABA members

Conspirator or scapegoat? What was Mary Surratt's role in the assassination of President Abraham Lincoln? The legal issues examined in Robert Redford's new movie, The Conspirator, provide an opportunity for the ABA to serve its members, the legal profession and the public by highlighting the importance of due process and competent representation for defendants.

The movie focuses on the trial of Surratt, owner of the boarding house where John Wilkes Booth and others planned their assault on the newly reunited federal government and, more particularly, its leaders. A young Union officer, Frederick Aiken, reluctantly accepts the assignment to defend her. His commitment to her defense evolves as the movie unfolds. James McAvoy, Robin Wright, Kevin Kline, Tom Wilkinson, Evan Rachel Wood and Danny Huston lead the cast.

The American Film Company, the production company for Redford's movie, approached the ABA with an offer of sneak previews for the legal community to pique interest and discussion among those who grapple with Aiken's dilemma on a daily basis. The Conspirator opens in theaters nationwide April 15. Group discount tickets for ABA members are available at groups@americanfilmco.com.

Pre-release screenings are scheduled in San Francisco, March 29; Chicago, March 30; Washington, D.C., April 5; and Philadelphia, April 6. Seating is limited so reservations are required. Members may register for a screening.

Those interested in more information on the movie should visit ABA's Conspirator web page. Among the resources is a video of the movie-related panel program "In Wartime the Laws Fall Silent?" presented at the 2011 Midyear Meeting.

Screenwriter James Solomon discussed his research on the Lincoln assassination and wartime justice with a panel of legal experts. Moderated by ABA Journal Publisher Edward Adams, the panel included Fred L. Borch III, The Conspirator historian and former chief prosecutor in the Guantanamo military commissions; Alan Yamamoto, a member of the defense team for convicted terrorist Zacarias Moussaoui; Charles J. Dunlap Jr., former deputy judge advocate general of the U.S. Air Force; and Sherry Boston, solicitor general of DeKalb County, Ga.

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