

**MOMENTUM 2010:**

**Final Report and Recommendations**

**of the**

**Strategic Planning & Emerging Trends Committee**

**of the**

**North Carolina Bar Association and North Carolina Bar Foundation**

**Presented to the Board of Governors  
of the North Carolina Bar Association and  
the Board of Directors of the North Carolina Bar Foundation  
April 7-8, 2006 and Adopted June 16, 2006**



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## **A STRATEGIC PLAN FOR THE NCBA, 2006-10**

Until recently, lawyers have been the sole providers of legal services to people and businesses in North Carolina. But our heritage is not our destiny as a profession. We are in an age of revolution from which the legal profession will emerge distinctly, perhaps unrecognizably, different. In this new age, the North Carolina Bar Association's main constituents – North Carolina lawyers – find themselves confronting exciting opportunities and growing competitive threats. The world in which NCBA members practice law is dominated by technological advances, uncertain economic conditions, increasing globalization, rapid changes in the law and an increased need for reliance on the rule of law across the globe and here at home. To survive and succeed in the future, the NCBA must continue to be the indispensable voice of the legal profession and a key resource for its members.

This Strategic Plan explains how North Carolina lawyers and one of the most successful voluntary bar associations in America – the NCBA – will lead and define these changes. The members of the Strategic Planning & Emerging Trends Committee envision an NCBA characterized by flexibility, creativity and renewed relevance; an NCBA that is responsive to members' needs and takes advantage of the best technology to improve service to members and the public; and an NCBA that:

- Provides practice management and client service solutions to members;
- Advocates for long overdue judicial and courthouse reforms in North Carolina;
- Educates North Carolinians more effectively about the law and the justice system;
- Fosters allegiance to the legal profession's core values in the midst of change; and
- Steps up efforts to provide access to justice for those who cannot afford it.

While our goals are generally set forth in order of priority within each section of the Strategic Plan, every recommendation in the plan is worthy of consideration and a number are indispensable. We have made no effort to prioritize the goals and targets globally. Nevertheless, top priorities include: (1) helping members anticipate, recognize and adapt to changes in the law practice environment; (2) being members' "go to" resource for tools that improve their ability to serve clients; (3) taking concrete steps to protect the independence of the judiciary and persuade the General Assembly to establish a "floor" for appropriations to the state courts; (4) fostering greater public understanding about the importance of legal institutions and the rule of law in our society; (5) strengthening the NCBA's and the North Carolina bar's commitment to ensuring access to justice for indigent persons; (6) ensuring that NCBA membership growth exceeds the growth rate of the North Carolina bar; and (7) investing in the technology necessary to deliver services to members and make it easier for them to be involved with the NCBA.

Fortunately, a number of our goals can be achieved with little or no significant monetary outlay by the NCBA and NCBF. Several initiatives, however, will require expenditure of

substantial sums over the next several years and some will require additional staff resources. These are listed in the concluding chapter of this report, “Making It Happen”.

This Strategic Plan has a maximum shelf life of four years. (One of our recommendations is that the NCBA and NCBF take deliberate action now to schedule the next strategic planning process for the 2008-09 bar year so that a successor plan can be in place by 2009-10.<sup>1</sup>) The Strategic Plan is intended as an ongoing project that will be amenable to update and change by the NCBA Board of Governors / NCBF Board of Directors and the Strategic Planning & Emerging Trends Committee during each succeeding year. As ABA President Robert Grey recently told us, a strategic plan needs to be in a “constant frame of motion.” The plan is a snapshot, not a document that is set in stone. Availability and allocation of resources, superseding priorities, technological advances and other unforeseen developments are likely to reshape the plan for its duration. We have been careful to indicate which goals and targets will require further investigation and study.

We believe the NCBA is the only organization with the resources, influence and visibility to address the challenges of diminished public trust and confidence in the justice system. The NCBA is a very healthy organization with a strong membership, but it can be strengthened further. To remain the leading voice of the legal profession in North Carolina, the NCBA cannot continue to do business as usual. We have tried to create a vision of the NCBA’s preferred future, not a reactive approach to today’s problems. We believe that the NCBA can make happen what it wants to make happen, becoming a shaper of events rather than being shaped by them.



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<sup>1</sup> See Part V (The Association), Goal 4, Target 4.

## SETTING THE STAGE

### **North Carolina's Changing Landscape**

When the NCBA undertook its last comprehensive review and self-assessment in 2000-01, the world in which North Carolina lawyers practiced and the NCBA operated had changed dramatically over the course of the 1990s. Five years later, North Carolina continues to undergo staggering changes – in population, economy and natural resources – and there is no end in sight. As the North Carolina Progress Board, the body charged by the General Assembly with reporting on key performance trends and strategic issues that shape our state's future, recently observed: "Of all the predictions for [North Carolina's] future, only one seems certain. More change will come, and it will come with ever-increasing speed."

To make the kind of strategic recommendations the NCBA will need to implement in order to meet the challenges of change, our committee reflected on North Carolina's recent progress and current situation, as well as the present status of the legal profession and the court system. The highlights of this investigation reveal the landscape on which our fellow lawyers practice every day. To ensure the NCBA's continued success, our strategic planning efforts had to take the broader public situation into account. The following is a summary of the leading points:

*By 2030, North Carolina will be the nation's 7<sup>th</sup> most populous state and the number of people over 65 will more than double.* The U.S. Census Bureau predicts that by 2030, nearly 12.5 million people will live in the Tar Heel State. This represents a 54.9% jump in population over the year 2000, when North Carolina ranked 11<sup>th</sup> in population, with just over eight million residents. North Carolina will pass Georgia, New Jersey, Michigan and Ohio in population over the next 25 years. This wave of growth will continue a trend that began around 1980 and by 2002 had seen the state's population increase by 41%. North Carolina will be part of a nationwide demographic shift in which more than half of the country's population growth between 2000 and 2030 will take place in the 16-state region from Delaware to Texas; within this region, only Florida and Texas will grow faster than North Carolina. If patterns from the decade between 1990 and 2000 continue, roughly 65-70% of this growth will be the result of net migration into the state, with the rest being due to natural increase (births minus deaths).

Patterns of growth within the state's boundaries will closely resemble those of the last 25 years, with the I-40/I-85 "Garner to Gastonia" urban corridor and the greater Wilmington/New Hanover County area experiencing continued dramatic population increases and some counties in northeastern North Carolina (with the notable exception of Dare County) sustaining net population losses. The Raleigh/Durham and Charlotte metropolitan areas will double in size from 2000 levels. The Piedmont Triad will also grow at a brisk pace. Most rural parts of the state will grow only modestly or barely hold their own. The overall effect of population growth on educational enrollments at all levels, from kindergarten through higher education (ages 18-24), will increase on the same track as the population generally, with the regions in which the most dramatic growth is expected struggling to keep up with demands for additional resources.

As the baby boom generation ages, the number of people 65 and older in North Carolina will more than double by 2030, to about 2.2 million, making it the state's fastest growing age group. Despite this shift, the median age of North Carolinians in 2030 will be only 36.8, while the national median will rise to age 39. Life expectancy at birth will continue to increase for all demographic groups by between 4.1 and 6.5 years.

*Progress in North Carolina over the last five years has been mixed at best.* Since the NCBA's last strategic planning report was issued in 2001, North Carolina has earned a mixed report card in a number of areas that public policy groups, including the blue-ribbon North Carolina Progress Board, have identified as critical to the future well-being of the state. During fiscal years 2001 through 2003, North Carolina suffered from an economic downturn, the lingering effects of costly hurricanes and scrambles to balance the state budget that led to setbacks or delays in some of these areas. At the same time, in areas the state has emphasized as policy priorities – in particular, educational achievement and violent crime reduction – significant progress has been made.

Over the last six years, several manifestations of North Carolina's willingness to make strategic investments have emerged:

- North Carolina currently has the best worker-safety rating in the South.
- North Carolina fourth graders are the best in the South and among the best in the U.S. on standardized tests. The math proficiency rate of fourth graders improved from 25% in 2000 to 41% in 2003.
- North Carolina was rated by *Site Selection* magazine as having the nation's 5<sup>th</sup> best business climate. Our state and local tax burden is relatively low compared with the national average (although high by comparison with some states with which North Carolina often finds itself in competition).
- Although public borrowing has been on the rise, North Carolina's state government debt is 64% of the U.S. average and continues to be highly rated by Wall Street. State spending is well below the national average.
- In 2004, North Carolina teacher salaries had climbed to 93% of the U.S. average.

Despite these achievements, North Carolina remains a poor state. As a new century unfolds, we are still struggling to overcome a legacy of poverty and battling the effects of plant closings and the virtual disintegration of cherished industries, particularly textiles and tobacco. One in four North Carolinians is eligible to be served by Legal Aid of North Carolina on the basis of income. Since 2000, the median household income of North Carolinians has fallen (dropping the state from 32<sup>nd</sup> in the country to 40<sup>th</sup>), the number of uninsured people is growing, and the high school dropout rate is 11% for 16 to 19 year olds (37<sup>th</sup> highest in the country). Property crimes, on the downswing for a decade, still exceed the national average. Infant mortality rates among minority groups are twice those of whites, and the percentage of children living in poverty has not improved since 1995 (the average poverty rate for all residents actually

rose from 13.1% to 14.2% in 2004). In 2004 North Carolina had the worst rate of homeownership in the Southeast. At 35<sup>th</sup> in the country, North Carolina's voter participation rates significantly trail the national average. Despite the surface prosperity of the cities and towns where the bulk of our state's legal community is found, the reality is that many of our fellow North Carolinians are living less well in 2006 than they did five years ago.

## **Views of the Legal Profession and the NCBA**

*Like the rest of the 21<sup>st</sup> century world, the legal profession is caught up in sea changes that will not end soon.* Today's authors and analysts widely agree that our 21<sup>st</sup> century world is turbulent, complex, dynamic and interconnected. Their consensus is that we live in a time of extraordinary transition, in the midst of changes so profound that we will only be able to understand them with hindsight. This is as evident in the legal profession and the court system as in any other part of our society. Lawyers, like their clients, are communicating and conducting daily transactions in dramatically new ways. The sheer volume of information and data flow available to most lawyers and legal assistants 24/7 is mind boggling and sometimes overwhelming.

Massive change is at the root of these revolutionary shifts, but it is the speed of change that is most challenging to time-honored, precedent-oriented institutions like the legal profession and the court system. Charles Darwin noted that it is not the strongest or the most intelligent species that survive over time, but rather those most responsive to change. The question at the heart of this Strategic Plan is: What should the legal profession and organizations that support it – like the NCBA – do to understand the nature of our rapidly changing world and transform themselves to respond to the new demands and challenges of the 21<sup>st</sup> century?

As preparation for our committee's strategic planning retreat in September 2005, we reviewed The Council of State Governments' June 2005 report, "Trends in America: Charting the Course Ahead." The product of extensive research and regular interaction with policy experts from private and public sectors, "Trends in America" highlights the major forces shaping American society, the American political climate and the world. The report identifies 10 major change drivers that are already affecting states and will continue to impact them for years to come. Several of these drivers are directly relevant to the NCBA and the legal profession in North Carolina:

- *North Carolina is a growth hot spot:* The South and the West are growing faster than the rest of the nation, and the population in all regions is becoming more concentrated in suburban areas. The number of lawyers in North Carolina is growing even more rapidly than the population of the state. Is the NCBA prepared?
- *Sorting out the information revolution for North Carolina lawyers will be a key NCBA function.* The Internet has revolutionized information dissemination. Because of increased access to vast amounts of information, clients may demand more from their lawyers in the future, even as more is demanded of them by an increasingly competitive world. One traditional skill lawyers have – the ability to analyze and

make sense of fragmented information – could prove the basis of our profession’s best contributions to society over the next several decades. But lawyers must be prepared themselves to handle the age of information overload. Is the NCBA doing enough to help?

- *Polarized populace, eroding common ground:* The political process is more polarized now than it has been since the early 20<sup>th</sup> century, with the polarized debate focusing largely on “culture wars.” What are the consequences of political polarization for “umbrella” organizations like the NCBA that seek to be “all things to all lawyers” and have thrived by avoiding controversy and achieving consensus? How can the NCBA be successful in influencing public debate on important issues in this polarized environment?
- *Globalization means new forces at work:* Globalization will continue to integrate businesses, governments and people – familiar clients for NCBA members – across the world. Rapid changes in the global economy will propel North Carolina lawyers into the international arena and constantly demand greater levels of awareness. Is the NCBA prepared to equip its members to compete and take advantage of benefits offered by the global economy? How can the NCBA help ensure that North Carolina lawyers are members of the “creative class” of workers who generate new ideas and prosper in the entrepreneurial economy of the 21<sup>st</sup> century?
- *North Carolina is a state of immigrants:* The percentage of the U.S. population comprised of immigrants is close to record levels, and the number of immigrants is at an all-time high. Most immigrants come from Latin America and Asia, and are dispersing to areas like North Carolina where immigrants traditionally have not lived. According to the Pew Hispanic Center, immigration since the mid-1990s – especially the influx of poor and unskilled immigrants – has contributed significantly to North Carolina’s poverty levels. Is the NCBA doing enough to prepare its members to serve these new North Carolinians?

*The bar in North Carolina is growing rapidly and its complexion is changing.* Much of the South’s projected population increase over the next 25 years will be attributable to domestic in-migration, and this is likely to be mirrored in the growth of the bar. There are presently 17,750 lawyers licensed in North Carolina,<sup>2</sup> more than 13,000 of whom are members of the NCBA. As recently as the early 1990s, North Carolina ranked 50<sup>th</sup> in the nation in the number of lawyers per capita as measured against the state’s total population. With the state’s intense economic development efforts over the last several decades, however, North Carolina has become a popular destination for newly minted law school graduates entering practice as well as lawyers already licensed in other states but seeking greener pastures. The number of applicants sitting for the North Carolina bar examination is a telling sign of this trend.<sup>3</sup> In 1980, 655

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<sup>2</sup> Telephone conversation between Martin H. Brinkley and L. Thomas Lunsford, II, Executive Director, North Carolina State Bar, Dec. 22, 2005.

<sup>3</sup> The figures referenced in this paragraph are based on statistics supplied by courtesy of Fred P. Parker, III, Executive Director of the North Carolina Board of Law Examiners.

persons applied to take the examination. By 1990, the number of applicants had risen by nearly 20%, to 785. Between 1990 and 2005, however, the number of applicants rose to 1,375 – an increase of 75%. North Carolina remains among the lowest ranking states in number of lawyers per capita (currently 48<sup>th</sup> in the country) solely as a result of the state’s rapid population growth.

Another significant change relates to the educational and practice backgrounds of bar examination applicants. No longer are the great majority of North Carolina lawyers trained in one of the state’s law schools. As recently as 2002, the percentage of bar exam applicants who had graduated from a North Carolina law school was equal to the percentage of applicants from out-of-state schools. In 2004, however, out-of-state law school graduates began to exceed in-state graduates by 53% to 47%. In 2005, out-of-state graduates comprised 56% of the total bar exam applicant pool, and in-state graduates 44%. Although this trend is likely to moderate as graduates of the new Elon University School of Law and Charlotte School of Law enter the workforce, North Carolina is proving to be a magnet for lawyers from other parts of the country.

*Views of the NCBA.* Our committee conducted an extensive series of online surveys with NCBA leaders (“internal stakeholders”) and personal interviews with individuals outside the NCBA who have reason to be concerned about the future of the organization (“external stakeholders”). Elizabeth Derrico of the ABA’s Division for Bar Services, our consultant for the strategic planning process, designed the online surveys and interview question forms with input from our committee. Ms. Derrico prepared a summary of the results of the surveys and interviews. It is reproduced in Appendix B.

Although the surveys did not (and were not designed to) produce a statistically valid sampling of member opinion and reflect the views of a self-selected group, they yielded several clear messages. Eighty percent of survey respondents said they were “most satisfied” or “moderately satisfied” with the NCBA’s/NCBF’s professional development activities and CLE programs, while 60% were “most satisfied” or “moderately satisfied” with the NCBA’s efforts to promote professionalism. Only 10% or fewer of the respondents said they were “moderately dissatisfied” or “most dissatisfied” with the NCBA’s performance in these areas. Respondents also expressed relatively high levels of satisfaction with the NCBA’s service to the profession, legislative advocacy and practice management initiatives. On the other hand, less than 35% of survey respondents expressed high satisfaction with the NCBA’s work in educating the public about the law and the justice system and providing access to justice to those who cannot afford it. Similar percentages said they were “most dissatisfied” or “moderately dissatisfied” with the Association’s performance in those areas. Member satisfaction appears highest with programs that affect lawyers’ practices as opposed to those that involve interaction with the external community. Ms. Derrico speculates that this may reflect survey respondents’ lack of familiarity with NCBA programs in the latter area.

## **The Strategic Planning & Emerging Trends Committee**

The NCBA has undertaken five separate long-range planning efforts since the late 1970s. Long Range Planning Committees were convened to draft written plans in 1979-81 (chaired by E. Osborne Ayscue, Jr. of Charlotte), 1981-83 (chaired by Laurence S. Graham of Greenville),

1983-85 (chaired by Larry B. Sitton of Greensboro), 1988-90 (chaired by John S. Stevens of Asheville), 1995-97 (chaired successively by Elizabeth L. Quick of Winston-Salem and Larry B. Sitton of Greensboro), and 1999-2001 (chaired by G. Gray Wilson of Winston-Salem). Although the timing of these projects varied, the NCBA's strong cadre of dedicated leaders and its long tradition of entrusting strategic planning to experienced volunteers led each Long Range Planning Committee to create a valuable roadmap that served the Association well during its intended lifespan.

The NCBA's tradition of assembling ad hoc long range planning committees on an occasional basis was altered in favor of establishing a regular standing committee, the Strategic Planning & Emerging Trends Committee, in 2001. The committee was created as a result of the 1999-2001 Long Range Planning Committee's recommendation that the Association "[c]reate a Strategic Planning Committee that will evaluate NCBA long range planning issues and have oversight responsibility for the implementation of prior Long Range Planning Committee reports, as well as any of its own strategic recommendations that are adopted by the Board [of Governors]."<sup>4</sup> Janet Ward Black of Greensboro served as the first chair of the newly constituted committee in 2001-02. The original membership consisted primarily of NCBA members who had served on the 1999-2001 Long Range Planning Committee and participated in the drafting of that committee's "Final Report and Recommendations" under the leadership of G. Gray Wilson. The Strategic Planning & Emerging Trends Committee's main task during its first year of life was monitoring the NCBA's progress in implementing the recommendations contained in the 2001 Long Range Planning Committee Report.

Janet Ward Black was succeeded as chair by James R. Fox of Winston-Salem, who led the committee during the 2002-03 and 2003-04 bar years. Mr. Fox instituted the custom of scheduling a meeting with the new NCBA President shortly after the Annual Meeting to frame the committee's agenda for the year. During Mr. Fox's tenure, the committee's agenda shifted from monitoring the existing long range plan to considering a number of discrete strategic and policy issues that had been identified by Presidents J. Norfleet Pruden, III and Allyson K. Duncan. The issues ranged from the NCBA's position on the potential enactment by the General Assembly of a tax on professional services, to the potential use of electronic filing for submitting papers to the state courts, to the location and format of the NCBA Annual Meeting. Mr. Fox reported the committee's recommendations to the Board of Governors for such action as the Board deemed appropriate.

In July 2004, newly installed NCBA President Gray Wilson invited Martin Brinkley of Raleigh to succeed Jim Fox as chair and charged the Strategic Planning & Emerging Trends Committee with deciding whether the 2001 Long Range Planning Committee's plan needed revision or should be replaced by a new plan. NCBA Executive Director Allan Head and others well informed about the use of strategic plans among bar associations around the country informed the committee that, with the rapid pace of change in the legal profession and society at large, the use of 5-10 year strategic plans is in decline. The "best practice" identified by strategic planning experts for voluntary organizations like the NCBA, they said, calls for tailored, flexible plans intended to sunset after three or at most four years. After considering Mr. Head's advice,

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<sup>4</sup> *Final Report & Recommendations of the Long Range Planning Committee Presented to the Board of Governors, N.C. Bar Association, June 21, 2001*, at 5.

consulting further with President Wilson and President-Elect Michael A. Colombo, and determining that the NCBA had largely been successful in achieving the action items called for by the 2001 Long Range Planning Committee Report, our committee determined late in 2004 that a fresh strategic planning process should be undertaken during the 2005-06 bar year. The report you now hold is the result of that process.

Our committee spent the 2004-05 bar year devising a structure for the strategic planning process and reflecting on a group of relevant issues, dividing responsibility among four subcommittees.<sup>5</sup> As the year progressed, we focused attention on laying the foundation for a well-conceived, thorough and successful process. A critical point in the journey was our decision to hire Elizabeth Derrico, a 10-year veteran of the American Bar Association's Division for Bar Services who has worked with many bars around the country on strategic planning, as our helmsman. Our initial positive impressions of Ms. Derrico's competence, demeanor and rich experience have been amply borne out in the course of our work with her over the last 18 months. With her guidance we framed a "Statement of Purpose" to focus our efforts. The Statement of Purpose said we would:

- *Create* a pathway for NCBA leaders and staff to initiate new programs and member services and nurture existing ones;
- *Enhance* the NCBA's ability to serve its members, the public and the legal profession;
- *Articulate* concrete, attainable and verifiable goals;
- *Inspire* NCBA leaders and staff to innovation; and
- *Identify* goals for the NCBA that acknowledge the rapid pace of change in society and the practice of law, while embracing anew the core values of our profession.

Throughout the late spring and summer of 2005, Ms. Derrico led us in the time-consuming but rewarding work of identifying and taking the pulse of the NCBA's internal and external "stakeholders" by conducting online surveys and in-person interviews.<sup>6</sup> Ms. Derrico has summarized the results of the surveys and interviews in Appendix B. This information gathering exercise, along with background reading assigned by Ms. Derrico (the "Trends in America" publication referenced above), prepared us for a strategic planning retreat we held on September 9-10, 2005 at the Old North State Club at Badin Lake, North Carolina. We also met with ABA President Robert Grey during the 2005 Annual Meeting in Asheville. President Grey confronted us with urgent challenges, encouraging us to draft a plan that is in a "constant frame of motion."

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<sup>5</sup> The subcommittees were "NCBA Strategic Plan for 2006-10," co-chaired by Rosemary G. Kenyon of Raleigh and Robert B. Hobbs, Jr. of Nags Head; "Regulatory Issues Affecting the Profession," co-chaired by Jean Gordon Carter of Raleigh and Reginald F. Combs of Winston-Salem; "Trends Affecting the Profession," co-chaired by Kevin G. Williams of Winston-Salem and John R. Cella, Jr. of Raleigh; and "Rethinking the NCBA's Internal Planning Processes," co-chaired by Ann E. Hanks of High Point and Daniel F. McLawhorn of Raleigh.

<sup>6</sup> Appendix D contains a list of the personal interviews we conducted and Elizabeth Derrico's summary of the online survey responses she received.

During the retreat, which was well attended by both Strategic Planning & Emerging Trends Committee members and NCBA executive staff, Elizabeth Derrico led us through a series of individual and small group exercises that urged us to “think big” about the NCBA’s future by focusing on five issue areas: (1) “The Lawyer’s Office,” (2) “The Profession,” (3) “The Courthouse,” (4) “The Community” and (5) “The Bar Association.” An important development at the retreat was our wholehearted decision to reaffirm support for the NCBA’s current mission statement: “To serve the public and the legal profession by promoting the administration of justice and encouraging the highest standards of integrity, competence, civility, and well-being of all members of the profession.”

After returning to ABA headquarters in Chicago, Ms. Derrico prepared a series of five matrices summarizing our retreat discussions. The matrices, which corresponded to the five issue focus areas, served as outlines for drafting the five substantive “chapters” of this Strategic Plan. The committee divided itself into five drafting groups, each led by two convenors. (A list of the drafting groups is contained in [Appendix A](#).) Each drafting group prepared an initial draft of the chapter for its issue area and forwarded it to the chair. The chair then circulated a series of drafts of the entire Strategic Plan among the committee for comment and sought input from NCBA executive staff members and NCBA Section, Division and Committee chairs. After an intensive four-month process of burnishing drafts and seeking input, we present this Strategic Plan to the final decision-maker: the NCBA Board of Governors and NCBF Board of Directors.

## **Our Task**

As the NCBA’s Strategic Planning & Emerging Trends Committee, our challenge has been to look down the road as far as possible, take stock of the NCBA’s strengths, reflect on current needs, and recognize challenges and opportunities to come. We are charged with establishing a set of goals that describe where the NCBA wants to be by the year 2010 and, equally important, a system for measuring our progress towards those goals. We serve as a proponent for strategic action and accountability. We’re here to challenge NCBA leaders to look beyond the “fires” of today and be guided by the long-term needs of the organization and its members.

We are obliged, as well, to say what we are not here to do. Our job is not to design programs or advocate specific policies. We aren’t here to dictate which policy or program the NCBA adopts or rejects, or to evaluate the specific cost or the impact of our recommendations on the budget or finances of the NCBA or the NCBF (although we do attempt to say which of our recommendations have financial implications). Instead, we offer a measuring stick, a way to reflect dispassionately on whether the NCBA is dealing with the right issues and whether solutions are in fact delivering intended results. We do this by structuring our recommendations as follows:

- *The NCBA’s Vision:* Each “chapter” is introduced by a single statement expressing a special, unusual foresight that represents our best expectations for the issue area as of the year 2010. For example: “North Carolina will enjoy a court system where judges

are highly competent and are not, nor perceived to be, political; where litigants are treated the same, regardless of economic status, location, English skills or physical disability; and where the public understands and values the rule of law, the protection of civil liberties, and the distinct function of the judicial branch as bedrock principles of our American constitutional experiment. North Carolina citizens will be well informed about the courts and are willing to implement the reforms and invest the resources necessary to uphold these bedrock principles.”

- *Comment:* After stating our vision, we offer specific observations, often factual or based on collective experience, to serve as a framework for our goals.
- *Goal:* Our “goals” are intended to be “word pictures” describing where we want the NCBA to be and the conditions or standards that have to be in place to achieve it. For example: “The NCBA will be successful in advocating for increasing Judicial Branch funding to 3% of the state budget.”
- *Target:* “Targets” are measurable milestones for where the NCBA must have advanced along the timeline between now and 2010 in order to achieve a given goal. For example: “[The NCBA will] advocate for sustained funding of the court system at 3% of the total state budget in all upcoming legislative sessions.”

The five major issue areas are a convenient organizing principle, but they are not isolated. Each area is only one facet of the complex organism that is the NCBA and is intertwined with the other areas by common themes and concerns. Consider, for example, the issue of access to justice for persons of modest means. We have made increasing the NCBA’s commitment to pro bono services our No. 2 goal under The Profession. One in four North Carolinians qualify for Legal Aid services, and recent studies indicate that 80% of the needs of this population are going unmet. This problem is directly related to the question of whether the legal profession deserves to retain its state-sanctioned monopoly over legal services when such a large group of people remains unserved. But it also affects the court system’s ability to treat all litigants the same regardless of economic status (The Courthouse), as well as lawyers’ overarching role in The Community. We have tried to identify these overlaps but have made no effort to eliminate them or to isolate concepts to a single issue area.



## **MOVING FORWARD**

### **I. THE LAWYER'S OFFICE**

#### **The NCBA's Vision:**

*In every North Carolina lawyer's office, the NCBA will provide services and benefits that contribute to the professional success and personal well-being of its members. The NCBA will offer services it is uniquely competent to identify and provide and for which members demonstrate sustained demand. The NCBA will emphasize innovation and leadership by providing services and benefits that generate market demand.*

#### **Comment**

American society, the American legal system and the practice of law are in the midst of change of an unprecedented and exponential kind and magnitude. This age of technological revolution, together with the globalizing of business and worldwide competition, is transforming our profession and our system of justice with the same intensity as it is everything else around us. What does this unprecedented change imply for a precedent-oriented profession? How should the practice of law, the administration of justice and organizations that support the legal system – such as the NCBA – change to take advantage of this rapidly changing world? How can North Carolina lawyers ensure the survival of our profession's core values – the fundamental and enduring principles that are essential to the rule of law – in an age of economic and technological revolution?

We have not analyzed all the reasons for the NCBA's remarkable record of achievement and its premier position among the country's voluntary bars, but we are confident that one source of our success has been the NCBA's willingness to scrutinize its own identity and the role it plays in the professional lives of its members. (The Strategic Plan you hold in your hand is tangible evidence of this NCBA character trait.) Never has this habit been more important to preserve and cultivate than today. In a complex society that is just beginning to understand the possibilities that advances in technology and communications hold out, we must ask ourselves: What sets the NCBA apart in the minds of its members? What does the NCBA do for North Carolina lawyers and paralegals that nobody else can do as well?

North Carolina lawyers need the NCBA to continue to speak out to the public in support of lawyers and the legal system. Individual practitioners and law firms need the NCBA to serve and support their personal and professional needs. Increasingly, this will mean helping the profession and practitioners recognize, understand and manage change. Change is rarely welcomed. But in this age, traditional and comfortable approaches and solutions are often ineffective, or even counter productive, to meeting lawyers' current problems, demands and needs head on. The NCBA must lead, but at the same time nurture and support leadership by, its members – both within the profession and in society at large.

We recommend that the NCBA embrace five strategic goals for the Lawyer's Office over the next three to five years. These goals are:

**GOAL 1: The NCBA will help its members anticipate, recognize and adapt to changes and advances in the law practice environment.**

**Targets:**

- (1) **Educate members on trends, issues and developments that affect the practice of law.** In recent years the NCBA has provided members with information and a forum for dialogue about multidisciplinary practice ("MDP"). The Convention Planning Advisory Committee, the Technology Advisory Committee, the Communications Committee, the Continuing Legal Education Committee and Section CLE Committees should sponsor other activities that call attention to and anticipate change. As examples, these activities might include inviting futurists to speak at annual conventions and Section annual meetings, presenting panels at CLE programs that focus on change in the practice environment, sponsoring programs for litigation lawyers seeking training in alternative dispute resolution techniques, and publishing articles and monographs on these subjects.
- (2) **Develop ways of helping members recognize and adjust to social and economic changes and shifting client demographics.** The NCBA has performed surveys of the legal profession in the past. Funds should be allocated to assess on a regular basis the changing conditions of law practice, economic issues and members' satisfactions and frustrations related to law practice and the legal system. The Membership Committee and the Hispanic/Latino Lawyers Committee should advise the Board of Governors on client demographic issues of importance to North Carolina's growing Hispanic population.
- (3) **Educate members about the expanding role of technology in law practice.** The Information Technology Department and the Technology Advisory Committee should continue to (i) identify new technology services, such as Casemaker, that are appropriate for the NCBA to provide to members; and (ii) identify and communicate developments in technology that raise special issues or risks for lawyers, such as metadata. The Continuing Legal Education Committee should provide opportunities for members to be trained in the use of technologies with law office applications, such as e-filing.
- (4) **Help members understand their own need for training; promote a culture of continuous learning and adaptation to change among members.** The Membership Committee and the Director of Membership, with the assistance of the Information Technology Director and the Technology Department, should seek innovative ways of bringing new technologies, services, and risks to members' awareness, such as the current practice of accompanying Lawyers Mutual representatives to meetings with members. The Membership Committee

should study NCBA membership trends and the potential for new membership classifications with a view to promoting a culture of continuous learning.

- (5) **Consider establishing a standing Committee to address issues of change as they are affected by technology.** This might be done by changing or broadening the focus and mission of the current Technology Advisory Committee.

**GOAL 2: The NCBA will be members' first destination for tools that improve members' ability to render legal services to clients. The NCBA will sponsor those tools and provide training and support for their use, in a manner consistent with our mission as a professional association.**

**Targets:**

- (1) **Provide information to lawyers about the availability of tools and training, including new sources of information about technology, CLE, practice management, electronic communications, and law-related resources and links.** The Continuing Legal Education Committee and the Director of Continuing Legal Education, with assistance from the Information Technology Department, the Technology Advisory Committee and the Law Practice Management Section, if necessary, should become an information clearinghouse, harnessing its extensive intellectual property resources (in the form of CLE program manuscripts and materials, among other things) in the service of NCBA members.
- (2) **Help members identify worthy technology products, vendors and service providers.** The Director of Membership and the Membership Committee, with the assistance of the Information Technology Department and the Technology Advisory Committee as necessary, should assess quality, filter and provide members with product evaluations that will enable them to make wise choices about the bewildering array of technology solutions available in today's market. Choosing technology products and vendors are tasks that burden practitioners and that can often be done once, and more efficiently, for all. The NCBA should maintain a list of technology consultants and providers for referral to members and revitalize or restructure the Technology Assistance Program to offer members the most extensive array of technology solutions.
- (3) **Communicate risks and challenges associated with new technological tools, such as electronic filing, metadata and electronic document retention to members.** The Director of Communications and the Communications Committee should ensure that *e-bar* and other NCBA publications offer regular contributions on these subjects in reader-friendly formats. These contributions should help members learn how to advise clients on these topics.

- (4) **Communicate and market the range of NCBA services and resources to members.** The Director of Membership and the Membership Committee should construct new models for bringing NCBA services to members “where they live,” finding ways to be present in law offices (such as the practice of attending Lawyers Mutual presentations) or attending local bar association events for promotional purposes. Examples of services members should know about include: Casemaker, Webcast CLE, iPod cast CLE, CyberCLE, CLE Passport, Solo and Small Firm Resource Center, Practice Tips links, Electronic Membership Directory, Electronic Judicial Directory, *e-bar*, LISTSERV, NC Bar Forums, NC Legal Marketplace, Affinity Partners (credit cards, legal software, insurance, office supplies, overnight delivery, retirement (401K) plans, telecommunications and disaster planning/preparedness, network solutions provider).

**GOAL 3: The NCBA will provide, directly and by endorsement, programs tailored for members that promote professional and personal improvement and life skills outside the scope of traditional continuing legal education, regardless of whether CLE credit is awarded.**

**Targets:**

- (1) **Continue to develop law practice management (“LPM”) and lawyer effectiveness resources, regardless of whether the State Bar awards CLE credit for these programs.** The Law Practice Management Section, the Legal Assistants Division and the Lawyer Effectiveness and Quality of Life Committee should take leadership of this task.
- (2) **Urge the State Bar to liberalize CLE rules to credit LPM programs and sanction new modes of CLE delivery.** The Continuing Legal Education Committee, under the supervision of the Board of Governors, should undertake this task.
- (3) **Expand self-help libraries by developing “self-help” books, such as the North Carolina Small Law Office Resource Manual and books that address disaster preparedness/planning, starting a law practice, and drawing up business plans for law firms.** The Law Practice Management Section, the GP, Small Firm & Solo Section and the Legal Assistants Division should lead this effort.
- (4) **Survey and consult with the managing partners to determine how the NCBA can provide large firms with outreach and training resources in areas such as associate mentoring, how to delegate, working in teams, retirement, financial planning, public speaking and practice group management, regardless of whether such programs qualify for CLE credit.** The Large Law Firm Committee should be assigned this task. As CLE becomes available from an ever-widening circle of providers and economic pressures on large firms increase, the high level of support North Carolina’s largest firms traditionally have given to

the NCBA cannot be taken for granted. The NCBA must find ways of remaining relevant and helpful to large law firms, on terms the firms themselves decide.

- (5) **Offer to deliver selected training and other outreach programs, of the type described in Target 4 above, one firm at a time, at individual law offices or firm retreats.** The Senior Lawyers Division should consider whether its members can draw on their experience to provide this service, recognizing that there are practical issues to be worked through (such as ensuring that no firm feels it is being “invaded” by a competitor). The Director of Membership should assist the SLD and the Continuing Legal Education Committee should provide help with obtaining CLE credit for these programs.
- (6) **Offer quality-of-life and self-improvement programs such as time management, communications, leadership and public speaking, regardless of whether they qualify for CLE credit.** The Lawyer Effectiveness & Quality of Life Committee should continue to lead these efforts.
- (7) **Provide career-transition services, in recognition that attorneys will change careers, retire and close or sell their law practices.** The Director of Membership and the Membership Committee should consider educational programming or other informational resources to address these eventualities. (A leading purpose of the existing NC Legal Marketplace is to do this.) The NCBA should become a clearinghouse for information about the availability of services for career changes and job opportunities and investigate the possibility of endorsing retirement and financial planners.
- (8) **Consider a survey or study to assess the effectiveness of the current young lawyer mentoring program.** The Young Lawyers Division should undertake this task.

**GOAL 4: The NCBA will provide the highest quality of CLE programming for its members, building on its 50-year tradition of accomplishment and success in this field.**

**Targets:**

**The Continuing Legal Education Committee should:**

- (1) **Ensure that adequate resources are budgeted to implement the CLE Strategic Plan adopted by the NCBA Board of Governors/NCBF Board of Directors on June 18, 2004.** The Finance Committee should continue to give high priority to the CLE Strategic Plan’s budgetary recommendations. We note that the Finance Committee has approved the Continuing Legal Education Committee’s budget essentially as submitted in each of the last two fiscal years,

including capital expenditures requested by the Continuing Legal Education Committee.

- (2) **Continue to provide professionalism courses for North Carolina lawyers (including newly-licensed attorneys) and paralegals.** The Continuing Legal Education Committee should continue to offer quality courses to enable lawyers and paralegals to meet mandatory ethics, substance abuse/mental health and professionalism requirements and provide programming to address the highest ideals of professionalism
- (3) **Continue to develop and secure approval for new approaches to the delivery of credit-sanctioned CLE programs, such as allowing additional MCLE credit for online course work and other convenient delivery methods.** The Board of Governors, upon recommendation from the Continuing Legal Education Committee, should ask the North Carolina State Bar to increase the limitation on the hours of MCLE hours that may be taken online annually from four to six.

**GOAL 5: The NCBA will use technology and other new methods to be innovative in delivering programming, training, and educational services.**

**Targets:**

- (1) **Expand the use of technology to deliver CLE programming to members' desktops and other convenient, affordable venues.** The Continuing Legal Education Committee should examine new technologies that provide CLE to attorneys' desktops.
- (2) **Review the pricing structure of CLE products, constantly considering new structures and opportunities for discounts.** The Continuing Legal Education Committee should review and, if possible, simplify the current fee structure for CLE products and programs.
- (3) **Evaluate new delivery media and methods, such as marketing to limited venues (e.g., local bar associations, single law firms, law firm retreat programming, use of CD's and DVD's, etc.)** The Continuing Legal Education Committee should evaluate the method and means of delivering CLE to limited venues in light of the recent MCLE rule change that reduces the minimum number of attorneys required at a video replay from five to three. The Continuing Legal Education Committee should continue to exercise appropriate discretion in evaluating new delivery methods on a cost-benefit basis, especially for CLE programs of limited appeal.
- (4) **Analyze market niches and consumer groups, such as paralegals, legal secretaries, young lawyers and North Carolina-licensed lawyers residing outside North Carolina.** The Continuing Legal Education Committee should

identify and analyze market niches as part of ongoing market surveys and research.

## II. THE PROFESSION

### **The NCBA's Vision:**

*NCBA members will be proud of the legal profession and its importance to American society, even as they work to improve our country's system of justice. The North Carolina bar will be a supportive community of lawyers and legal assistants who promote respect for the legal system and the legal profession by demonstrating an unflinching commitment to professionalism and the welfare of all citizens, particularly persons of modest means. North Carolina lawyers will recreate themselves by committing anew to a professional culture that preserves our profession's core values of independence, civility and integrity, protects our clients and maintains our relevance.*

### **Comment**

The NCBA has long been the leading voice of the legal profession in North Carolina. The NCBA has fulfilled this role in many ways: by promoting justice, fostering civility among lawyers, encouraging community service and supporting ethical conduct by lawyers and others. The NCBA has worked closely with the North Carolina State Bar, the Chief Justice's Commission on Professionalism and other groups to encourage North Carolina lawyers to adhere to the highest professional standards. The Association has enhanced the pride lawyers feel in their profession. The NCBA has a history of great success in many areas that fall under the broad umbrella of "professionalism." We must preserve and enhance the luster of that tradition, a treasure that is easily fractured or lost, in the NCBA's second century.

Although our Association's success in fostering professionalism is manifest, in one vital area that is a hallmark of professionalism – access to justice for the poor – the North Carolina bar is not performing as well as it could. Consider the following facts:

- Notwithstanding gains made nationally over the last quarter of the 20<sup>th</sup> century to secure funding for indigent legal services, these efforts have fallen short of meeting the basic needs of the poor. Approximately 2.2 million North Carolinians qualify for legal services (28% of the state's population),<sup>7</sup> and North Carolina's Legal Services programs combined have only 120 staff attorneys – one lawyer for every 18,000 eligible clients. Eighty percent of the need for legal services in the United States is going unmet. North Carolina ranks 42<sup>nd</sup> in the United States in funding for Legal Services, significantly behind all of our southeastern neighbors. Lawyers in our state are not doing an adequate job of supporting legal services programs with our money. The legal community nationwide (including lawyer fund drives, mandatory attorney registration fee/bar dues surcharges, voluntary bar dues add-ons/opt-outs, and bar association and foundation contributions (other than IOLTA funding)) contributes approximately \$1.60 per indigent individual to legal services programs each year. By contrast, North Carolina's legal community contributes only about \$0.25 per individual.

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<sup>7</sup> To qualify, an individual's income must fall below 125% of the federal poverty guidelines (\$23,563 gross annual income for a family of four; \$11,638 gross annual income for an individual).

- At various times over the last several decades, the NCBA Board of Governors has approved resolutions encouraging North Carolina lawyers to donate free legal services to persons of limited means.<sup>8</sup> In spite of this recognition and the outstanding level of commitment some lawyers have shown, most attorneys do not perform a meaningful amount of pro bono work for the poor. A recent ABA study reported that two-thirds of lawyers nationally provide some pro bono legal services to the poor or to organizations serving the poor. Although no comparable study of North Carolina lawyers has been completed, it appears that North Carolina lawyers fall well short of the national average. For example, in 2005, 21% of lawyers licensed in North Carolina (or 29% of NCBA members) were listed on volunteer attorney rolls maintained by Legal Services offices throughout the state. The statistics show no improvement over those of a decade ago, when similar percentages were on these same lists. Although North Carolina lawyers may provide pro bono services to the poor through other means (such as giving free legal services to nonprofit organizations), there is no indication that these efforts are significant on a statewide basis. Statistics compiled by the ABA suggest that the total number of pro bono hours lawyers put in each year declined by nearly a third (from 56 hours to 39 hours) between 1992 and 2000.

These facts show that despite past efforts, the poor in North Carolina lack adequate access to systems of civil justice and dispute resolution. As a result, many may be left without recourse in the law, without confidence in the American system of justice, and with the need to resolve their disputes outside of the rule of law. Because equal access to justice is a fundamental core value of the legal profession, the NCBA should strive to reverse this trend in the interest of the profession's future.

We recommend that the NCBA embrace three strategic goals for The Profession over the next three to five years. These goals are:

**GOAL 1: The NCBA will maintain and strengthen its flourishing partnership with the North Carolina State Bar by actively reviewing proposed changes to and interpretations of the rules of professional responsibility for practicing attorneys. The NCBA will support the efforts of the Chief Justice's Commission on Professionalism to lead North Carolina lawyers to aspire to the highest ethical standards.**

**Targets:**

- (1) **Maintain and enhance liaison relationships with the State Bar and the Chief Justice's Commission on Professionalism.** The NCBA will maintain and enhance its present liaison relationships with committees of the North Carolina State Bar and the Chief Justice's Commission on Professionalism. The President

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<sup>8</sup> For example, on April 21, 1990 the Board of Governors approved a resolution urging North Carolina lawyers to volunteer 20 hours of pro bono services or handle two pro bono cases per year.

should continue to appoint well qualified NCBA members to these liaison positions.

**GOAL 2: The NCBA and NCBF will increase financial support for Legal Services programs, encourage North Carolina lawyers to make a greater commitment to providing pro bono legal services, and generally promote access to justice for indigent persons.**

**Targets:**

- (1) **Increase the number of volunteer pro bono attorneys on the rolls of North Carolina Legal Services offices by 10% per year in each of the next five years.** The NCBA should lead the way in empowering North Carolina lawyers to replace eroding levels of pro bono service. The Director of Public Service & Pro Bono Activities should work with the Public Service Advisory Committee and the pro bono committees of the Divisions and Sections, as well as Legal Services leadership and local bars, to achieve this goal. The Director of Pro Bono & Public Service Activities and the Public Service Advisory Committee should continue to organize pro bono activities for members and support those activities by offering educational and other resources.
- (2) **Increase the funding provided by the legal profession for Legal Services to the national average and establish a “Legal Aid Fund” within the NCBF Endowment.** Bar groups nationwide (other than IOLTA organizations) contribute approximately \$1.60 per indigent individual to legal services programs each year. North Carolina’s legal community contributes only about \$0.25 per individual. The NCBA, under the direction of the Director of Public Service & Pro Bono Activities, should take the lead in raising the per indigent individual contribution by North Carolina bar groups to the national average. The Development Committee and the Director of Development should consider and report to the NCBF Board of Directors on whether a dedicated Legal Aid Fund can be established within the NCBF to help achieve this goal.
- (3) **Demonstrate and publicize the pro bono and public service contributions North Carolina lawyers and paralegals make to the wider community.** The Public Service Advisory Committee, with the assistance of the pro bono committees of the Divisions and Sections, should gather information about lawyers’ pro bono and community activities and transmit it to the Director of Communications and the Communications Committee. The Director of Communications should disseminate this information promptly to NCBA members and the public generally. The Dr. I. Beverly Lake Public Service Award is a step in the right direction and the achievements of its recipients should be widely publicized.

**GOAL 3:** The NCBA will foster a culture of professionalism, civility and collegiality among all segments of the legal community in North Carolina. The NCBA will embrace anew its role as the place where North Carolina lawyers meet to have fun – and it should continue to embrace and enhance that role. Annual meetings of the NCBA as a whole and of Sections should remain events in which judges, lawyers, legal assistants and their families socialize and form relationships that make working together on substantive matters rewarding and meaningful.

**Targets:**

- (1) **Form closer law school partnerships.** The Law School Liaison Committee should continue to act as a clearinghouse of ideas for North Carolina law school deans so that they may foster the core values of the legal profession among law students about to enter the profession.
- (2) **Encourage diversity.** The legal profession in North Carolina does not adequately reflect the demographics of our state. The percentage of women who have entered the profession has increased dramatically in the past 40 years, but it is well documented that women have not yet obtained proportional leadership roles in the profession. Racial minorities have an even lower percentage of representation, despite the fact that the United States population is projected to be almost 60% “minority” by 2050. Minority entry into the profession has slowed considerably over the last 10 years, and minorities in general continue to face significant obstacles to full and equal participation in the profession. All NCBA groups and initiatives should encourage diversity in the legal profession, both within the NCBA and more generally in the profession at large.<sup>9</sup>
- (3) **Welcome and integrate lawyers from other jurisdictions.** Lawyers who have practiced for some time in North Carolina generally feel that the atmosphere of professionalism in the state has been good over the years and appreciate the practice of law in North Carolina as compared with other jurisdictions. While it is not entirely clear how North Carolina has managed to preserve its good professional atmosphere, some contributing factors may be the large percentage of North Carolina lawyers who traditionally have been trained at North Carolina law schools and the large percentage of North Carolina lawyers who belong to the NCBA. Today, however, a rising tide of lawyers from other jurisdictions is seeking to become licensed in North Carolina, and this trend is expected to continue. The Membership Committee should formulate a systematic plan for bringing lawyers who move to the state into the North Carolina legal fold and making them feel a part of the profession here. The Committee should consider working with the Chief Justice’s Commission on Professionalism to sponsor a one-day seminar at which the Chief Justice and a group of highly regarded North

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<sup>9</sup> See also Part V (The Bar Association), Goal 1, Target 3.

Carolina bar leaders would speak about North Carolina's strong tradition of professionalism and collegiality.

- (4) **Work to counter the sense of balkanization and isolation within the profession that increasing practice specialization can foster.** The Professionalism Committee should seek ways to address the negative side effects of increasing practice specialization, including the tendency of specialization to isolate practitioners by practice area and type and lead to the loss of a sense of common purpose within the profession.
- (5) **Advise members about competition from non-lawyers.** Non-lawyers are providing legal and close-to-legal services over the Internet, and this is likely to continue, along with the increasing commoditization of some forms of legal services. For several years now, the NCBA has advised members that lawyers are facing greater competition from other professionals, primarily accountants and consultants, and the Internet is making this easier for them to do. The Director of Communications and the Communications Committee should seek input from the Sections on an annual basis and continue to inform members of competition from non-lawyers and its negative impact on North Carolina citizens.
- (6) **Identify new ways to bridge the gap to local and specialty bars.** The Local Bar Services Committee should draw on the NCBA's resources to offer support and information to local and specialty bars throughout North Carolina. The needs of local and specialty bars range from website development to dealing with statutory requirements relating to funds collected from mandatory dues. In addition, the President, President-elect and Executive Director should continue to use the annual "All Bar Conference" and the Bar Leadership Institute to build bridges to local and specialty bars.
- (7) **Confirm the value of activities that foster fun and collegiality.** The NCBA should ensure that programs such as the Annual Meeting and Section meetings continue to include activities for families and social events for all participants. Sections should readily be allowed to designate a portion of their budgets for social events and hold over excess budget monies from previous fiscal years for social activities.
- (8) **Continue support for BarCARES and sponsor joint programs that promote awareness of BarCARES and the issues it addresses.**

### III. THE COURTHOUSE

#### The NCBA's Vision

*North Carolina will enjoy a court system in which judges are highly competent and are not, nor perceived to be, political; where litigants are treated the same, regardless of race, gender, or economic status, location, English skills or physical disability; and where the public understands and values the rule of law, the protection of civil liberties and the vindication of civil rights, and the distinct function of the judicial branch as bedrock principles of our American constitutional experiment. North Carolina citizens will be well informed about the courts and willing to implement the reforms and invest the resources necessary to uphold these bedrock principles. Improvements in technology will enhance the court system's ability to serve the public. To make this vision a reality, the NCBA will embrace its longstanding commitment to be the court system's leading advocate with renewed vigor.*

#### Comment

Since the unified statewide court system was established in 1970, the General Assembly has failed to appropriate enough money to allow North Carolina's courts to keep up with escalating public demands for service. In recent years the General Assembly has appropriated significantly less than 3% of the state's budget to fund the judicial system – in theory, one of the three co-equal branches of state government. In 2001 the figure was 2.8%, or \$317 million; in 2003, coming out of the national economic downturn and the related state budget crisis, it had dropped to 2.3%, or \$304 million. Several executive branch agencies and some of the state's larger public school systems have budgets that are more than twice as large as the court system's. As James Madison said in explaining the operation of constitutional checks and balances: "The legislative department alone has access to the pockets of the people."

Between 1980 and 2002, when the population of North Carolina increased by 41%, filings in our state courts increased by 94% (from 1.6 million in fiscal year 1981 to 3.1 million in fiscal year 2002), leading to significant backlogs. Over this same period, cases became far more complex and time consuming, and judicial salaries, which have never kept pace with the financial rewards of private practice, sank to levels substantially below those of all surrounding states. The base salaries of trial and appellate judges rank well below those of North Carolina lawyers who have been out of law school 12 or more years, and well below the 25<sup>th</sup> percentile of those practicing in the state's largest firms.

These and related causes have led to a perception among many leaders of the bar and the bench that North Carolina is trending away from attracting and retaining the most highly qualified judges for the state's courts. Inadequate system resources, low compensation and the growing politicization of the judiciary are seen as leading factors that discourage highly qualified lawyers from seeking to become or remain a judge. Some sitting judges believe that we are fostering a system that promotes mediocrity, in which it is more important for a judge or judicial candidate to develop a political constituency than focus on becoming an excellent jurist. This leads to a perception in the public mind that judges are increasingly just one more group of

politicians.<sup>10</sup> Research and national polling have shown that eight in ten state judges say they are deeply concerned about special interest groups trying to use the courts to shape policy on a range of economic and social issues. Every group that has studied the North Carolina courts over the last three decades has come to the same conclusion: Eliminating the popular election of judges is essential to a truly independent judiciary.

A survey of North Carolina voters conducted by the Center for Voter Education released in the summer of 2005 concluded that the public perceives the judiciary as mediocre at best. At the same time, voters expressed a relatively high level of support for judicial election reforms, with 65% of those surveyed agreeing that “appointing judges would be better than electing them because their appointment would be based on their merits and qualifications and not on politics and how much money they can raise.” If this is any sign of the public will, many legislators have so far turned a deaf ear to it. Few of the 1996 recommendations of the Commission for the Future of Justice and the Courts in North Carolina (the “Futures Commission”) were implemented by the projected deadline of December 31, 2002. The Futures Commission’s major overhaul was rejected or ignored in favor of a limited number of “tune-ups” to the system. The problems of the court system may prove endemic unless the NCBA and other groups of informed, concerned citizens act in concert to reaffirm the importance of judicial independence and persuade legislators to take up the banner of reform. Better public education remains a vital component of progress in addressing these problems: A study released by the ABA last summer provided what ABA President Michael Greco described as “shocking” evidence of the public’s lack of knowledge about the judicial branch of government. This Harris survey found that 40% of respondents could not identify the three branches of government. While 82% said separation of powers is important, 48% could not define what it means, and 44% could not identify the core functions of the judicial branch.

We recommend that the NCBA embrace five strategic goals for The Courthouse over the next three to five years. These goals are:

**GOAL 1: The NCBA will take concrete steps to preserve and protect the independence of the federal and state judiciaries.**

**Targets:**

- (1) **Rebuild public confidence in the courts.** For judicial independence to be preserved, public confidence in the courts must be rebuilt. The decline in public support for the court system is to some extent a function of the fact that the public knows little about the courts. In 1996, the Futures Commission recommended that the court system develop an educational program on the courts for use in the

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<sup>10</sup> North Carolinians appear to be confused about what they want from judges. In the survey referred to in the next paragraph, the Center for Voter Education found a majority of survey respondents agreed with the statement that “Judges too often make their decisions based on their own personal beliefs rather than on the Constitution and the laws passed by the state legislature.” At the same time, many of these same voters felt that judges should take into account the “will of the people.”

public schools. Whether this recommendation was ever implemented is unclear. By June 2007, the Judicial Independence Committee, Administration of Justice Committee and Bench-Bar Liaison Committee should report to the Board of Governors on whether the NCBA is doing everything it can to inform the public about what the courts are doing and why. Within the same time frame, the Lawyers in the Schools Committee should evaluate whether a public school curriculum can be introduced in cooperation with the Administrative Office of the Courts that would educate North Carolina students on the functions of the court system.

- (2) **Evaluate and report on media outreach efforts.** By June 2007, the Communications Committee and the Director of Communications should evaluate and report to the Board of Governors on whether media outreach efforts are adequate to bring the importance of judicial independence into the public eye. For example, media outreach efforts might include editorial board meetings at which the importance of the independence of the judiciary is discussed, along with the remainder of the NCBA's legislative agenda.
- (3) **Create rapid response tools for inappropriate criticism of judges.** A functioning independent judiciary is a cornerstone of democracy that cannot be compromised. Independent judges uphold the rule of law, keep the checks and balances of our government in place, and judge all parties apart from the influence of politics and fashion. As officers of the court, it is incumbent upon NCBA members to inform the public about the role and function of an independent judiciary in our society. The NCBA must be vigilant and prepared to respond quickly to unwarranted criticism of federal and state judges of the kind we have witnessed in the last few years, most recently in connection with the 2000 presidential election, the Terry Schiavo case and other intense controversies that have been played out in the public media. By June 2007, the Judicial Independence Committee, the Administration of Justice Committee and the Bench-Bar Liaison Committee should assemble a rapid response team to cultivate and prepare persons who will write and speak on behalf of judges when the occasion demands.
- (4) **Promote courthouse security.** For the courthouse to function properly and for judicial independence to be preserved, courthouse facilities must be free from threats of physical violence and disruption. The Administration of Justice Committee and the Bench Bar Liaison Committee should survey courthouse security and advocate for every court facility in North Carolina to provide a safe environment for the discharge of basic judicial functions.

**GOAL 2: The General Assembly will enact major court system reforms designed to attract the best lawyers to serve as judges and will give these lawyers the tools to serve well. To the extent that these reforms require amendments to**

**the North Carolina Constitution, the amendments will be ratified by the people.**

**Targets:**

- (1) **Advocate for judicial salary increases.** The NCBA's Director of Governmental Affairs, with support from NCBA leaders, will advocate for an increase in judicial salaries to the highest levels enjoyed by judges in states bordering North Carolina. The lag in North Carolina judicial salaries behind other states is well documented. Anecdotal reports are equally compelling: Judges are leaving the bench to earn enough to pay for their children's college educations or, more famously, the judge who quietly took a morning newspaper delivery route in order to supplement his income. Adequate judicial salaries will improve the quality of justice in North Carolina by keeping on the bench those bright, hard-working, competent jurists who otherwise might leave. Similarly, the Director of Governmental Affairs will advocate for increases in federal judicial salaries commensurate with recent recommendations by Chief Justice John Roberts and the late Chief Justice William Rehnquist.
- (2) **Advocate for trial court division law clerks.** The NCBA's Director of Governmental Affairs, with support from NCBA leaders as necessary, will advocate for leveraging judicial talent through law clerks assigned to the trial court divisions. By assisting with legal research and the drafting of judgments and orders, law clerks would improve the quality of justice, speed the decision-making process, and leverage scarce judicial talent.
- (3) **Begin objective evaluations of judicial candidates.** By June 2007, the Administration of Justice Committee, Judicial Independence Committee and Bench-Bar Liaison Committee should study and make a recommendation to the Board of Governors on adoption of a program for evaluating appellate judicial candidates under objective standards and publishing the results of these evaluations. The American Bar Association's process for evaluating the qualifications of federal judicial nominees (in which candidates are evaluated as unqualified, qualified or highly qualified) should be studied to determine whether it provides an appropriate model for the NCBA to follow. For decades, the thorough yet neutral evaluation system undertaken by the ABA has been widely accepted by participants in the federal judicial selection process. The NCBA's program should be designed to provide voters with relevant, reliable information concerning the qualifications, abilities and performance of the judicial candidates. It should strive to enhance the perceived accountability of the court system, so that a skeptical and demanding public can be convinced that judicial officials are answerable for what they do – not for how they decide cases, but for whether they act promptly, use their resources efficiently and wisely, and treat citizens with respect.

- (3) **Conduct periodic evaluations of all trial judges.** Non-lawyer interest groups have begun evaluating North Carolina’s trial judges and publishing their findings to interested persons. The Administration of Justice Committee, with the assistance of the Litigation Section and the Criminal Justice Section, should consider whether the NCBA can establish an objective, systematic process for evaluating the performance of all North Carolina trial judges, how the process would be designed, and how the findings would be made public. If an evaluation process is undertaken, non-lawyers (particularly persons who have appeared pro se) should be asked to participate.
- (4) **Continue efforts to abandon judicial elections in favor of appointment of judges based on credentials and experience.** The NCBA should continue its longstanding efforts in support of judicial selection reform. In recent years, the NCBA has provided valuable advocacy before and dialogue with legislators regarding the implementation of nonpartisan elections at all levels of the state court system, public financing of appellate judicial campaigns, and additional proposals for appointment and retention elections of judicial officials. Despite the frustration of repeated failures to persuade the General Assembly to adopt a judicial appointment bill, the NCBA should redouble its support for gubernatorial appointment of all state judges with periodic retention elections, in the structure currently recommended by the Judicial Independence Committee, and should devote all appropriate resources to legislative advocacy for such a bill.
- (5) **Study expansion of specialized courts.** In view of the success of the North Carolina Business Court, the Administration of Justice Committee should consider and make recommendations to the Board of Governors (with input from Sections as appropriate) on the creation of other specialized courts, including a tax court, family courts, and drug courts.

**GOAL 3: By 2010, funding of the Judicial Branch of state government will equal or exceed 3% of the state budget. That 3% will become a “floor” for court system funding in future appropriations cycles.**

**Targets:**

- (1) **Identify negative effects of court system budget cuts.** The public has little appreciation for the real effects of the budget cuts the state court system has experienced over the last 10 years. As a first step, the Administration of Justice Committee, the AOC Liaison Committee and the Bench-Bar Liaison Committee should identify and document, by examples and statistics, the short and long-term effects of these budget cuts.
- (2) **Build a coalition of support.** The Director of Governmental Affairs, the Administration of Justice Committee and the Judicial Independence Committee, should lead and coordinate a coordinated effort (led by the Director of Governmental Affairs) to build a coalition of business, education, religious, social

and non-profit leaders to support increased funding of the court system. The NCBA must develop a consensus and unified message among reform-minded groups – which it traditionally has not done – in order to exercise political muscle on court system issues. These groups might include court system constituents such as the Administrative Office of the Courts, district attorneys, clerks of court, judges, public defenders, police and sheriffs’ departments, the State Bureau of Investigation, the U.S. Department of Homeland Security and the State Department of Cultural Resources (Archives and History). The Director of Governmental Affairs and these Committees should consider whether it is necessary to invest in a marketing program to build this consensus and reframe the public debate over the role of the courts. The coalition will be in place by June 2008.

- (3) **Advocate for sustained funding of the court system at 3% of the total state budget in all upcoming legislative sessions.** Tinkering with and patching current operations will not satisfy the public demand that “right and justice . . . be administered without favor, denial or delay,” as the Constitution of North Carolina requires. The NCBA should remain keenly on the alert for efforts at legislative retribution (particularly budget reductions) against the courts aimed at hobbling the judicial process. The Director of Governmental Affairs should serve as the NCBA’s “whistleblower” to the extent such efforts appear to be kindling.

**GOAL 4: The NCBA will work aggressively with the State Administrative Office of the Courts to develop a long-term technology plan that substantially improves the efficiency of our courts, enhances the availability and reliability of public information, and provides a level of service approximating that of the private sector. The General Assembly will authorize the AOC to create and maintain a modern and integrated information technology system and appropriate the necessary funding.**

**Targets:**

- (1) **Implement e-filing in pilot judicial districts.** By June 2008 the AOC will, with the assistance of the AOC Liaison Committee and in coordination with the Director of Governmental Affairs, the Technology Advisory Committee and the Information Technology Director, implement electronic filing of pleadings and documents (“e-filing”) in the trial court divisions (District and Superior Courts) for as many pilot judicial districts as possible. For 10 years, the federal courts have had e-filing systems in place that reduce paper handling and storage costs by millions each year and provide quicker, easier and more reliable access to court records. Yet, the full impact of e-filing has yet to be felt in most state court systems around the country. Our state court system can benefit from e-filing. The pilot district programs should be carefully monitored and debugged so that e-filing can be deployed without delay throughout the state.

- (2) **Make more public information accessible on-line.** In 2000, North Carolina was 26<sup>th</sup> in the United States in the percentage of adult Internet users visiting state or local government web sites. There is significant demand for public information on-line. By the end of 2009 the AOC will, with the assistance of the Director of Governmental Affairs, the Technology Advisory Committee, the Information Technology Director and the AOC Liaison Committee, increase the information the court system makes available to the public on-line to include all civil and criminal court records, real property records, and estate files. In seeking information from the court system, citizens should enjoy the same levels of efficiency and responsiveness they receive from the private sector.
- (3) **Investigate computerizing plea bargains in district court misdemeanor cases, particularly traffic court matters.** The Administration of Justice Committee, the Director of Governmental Affairs, the Technology Advisory Committee and the Information Technology Director should consult with the AOC and report to the Board of Governors on whether plea bargaining in district court misdemeanor cases could be conducted over the Internet, with fines paid by credit card, in order to preserve court resources for more complex cases.
- (4) **Enhance court system communication.** The Director of Governmental Affairs, the AOC Liaison Committee, the Technology Advisory Committee and the Information Technology Director should work to assist the AOC in ensuring that all parts of the judicial system can communicate seamlessly with each other, regardless of location or technology platform.

**GOAL 5: The NCBA will assist the Administrative Office of the Courts to make significant strides in ensuring that our courts are open to every person without regard to barriers of economic status, English skills or physical disability.**

**Targets:**

- (1) **Increase availability of pro bono legal assistance for litigants of modest means who initially choose to represent themselves.** At some point the problem of courthouse access for pro se litigants can become a need for pro bono professional representation. The Director of Public Service & Pro Bono Activities and the Modest Means Access Committee should expand the NCBA's efforts to encourage an increase in the availability of pro bono representation for litigants who begin cases pro se but later require the services of a lawyer.<sup>11</sup>
- (2) **Create educational tools for pro se civil litigants.** Most court matters involve traffic infractions, landlord/tenant disputes, collections or small claims cases

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<sup>11</sup> See Part II (The Profession), Goal 2.

where at least one of the litigants appears before the court without a lawyer. Pro se litigants in these settings are likely to be tenants or debtors who did not choose to be in court at all, but who are summoned to appear and given the opportunity to defend. They lack a trained advocate and are subjected to the authority of the courts, rather than viewing the courts as resources for conflict resolution or solutions to legal problems. They face pro se landlords skilled in the procedures to collect rent, or the landlord's counsel, as well as lawyers representing companies in high-volume collection matters. When pro se litigants appear in forums otherwise dominated by lawyers, they may be viewed as disruptive and are often held to the procedural standards applicable to and expected of trained advocates, even if these standards prevent the pro se litigants from getting their stories told as they attempt to offer a defense. The Modest Means Access Committee should assist pro se litigants by writing and disseminating educational and self-help materials, by sponsoring seminars in neighborhoods across the state, and by setting up self-help centers (similar to those already set up in Mecklenburg County) to give hands-on assistance to anyone requesting their information and direction.<sup>12</sup>

- (3) **Advocate for adequate funding for indigent criminal defense representation.** The United States Constitution guarantees the assistance of counsel to persons accused of crime. The Director of Governmental Affairs, with the assistance of the Administration of Justice Committee and the Criminal Justice Section, should continue to advocate for and assist in developing, improving and providing indigent defense representation at all levels of the state court system. Particular emphasis should be put on ensuring that the General Assembly provides adequate funding for Indigent Defense Services and on increasing the current hourly rate paid to court-appointed attorneys in non-capital cases above the current rate of \$65 per hour.
- (4) **Increase availability of language interpretation services.** Many persons living in North Carolina have limited English skills. The Litigation Section, Modest Means Access Committee and Hispanic/Latino Lawyers Committee should work together to develop a clearinghouse for language interpretation services and other language resources available to court officials, attorneys and litigants.
- (5) **Promote accessibility of courthouse facilities to the disabled.** Persons with physical disabilities require access to our courthouses on the same basis as all citizens. The Disability Law Committee should review the accessibility of North Carolina's courthouses and advocate for ensuring that every courthouse in North Carolina is accessible and complies with the standards set forth in the Americans with Disabilities Act.

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<sup>12</sup> We note that there is a direct linkage between the need for additional financial support for Legal Services programs and help for pro se litigants. The American Judicature Society has suggested that cuts of federal funding to legal services in 1996 were a significant contributing factor in the rise of pro se representation in courts across the country.

- (6) **Study feasibility of satellite court locations.** Distance to the courthouse is a significant obstacle for many citizens who need access to our courts, especially the poor. In addition to geographic constraints, courthouses and centers for civil dispute resolution tend to operate only during daytime hours of workdays. This limitation makes access particularly difficult for those with child care obligations and the working poor, who are less likely to be excused from work and almost certain to lose money from the job when they are able to leave. While some jurisdictions around the country maintain branch courthouses to help overcome the distance barrier (a practice followed by many North Carolina judicial districts with respect to holding district courts), a notable exception to the centralized courthouse is found in Ventura County, California. The court there has purchased a large mobile home that tours the county, particularly low-income areas, to bring the resources of the court to the neighborhoods. The Administration of Justice Committee should study the feasibility of satellite court facilities in non-traditional locations.
- (7) **Promote Lawyer Referral Service.** Recognizing that many people have difficulty identifying and retaining a lawyer who is both affordable and competent, the NCBF should continue to house and support the Lawyer Referral Service, and the NCBA (through the Lawyer Referral Service Committee) should continue to promote the LRS through mailings to new members and other communication vehicles.

## IV. THE COMMUNITY

### **The NCBA's Vision:**

*With help from the NCBA's educational outreach activities, the North Carolina community will better understand that the cornerstone of any society is its law and its legal system. The NCBA will advocate vigorously for improvements in the law that benefit the community and promote the public citizenship of NCBA members.*

### **Comment**

The NCBA's mission statement provides in part: "Our mission is to serve the public ... by promoting the administration of justice."

As discussed in The Courthouse above, there is a widespread perception that the public is disgruntled with the administration of justice in North Carolina. The NCBA has long been well positioned to listen and respond to public complaints about the legal system and work to improve the administration of justice in our state. A related concern is that the public does not fully understand the legal system or the role of lawyers in American society. The North Carolina Progress Board has as a major target for the year 2020 that more North Carolinians understand their governments and how they work. Again, the NCBA is well situated to reach out to the community at large to promote a statewide understanding of civics and a culture of respect for the legal system and the role of lawyers within that system. The goal of educating the public about the rule of law and the role of lawyers has featured repeatedly in NCBA strategic plans.<sup>13</sup> We have made some headway in recent years, but there are many miles to go.

The notion that the NCBA should reach out to the public is nothing new. The Final Report and Recommendations of the Long Range Planning Committee presented to the Board of Governors on 21 June 2001 included this goal: "To address member concerns about the image of the legal profession and improve public understanding of, confidence in, and respect for the legal system." The goal was followed by three action items:

- Continue the growth and development of the Lawyers in the Schools project with the goal of achieving statewide coverage of schools within the cycle of this long range plan;
- Create a regular communication vehicle that shares with the members of the NCBA the positive initiatives and volunteer activities available through the Association; and
- Develop a coordinated media campaign that will be responsive to member concerns about the image of the profession and the desire that the NCBA tackle this issue.

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<sup>13</sup> For example, see pages 52-53 of the 1997 Long Range Planning Committee's report.

The 2001 goal and some of the related action items were carried over from the NCBA's 1997 long range plan. Education of the public at large remains a laudable goal for the NCBA over the life of this strategic plan.

We recommend that the NCBA embrace three strategic goals for the Community over the next three to five years. These goals are:

- Foster public understanding about the law and the legal system through expanded educational outreach activities.
- Advocate for improvements in the law that benefit the community.
- Promote the public citizenship of the NCBA's members.

The targets we are recommending to achieve these goals are similar to the recommendations in the 2001 Plan, with some key differences. On various occasions, most recently in 2001, the Board of Governors has considered and rejected the concept of a coordinated media campaign as a way to improve the image of the legal profession. The portion of the NCBA's resources that would have to be spent to mount a quality campaign and the difficulty of predicting its likely effect on public opinion were significant factors in the Board's decision. We agree that a coordinated media campaign is not in the NCBA's best interests and make a specific recommendation to that effect. We believe, instead, that the NCBA's emphasis should be (as it long has been) on direct, grassroots civic activity, teaching and outreach by NCBA members. We do recommend, however, that the NCBA revisit the need for a staff community outreach coordinator to assist members with their community involvement, respond to public inquiries about legal issues, and work with the Director of Communications and directly with the news media where appropriate.

It will be difficult to measure the impact and success of any community initiative. Indeed, it would be virtually impossible to measure the myriad civic and outreach activities that are undertaken by lawyers and legal assistants on a daily basis in every part of North Carolina. Nevertheless, we believe the NCBA can gauge the success of its educational activities and community outreach initiatives by measuring the levels of involvement of NCBA members in the programs, and by measuring the acceptance of the initiatives among NCBA leaders and members at large. For example, no one seems to question the success and value of the Lawyers in the Schools program. The NCBA has not, however, clearly articulated what criteria lead us to deem LIS a success. If those criteria can be established, they can be applied to other NCBA community outreach activities. Similarly, no one doubts the importance of the NCBA's legislative and public policy initiatives. The level of interest and the degree of consensus among Sections and Committees for legislative and policy initiatives is the best measure of their importance and success.

We believe the following three goals will enjoy broad support among NCBA members:

**GOAL 1: The NCBA will foster public understanding about the importance of the rule of law and legal institutions in our society by expanding educational and community outreach activities to schools and the adult general population.**

**Targets:**

- (1) **Strengthen the Association’s LRE program in the schools and in the general adult population.** The NCBA’s current Legal Related Education program, overseen by the Lawyers in the Schools Committee, is an excellent vehicle for the dissemination of basic education about the work of lawyers and the legal system in our communities. The NCBA should reaffirm its commitment to this outstanding program through allocation of financial and human resources for the development of pedagogical materials, and by sponsoring awards or other appropriate recognition of student achievement in the field of civics. School groups should be encouraged to visit the Bar Center regularly.

Although the NCBA’s Lawyers in Schools program has proved an exemplary educational tool, there is a sense that the general adult population still lacks a fundamental understanding of the legal system. The NCBA should strengthen its leading role as an outreach educator and expand its reach to the general adult population in addition to the schools. LIS should be used as a model for approaching the general adult population.

- (2) **Hire a full-time law-related education coordinator.** Fostering public understanding of the work of lawyers and of the legal system is not currently the responsibility of any single individual within the NCBA. The Board of Governors, the Finance Committee, the Executive Director, and the Personnel Committee should create a full-time staff position tasked with responsibility for general oversight, coordination, implementation and assistance of all of the NCBA’s public education initiatives. Creating the law-related education coordinator position will signal the priority of the NCBA’s general goal of increasing public understanding of the law and assure the consistent and successful operation of the NCBA’s various programs to bring it about.
- (3) **Expand law-related education efforts with the immigrant population.** North Carolina has one of the country’s fastest growing immigrant populations. Immigrants may not have a clear understanding of state, local and federal laws. This lack of knowledge, combined with cultural differences, can lead to unnecessary encounters with law enforcement and the criminal justice system. A lack of language and cultural training among police and corrections officers can exacerbate the problem. Similarly, a 2003 study found that immigrant women who are victims of domestic violence face many unique challenges. Like other domestic violence victims, they are afraid to report abuse to the authorities for fear of exacerbating their abusers’ anger and losing economic support. For immigrant women, these fears are compounded by additional worries caused by language barriers and possible immigration problems for themselves and their

extended families. The law-related education coordinator, with the assistance of the Immigration Law Committee, the Hispanic/Latino Lawyers Committee and the Director of Public Service & Pro Bono Activities, should study and make recommendations to the Board of Governors on how the NCBA can provide law-related education services to North Carolina's immigrant population.

- (4) **Augment the basic informational and practical resources the NCBA publishes.** The NCBA has long published the informative "This is the Law" pamphlets, written for the layperson, which describe the law on various topics of general concern. The Communications Committee should continue to improve the "This is the Law" pamphlets by publishing Spanish and other non-English (ESL) translations of updated materials to assist North Carolina's growing Hispanic population. The Sections should be enlisted in the effort to update these educational materials to assure their relevance, utility and accuracy.
  
- (5) **Spend the NCBA's resources to promote grassroots civic activities rather than a large-scale coordinated media campaign.** Surveys of the NCBA's membership, including the 2001 Membership Survey, have repeatedly shown that members and potential members want the NCBA to make a concerted effort to improve the image of our profession.<sup>14</sup> The 2001 Plan recommended that the NCBA create model print ads and radio ads for statewide use, partner with the North Carolina Press Association, pursue outside funding and support, and evaluate the campaign after one year (including NCBA members' response). The Board of Governors largely rejected this recommendation on the grounds that it was too expensive and too hard to evaluate for success. For these same reasons, we believe the NCBA should avoid mounting a coordinated media campaign in the next three to five years. Instead, the NCBA, through the work of the Communications Committee, should devote its energies to supporting and giving recognition to lawyers who carry out the highest ideals of the profession by remaining constantly involved in grassroots community service activities. ABA President Robert Grey commented in his meeting with us that there is plenty of "low hanging fruit" available to improve the image of the profession. For example, Florida has begun issuing vanity license plates with special slogans and designs to lawyers, with the proceeds going to fund children's legal services programs.

**GOAL 2: The NCBA will promote the public citizenship of its members, including volunteer civic activities, service on nonprofit boards and in elected office.**

**Targets:**

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<sup>14</sup> As the 2001 Plan commented about the 2001 Membership Survey: "The survey results, which are consistent with the results of similar studies by other bar associations, indicate that members and prospective members want the NCBA to take a visible and active role in addressing the issue."

- (1) **Promote the “Citizen Lawyer.”** The Professionalism Committee should increase lawyers’ involvement on nonprofit boards and willingness to serve in elective office. No current NCBA initiative has specific responsibility for this function, and it deserves special attention. The Public Service Advisory Committee may have some overlapping responsibilities for this area, but its attention is best focused on traditional pro bono legal services, allowing the Professionalism Committee to focus on public service efforts.
- (2) **Promote increase in lawyer involvement in civic activities through service on nonprofit boards or by providing pro bono legal services to nonprofit organizations.** The Director of Public Service & Pro Bono Activities should undertake the following initiatives: (i) a survey of lawyers (through the NCBA’s “survey monkey”) to determine the level of participation by lawyers in providing pro bono legal services to non-profit organizations or in serving on boards of non-profit organizations, and soliciting lawyer volunteers interested in providing pro bono legal services to non-profit organizations or in sitting on non-profit boards; (ii) develop a list of non-profit organizations needing either pro bono legal services or lawyer members on boards, to be matched with lawyers responding to the survey described above; and (iii) explore partnering opportunities with the North Carolina Center for Non-Profits. The Public Service Advisory Committee and the Continuing Legal Education Committee should develop a training program (with CLE credit), along with written materials, to educate lawyers about non-profit board service and ethical issues presented by such service, as well as representing non-profits.
- (3) **Hire a full-time community outreach coordinator.** The NCBA’s ability to promote the public citizenship of its members is limited by the lack of coordinated, systematic efforts. Helping lawyers become involved with the community involvement is not currently the responsibility of any single individual within the NCBA. The Board of Governors, the Finance Committee, the Executive Director, and the Personnel Committee should create a full-time staff position tasked with responsibility for general oversight, coordination, implementation and assistance of all of the NCBA’s community outreach initiatives. The community outreach coordinator would also be responsible (with assistance from the Director of Communications and his staff) for increasing public awareness of lawyers’ community involvement. The Personnel Committee should consider an individual with experience in the nonprofit sector for the community outreach coordinator position.
- (4) **Encourage lawyers to run for public office and develop periodic leadership programs or forums discussing the benefits and importance of lawyers serving in elective office.** The Professionalism Committee should review and assess the effectiveness of the NCBA’s current efforts to induce lawyers to seek and hold public office. The Bar Leadership Institute may be a useful forum for educating lawyers about the importance of public officeholding and the skills needed to be elected. The NCBA should continue to offer scholarships to lawyers

wishing to attend the Institute for Political Leadership or the N.C. Center for Women in Public Service, and continue to support legislation to limit the length of legislative sessions.

**GOAL 3: The NCBA will continue its existing procedures for examining and advocating for improvements in state laws to benefit the public. The NCBA will examine opportunities for offering similar assistance to local governments.**

**Targets:**

- (1) **Continue to support proposals for legal reform.** Section Councils and Committees should continue to advise the Director of Governmental Affairs and the Board of Governors on improvements in the law that come to their attention for inclusion in the NCBA's legislative program. The NCBA should continue its longstanding tradition of working to improve the effectiveness and technical efficiency of laws in North Carolina.
- (2) **With leadership from the Section Councils, identify legislative advocacy efforts to assist local governments in improving the law.** The Director of Governmental Affairs should facilitate these efforts in cooperation with local bars.

## V. THE BAR ASSOCIATION

### **The NCBA's Vision:**

*The NCBA will succeed in implementing this Strategic Plan by becoming service oriented, innovative, respected, nimble and relevant, and will avoid being entrenched in bureaucratic, change-resistant structures.*

### **Comment**

*Staying relevant is the key to continued growth.* Peter Drucker, the renowned organizational expert, in writing about the bankruptcy of Penn Central Railroad, said that the reason Penn Central failed is because it asked the wrong question. Penn Central said, "We have a train. Would you like to get on?" Drucker said the question should have been, "We are in the transportation business. Where would you like to go?" So it is for the NCBA. We must first get the question right. We cannot be more concerned about preserving our right-of-way than we are with transporting our passengers.

NCBA leadership must ensure that the NCBA remains relevant to its members. Staying relevant is a significant challenge for a voluntary organization that has succeeded admirably as an "umbrella" for lawyers from a wide array of practice sizes and structures, firm sizes, locations, ages, and community demographics, but so far has failed to mirror the racial and ethnic diversity of North Carolina adequately. The NCBA must anticipate serving a bar that will grow quickly, that will demand value, and that will become more diverse - both ethnically and in its business and professional interests.

Perhaps the best measure of the success of this Strategic Plan will be found on the NCBA's membership rolls. Even with intense competition from other organizations for lawyers' time and attention, the NCBA has been successful in enrolling between 70 and 80 percent of North Carolina's licensed lawyers as members. This remarkable testament to the NCBA's success and organizational health is the envy of voluntary bars around the country. If the NCBA rests on its laurels and ceases to serve its members effectively, however, NCBA membership will not grow as rapidly as the membership of the North Carolina State Bar - and may even decline. Conversely, if the NCBA continues to make the case that it remains highly relevant to the Lawyer's Office, the Profession, the Courthouse and the Community, membership growth should track the growth rate of the North Carolina State Bar.

*Tailored communication is vital.* It is naïve to assume that growth will flow automatically from relevance and effective service. The NCBA's history as an organization teaches that sustained effort over many years and many generations of bar leaders is needed to build NCBA membership. The NCBA must work hard to communicate to the wide spectrum of interests that comprise its membership why the NCBA is relevant and why membership adds value to a lawyer's practice.

*The NCBA's services as a technology resource for members could be improved.* In general, most NCBA members who responded to our committee's electronic surveys were either moderately satisfied or satisfied with the NCBA's "practice management" services. Less than

5% of respondents were “moderately dissatisfied” or “most dissatisfied” with such services. This shows that our members are already pleased with the technology resources the NCBA deploys on its members’ behalf. Members expect the NCBA to be ahead of the curve on technology, but not necessarily on the cutting edge. Our committee believes this general level of satisfaction is not enough. To remain relevant, the NCBA should be a member’s first “go-to” resource for technology. Respondents to our surveys and participants in our strategic planning retreat noted several potential areas for improvement in the technology area. Financial resources allocated from the NCBA and the NCBF to the technology area should amount to an aggregate of at least 10% of the entire budgets of the NCBA and NCBF. (Currently, the combined budget of the NCBA and NCBF is \$8.24 million; ten percent would thus be \$824,000. In 2005-06, a combined budget amount of \$658,000, or 7.98%, was allocated to technology.)<sup>15</sup>

*The NCBA’s grand tradition of outstanding leadership must be preserved and extended into the future.* One of the NCBA’s greatest historic strengths has been effective leadership from the President and senior staff. Executive Director Allan Head’s long tenure has been remarkably successful and has provided important continuity and consistency. The service of former Presidents as a nominating committee for the NCBA’s President-Elect has proved an effective mechanism for taking multiple factors into account and considering divergent interests. The effectiveness of the Executive Committee as a forum for candid discussion of key issues before they are fully aired at Board of Governors meetings is unquestioned.

The NCBA’s governance structures are strong, but they could be improved in several key areas. First, some members of the staff have expressed concern about managing the NCBA’s resources effectively when presidential initiatives change year to year. In its annual report to the Board of Governors in June 2005, our committee, after consulting with staff members and current and former NCBA Presidents, recommended that the President-Elect be requested to state his or her initiatives for the coming year in time for any financial ramifications to be accounted for in the annual budgeting process. Second, some current and former members of the Board of Governors have expressed concern about whether the Board, as the NCBA’s governing body, is involved enough in strategic planning. This Strategic Plan is evidence of the Board’s decision to delegate the strategic planning function to a special committee of experienced NCBA leaders, as has been the NCBA’s practice for three decades. The Board needs to reaffirm the current practice or be prepared to substitute another in its place. Third, the prospect of the Executive Director’s approaching, though not imminent, retirement will be a watershed event in the life of the NCBA, representing as it will the end of an era.

*The NCBA must have adequate resources and be well organized to carry out this Strategic Plan.* The vision reflected in the first four parts of this Strategic Plan can only be achieved if the NCBA has adequate resources and an internal organization that will enable it to carry out the goals articulated above. The NCBA will always have to work hard to deploy limited resources efficiently in support of the Strategic Plan. For this reason, good governance and careful stewardship of resources are essential elements of this Strategic Plan.

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<sup>15</sup> This amount includes personnel costs, capital expenditures, and combined information technology expenses.

We recommend that the NCBA embrace five strategic goals for itself over the next four years. As should be expected, many of the goals and targets set forth here overlap with goals and strategies in the other four substantive issue areas. Specific points of interaction are noted below.

**GOAL 1: The NCBA’s membership recruitment and retention initiatives will focus on the value of membership, with the result that the growth in NCBA membership will exceed the growth rate of the membership of the North Carolina State Bar.**

**Targets:**

- (1) **Support the Sections.** The Sections have been key contributors to the NCBA’s success in membership recruitment and retention since they were created in the late 1970s and early 1980s. The Sections are responsible for making the case to many lawyers and paralegals who do not take an active part in other bar activities that the NCBA remains relevant to their professional lives. Because they represent a diverse array of interests, different Sections from time to time disagree on substantive matters. The positive contribution of the Sections to the NCBA, however, far outweighs the burden on the Executive Committee and the Board of Governors of mediating disagreements. The Sections need to be supported and affirmed and their substantive work should be encouraged and recognized. NCBA staff support of Sections should evolve from its current administrative posture to an innovator/collaborator role, helping the Sections implement “best practices.” With the assistance of the Membership Committee, the Sections should continue to recruit both NCBA members and affiliate members aggressively, should seek to serve the professional interests of their members, and should make use of the NCBA’s communications vehicles to communicate their accomplishments to their constituents. Section growth has been leveling out or declining, and Section members are getting older as a group. More NCBA staff support may be needed to handle work previously performed by volunteers.
- (2) **Step up recruiting of in-house counsel and government-sector lawyers for NCBA membership.** The number of in-house lawyers and paralegals moving to North Carolina to work in corporate law departments is increasing. The Corporate Counsel Section should step up efforts to recruit these in-house lawyers for NCBA membership even if they do not become licensed to practice in North Carolina. In addition, the Membership Committee, with the assistance of the Government & Public Sector Section, should continue efforts to recruit more government-sector lawyers for NCBA membership.
- (3) **Build diversity.** Just as building a more diverse bar is a major challenge facing the legal profession (see The Profession, Goal 3, Target 2), so the challenge to the NCBA of developing and implementing a strategy for recruiting minority members and promoting leadership in the Association by minority and women

lawyers increases. Committees that were established to represent the interests of various minority and women lawyer groups should be challenged to recommend a shared array of tactics for recruiting and leadership development. We suggest that the Membership Committee, the Hispanic/Latino Lawyers Committee, the Minorities in the Profession Committee and the Committee on Women in the Profession be assigned responsibility for making concrete recommendations to the Board of Governors, and that they be requested to do so by June 2007.

- (4) **Adapt and tailor the message.** In order to communicate its continuing relevance effectively, the NCBA should undertake surveys of the differing needs and expectations of its members at least once every two years. Members are at differing stages in their careers and practice law in a variety of settings. The NCBA also seeks to serve non-lawyer constituents such as paralegals and law office administrators. The NCBA must adapt its message to the interests of these different “slices” of the membership. Regular gathering and updating of good data about members’ practice settings and expectations of the organization is required. One message will not fit all. Tailored messages better communicate why membership in the NCBA is worthwhile. We recommend that the Membership Committee and all NCBA staff with responsibility for membership, with the assistance of the Legal Assistants Division, the Law Practice Management Section and other Sections whose bylaws allow non-lawyer members,<sup>16</sup> take responsibility for periodic member surveys and message tailoring.
- (5) **Communicate the messages.** The NCBA needs to use technology effectively to communicate its relevance and value. The NCBA website, Section LISTSERVS and blogs should continue to supplement traditional print vehicles as means of communicating the targeted message. *e-bar* and e-mail generally have been welcome breakthroughs in communications for an organization that used an old-style, paper communications model less than a decade ago. The Membership Committee, Communications Committee, Director of Communications and Technology Advisory Committee should be on the lookout for the next *e-bar*.
- (6) **Reach out to all lawyers across North Carolina, using technology and personal contacts by NCBA staff and leadership.** North Carolina is a big state. To date the NCBA has sought to provide the bulk of its services from one relatively central location in Cary. However, for lawyers outside the Triangle and the Triad to participate personally in an NCBA meeting often requires the sacrifice of a full workday. In part to foster collegiality, the NCBA has embraced a culture of required physical attendance at meetings. This culture suggests to members: “If you are not present in person at the meetings of your committee or working group, you are not fully participating or committed to its work.” We believe this culture, if allowed to persist, will harm the NCBA over the long term by discouraging participation by volunteers in areas more than an hour’s drive

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<sup>16</sup> These include the Administrative Law Section, the Dispute Resolution Section, the Environmental Law Section, the Intellectual Property Law Section, the Juvenile Justice Section and the Zoning, Planning and Land Use Section.

from Cary. Members may direct their energies exclusively to local bars (especially in the metropolitan areas) or cease to be members altogether.

The NCBA must work harder to be less “Raleigh-centric” and to ease the way for lawyers across the state to participate fully in NCBA activities without driving far from their offices. For many years the NCBA has tried to reach out to lawyers in all parts of the state by encouraging Committees and Sections to hold meetings in locations other than the Bar Center.<sup>17</sup> These efforts have been successful for NCBA groups such as the Business Law Section, whose annual meeting and CLE program in Pinehurst are equidistant from many of the Section’s members (who tend to be found in the Piedmont cities). The efforts have not worked effectively for all Sections and Committees, however. We considered recommending that the Board of Governors study the possibility of setting up a small satellite office in Mecklenburg County (which has more than 3,700 licensed lawyers),<sup>18</sup> but ultimately rejected this idea as unlikely to be effective. Nevertheless, if the NCBA fails to accommodate its members’ need for an efficient use of their time, it will have failed to give them an opportunity for service.

We believe the following approach is most likely to address the distance problem effectively:

- The NCBA should establish an interactive technology network that will allow members to participate in NCBA meetings from anywhere in North Carolina. The Information Technology Director, with the assistance of the Technology Advisory Committee if necessary, should have the discretion to identify forms of technology that will best answer this need.
- The Executive Director, Assistant Executive Director and director-level staff members should travel around the state more frequently, meeting with local bar leaders and larger law firm representatives in their local communities rather than in Cary. We note that the Executive Director has made travel of this kind a priority in recent years.
- The Director of Membership should identify “soft” areas of the state where NCBA participation has traditionally been less active, such as the Wilmington area. Section chairs and NCBA leaders seeking to recruit Committee members should focus their efforts on building bridges to lawyers and legal assistants in these areas.

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<sup>17</sup> The issue was noted at least as early as the 1997 Long Range Plan, which encouraged Sections, Divisions, Committees and Task Forces to form working subgroups organized by geographical region and the NCBA to “shrink” the state by using technology.

<sup>18</sup> Other voluntary statewide bar organizations, such as the Massachusetts and Illinois Bar Associations, successfully maintain more than one office.

**GOAL 2: The NCBA will invest in the technology necessary to deliver services to members and the public and to promote member involvement.**

**Targets:**

- (1) **Conduct internal technology audit and train staff better on the use of technology.** The NCBA should conduct an internal technology audit to determine what technology it possesses but is not using efficiently, what new technology is needed, and whether additional staff training is called for. Many of the NCBA staff members who participated in our electronic surveys expressed a desire for the NCBA to invest more resources in technology. Many staff survey participants also said that they want to have an edge in the technology that helps them do their jobs.

The Technology Advisory Committee should consider using the NCBA's current internal technology staff or external consultants to prepare an inventory of the technology (hardware and software) that is currently available to the NCBA staff. The committee should evaluate and analyze (i) whether the existing technology does an adequate job of delivering NCBA services, and (ii) whether the NCBA staff is adequately trained in its use. When the results of the internal technology audit are known, the NCBA should focus its training efforts on only those staff members who demonstrate a need for more training in certain areas and reduce training on obsolete or rarely used technology if the audit discloses any.

- (2) **Improve or expand technology used for delivery of NCBA member services.** By March 2007, the Technology Advisory Committee, with the assistance of the Information Technology Department and the Young Lawyers Division's Internet Communications Committee, should make recommendations to the Board of Governors on specific capital investments in technology suggested by this Strategic Plan. The following items should be considered in the following order of priority:

1. Hire one additional technology staff member.
2. Invest in new speakerphones with remote speakers in each Bar Center conference room, and install a long-distance videoconferencing, webcasting or other interactive technology system compatible with systems used by most law firms that have these systems. The Information Technology Director should have discretion to select technologies that are most likely to serve the need and offer the longest potential useful life.
3. Create an interactive communications tool (e.g., forum, LISTSERV or blog) for the use of all NCBA members to discuss broader technology issues and to educate NCBA members on NCBA products and services.

4. Offer NCBA members, as a member benefit, the ability to upload computer files to a separate central location for backup and safeguarding, through a reputable service provider offering an NCBA member discount.
  5. Publicize the availability of the NCBA's wireless network in the Bar Center for use by members to access the Internet while in the Bar Center. Improve the NCBA's wireless network's reliability.
- (3) **Look beyond the legal profession for technical expertise and prognostication.** The Technology Advisory Committee and the Information Technology Director should consider hiring technology-savvy professionals both from within and outside the legal profession to serve as scouts to scan the horizon of change in technology, study the NCBA's existing technology, and provide guidance and insight into what the NCBA should be doing with technology in the future. Such a group might consist of an advisory group of lawyers and nonlawyers who have diverse backgrounds and who are recognized experts in their field. This group would help provide a vision for the NCBA's future with regard to technology. The ABA's technology resources should be consulted as part of this effort. Alternatively, the NCBA could periodically rotate outside technology consultants to evaluate the NCBA's existing technology and study long-term technology trends that may affect the NCBA and its services.

**GOAL 3: The NCBA should foster the sound financial infrastructure necessary to support innovation.**

**Targets:**

- (1) **By 2009, non-dues sources of income for the NCBA and the NCBF should increase to at least 45% of total revenues and the corpus of the NCBF Endowment should grow by \$1-2 million.** The NCBA should continue to balance membership growth with revenue growth. The Board of Governors Finance Committee, the NCBF Endowment Committee, the Director of Development and the Director of Administration should investigate and report to the Board of Governors on whether additional non-dues sources of income can be tapped for use in the NCBA's operating budget (recognizing that NCBF Endowment grants are a source of funding for joint projects with the NCBA). The NCBA is already doing a good job of tapping many sources of potential non-dues revenue. Currently, membership dues comprise about 62% of the NCBA's revenues, while 38% are already being supplied from non-dues sources. Non-dues income sources already being tapped include advertising in *North Carolina Lawyer*, rent from the Wake County and North Carolina Association of Defense Attorneys, various royalties, and interest and dividends on investments. NCBA members and the public have come to expect a high level of service from the NCBA. Their expectations are likely only to increase over time. As membership continues to grow and the legal profession changes, the NCBA must be in a position to provide the services that its members and the public expect. This need

conflicts with the constant pressure to keep member dues as low as possible. A delicate balance must be struck between the NCBA's cost of delivering cutting-edge, valuable services to members and keeping the cost of membership reasonable. The development of additional non-dues income sources would empower the NCBA to continue offering existing services while simultaneously developing new services.

- (2) **NCBF board of directors to set Endowment funding priorities after consultation.** The NCBF Board of Directors, within appropriate legal limits and in consultation with the Development Committee and the Endowment Committee, should periodically discuss and establish funding priorities for the NCBF Endowment. Funding priorities should be carefully coordinated with both committees.
- (3) **Coordinate all fundraising efforts through the Development Committee.** The NCBA Board of Governors and the NCBF Board of Directors should emphasize to all Sections and Committees that all projects requiring fundraising or sponsorship from outside sources should be coordinated through the Development Committee, to allow for strategic prioritization of projects and avoid competition.

**GOAL 4: The NCBA's governance structure will maximize opportunities for strategic action and decision-making.**

**Targets:**

- (1) **Once this Strategic Plan is approved by the Board of Governors, the Board should instruct the Executive Director and the Strategic Planning & Emerging Trends Committee to monitor and oversee its implementation.** As discussed in Setting the Stage above, the Board traditionally has delegated the task of strategic planning to a special long range planning committee or, in the case of this Strategic Plan, to the Strategic Planning & Emerging Trends Committee. After Board approval of this Strategic Plan, the Executive Director and the Strategic Planning & Emerging Trends Committee should monitor the implementation of the plan, suggest changes to the Board that may be needed over its life span, and make regular reports to the Board and the Board's Executive Committee on the progress made in implementing the plan. The Executive Director and the Strategic Planning & Emerging Trends Committee should also regularly assess progress by the Sections, Committees and other groups assigned specific tasks under this plan as part of the implementation process.

The Strategic Planning & Emerging Trends Committee should also be commissioned to formulate a process for preparing the next strategic plan no later than June 2009, with the planning process itself to take place in 2009-10.

- (2) **Maintain the Strategic Planning & Emerging Trends Committee’s current role as an observer and monitor of trends in the practice and the profession.** The NCBA must be forward-looking, open-minded and capable of spotting trends as and before they develop. The Strategic Planning & Emerging Trends Committee should be instructed to focus on identifying changes and trends in the legal environment during the 2006-2009 bar years and make a formal report to the board no less than semi-annually. The committee should be commissioned to brainstorm, to think broadly and outside the boundaries of this Strategic Plan.
- (3) **Sunset NCBA initiatives and groups on a regular and systematic basis.** From time to time NCBA Committees, Task Forces, Sections and services complete their tasks, achieve their goals, or otherwise become obsolete. Members who have been involved in those activities may lose interest and drift away. Staff and monetary resources allocated to these functions may be wasted. Rarely, however, will a group suggest that it should be disbanded and the NCBA traditionally has been reticent to eliminate activities to make way for new ones. This conflicts with the need to focus on key current priorities instead of providing a lower range of support for multiple activities. The Board of Governors should continue its current procedure of systematically reviewing all NCBA functions and entities for relevance, and should not hesitate to sunset a function or entity. Staff should be encouraged and empowered to recommend sunsetting of any activity or body that has served its purpose. The standard for sunsetting review should be whether the entity or service is consistent with and serves at least one element of the Strategic Plan. A review of each service, Committee and Section should take place at least once every three years.

**GOAL 5: The NCBA will continue its tradition of staff excellence.**

**Targets:**

- (1) **Review Executive Director succession plan.** The Personnel Committee should review the existing succession plan for the Executive Director position annually to ensure that it remains adequate and up-to-date, and report any recommendations to the Board of Governors.
- (2) **Establish a “culture of training” for NCBA staff.** The NCBA should establish a “culture of training” for staff. A staff that has periodic opportunities for training and skill development is more motivated and effective. By December 31, 2006, each senior member of the NCBA’s program staff should prepare a three-year skill development plan for his or her position and other staff members who report to him or her, along with a proposed budget for that plan. Each skill development plan will be reviewed and approved by the Executive Director. The Director of Administration and the Executive Director will recommend appropriate funding to the Finance Committee of the Board of Governors on an annual basis.



## MAKING IT HAPPEN

The Strategic Planning & Emerging Trends Committee has worked for the last two years to develop the recommendations in this Strategic Plan, and we're proud of the results. But the most important measure of our efforts – implementation – is just beginning.

In order to implement this Strategic Plan successfully, the NCBA should:

- **Integrate this Strategic Plan with the NCBA's and NCBF's annual budgeting and financial planning processes.** The Finance Committee of the Board of Governors and the Director of Administration, should take all necessary steps to ensure that the NCBA's budgets for 2007-08, 2008-09 and 2009-10 reflect both the cost of implementing the Strategic Plan and the cost of monitoring its implementation. We suggest that \$50,000 be allocated for implementation of this Strategic Plan in 2006-07, to be reallocated as specific projects come forward. The Strategic Planning & Emerging Trends Committee should prepare quarterly reports to the Board of Governors summarizing the implementation status of each recommendation in the Strategic Plan as well as the past, current and future impact of these recommendations on the NCBA's budget.
- **Ensure that the Board of Governors attends to the implementation of this Strategic Plan on a continuous basis.** The best mechanism for assuring that this Strategic Plan is implemented is make it a regular agenda item for the NCBA's governing board. The Executive Committee of the Board of Governors should consider redesigning the Board's meeting agendas to match the five issue areas discussed in this plan. If the Strategic Plan is to be the NCBA's daily roadmap, the Board's agenda should be driven by it. In turn, putting this plan front and center will require the Board to focus on strategic decision-making and thinking.
- **Communicate the plan.** It is vital that all NCBA constituencies accept and endorse the recommendations in this Strategic Plan. To ensure buy-in by all groups, the Board of Governors and the entire NCBA staff must embrace the goals of the plan and build excitement and energy around it. The Strategic Planning & Emerging Trends Committee will propose a communications strategy to the Board of Governors at the same time that it presents the plan. The communication plan should include clear assignment of tasks and announcement of deadlines, as described below.
- **Delegate targets.** Each target for accomplishing each goal in this Strategic Plan has been assigned to one or more NCBA groups. The Board must make it clear to each group that has responsibility for strategies and action steps that it expects each element to be implemented. As stated in The Bar Association, Goal 5, the Board will set the example by reordering part of its agenda to be consistent with the Plan. This step will permit regular monitoring of progress.

- **Propose funding parameters.** Each group tasked with evaluating or completing a goal or target should consider and report on any related funding needs and priorities.
- **Accountability.** The Board of Governors should receive quarterly reports from the Strategic Planning & Emerging Trends Committee on implementation progress, with recommendations on any action that the Board needs to take to ensure successful implementation of the Plan.
- **NCBF review and consideration.** This Strategic Plan contains many recommendations that apply equally to the NCBA and the NCBF. The NCBA Board of Governors and the NCBF Board of Directors should review the plan independently to ensure that no excess benefit flows to the NCBA from the NCBF, in violation of applicable law and that the prescribed purposes of both organizations are carried out.

We know that some of the changes we have recommended will not happen overnight. In particular, we know that some of our recommendations will be costly and will require the NCBA to rearrange some financial priorities over the lifespan of the Strategic Plan. The following initiatives fall into this category:

- Providing funds to support judicial reforms and related public education initiatives, including (1) legislative efforts to bring about appointment of judges, (2) efforts to restore public confidence in the courts, and (3) building a coalition of support for elevating funding of the court system to 3% of the state budget (Part III (The Courthouse), Goal 1, Target 1; Goal 2, Target 4; Goal 3; Part IV (The Community), Goal 1, Target 2)
- Standing ready to lend financial support to e-filing in pilot judicial districts (Part III (The Courthouse), Goal 4, Target 1)
- Hiring full-time law-related education and community outreach coordinators (Part IV (The Community), Goal 1, Target 2; Goal 2, Target 3)
- Purchasing technology resources for the Bar Center and other locations around the state as necessary, hiring an additional technology staff member and retaining technology consultants (Part V (The Bar Association), Goal 2, Target 2)
- Committing resources to ensure that the poor have adequate access to justice (Part II (The Profession), Goal 2)

We recognize that it will take time for NCBA/NCBF groups to consider and implement a number of our recommendations. In many cases, further study of the recommendations by the assigned NCBA group will be necessary. We expect that as the Sections, Divisions, Committees and NCBA staff consider this Strategic Plan and their role in it, questions we have not anticipated will arise, details will be filled in and cost assessments fleshed out.

With this Strategic Plan, the Strategic Planning & Emerging Trends Committee has completed its immediate task. But the hard part is just beginning. While some of our members will continue to be personally involved in this effort, others will have to pick up the torch. Success will require leadership and support from Section and Division Council members and Committee chairs, and most importantly from the NCBA Board of Governors / NCBF Board of Directors. It's time to begin.

## APPENDIX A

### THE STRATEGIC PLANNING & EMERGING TRENDS COMMITTEE AND ITS DRAFTING GROUPS

Martin H. Brinkley, Raleigh, *Chair*

#### **The Bar Association**

*Convenors*

Douglas W. Ey, Charlotte  
Robert B. Hobbs, Jr., Nags Head

*Members*

Robert E. Campbell, Taylorsville  
Dayton T. Cole, Boone  
Sharon G. Robertson, Linville Falls  
Thomas C. Watkins, Greensboro  
Allen H. Wellons, Smithfield

*Ex officio*

Michael A. Colombo, Greenville

*Staff*

Allan B. Head, Executive Director

#### **The Lawyer's Office**

*Convenors*

Edward C. Winslow, III, Greensboro  
Lyn K. Broom, Greensboro

*Committee Members*

Stacey Bice Bawtinheimer, Ayden  
Richard C. Gaskins, Charlotte  
Judge Thomas W. Waldrep, Jr.,  
Winston-Salem  
Kevin G. Williams, Winston-Salem

*Staff*

Raymond C. Ruppert, Director of Continuing  
Legal Education

#### **The Courthouse**

*Convenors*

Judge A. Robinson Hassell, Greensboro  
Reid L. Phillips, Greensboro

*Members*

Betsy Cooke, Raleigh  
Chief Judge John C. Martin, Raleigh  
Justice Mark D. Martin, Raleigh  
Judge Ronald E. Spivey, Winston-Salem  
G. Gray Wilson, Winston-Salem

*Ex officio*

D. Clark Smith, Jr., Lexington

*Staff*

Michelle Frazier, Assistant Executive Director

#### **The Profession**

*Convenors*

Jean Gordon Carter, Raleigh  
Jacqueline R. Clare, Raleigh

*Committee Members*

Julie Zydron Griggs, Charlotte  
Ann E. Hanks, High Point  
Judge William M. Neely, Asheboro  
J. Norfleet Pruden, III, Charlotte  
Charles E. Smith, Durham

*Staff*

Russell T. Rawlings, Director of  
Communications

## **The Community**

### *Convenors*

Charlotte G. Blake, Jefferson  
James S. Schenck, IV, Raleigh

### *Members*

John R. Cella, Jr., Raleigh  
Reginald F. Combs, Winston-Salem  
Arlene J. Diosegy, Raleigh  
Rosemary G. Kenyon, Raleigh  
Daniel F. McLawhorn, Raleigh  
Kimberly W. Sieredzki, Clayton

### *Staff*

Michelle S. Cofield, Director of Public Service  
& Pro Bono Activities

## APPENDIX B

### INTERVIEWS WITH AND SURVEYS OF NCBA STAKEHOLDERS

Our committee conducted personal interviews with the following “external” stakeholders. All interview note and summaries have been deposited with the NCBA. The name of the member of the Strategic Planning & Emerging Trends Committee who conducted the interview is given in italic type after the name of each stakeholder:

#### **North Carolina State Bar** (*Jean Gordon Carter*)

President: Robert F. “Bud” Siler  
Executive Director: L. Thomas Lunsford, II

#### **Managing Partners of Selected Large Law Firms**

Brooks, Pierce, McLendon, Humphrey & Leonard, LLP (*Edward C. Winslow, III*)  
Kennedy Covington Lobdell & Hickman, L.L.P. (*J. Norfleet Pruden, III, Eugene C. Pridgen*)  
Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P. (*John L. Jernigan*)  
Womble Carlyle Sandridge & Rice, PLLC (*Elizabeth L. Quick*)

#### **Deans of North Carolina Law Schools**

Dean Katharine T. Bartlett (*Arlene J. Diosegy*)  
Duke University School of Law

Dean F. Leary Davis, Jr. (*Robert B. Hobbs, Jr.*)  
Elon University School of Law

Dean Janice L. Mills (*Charles E. Smith*)  
North Carolina Central University School of Law

Dean R. Gene Nichol (*Daniel F. McLawhorn*)  
University of North Carolina School of Law

Dean Robert Walsh (*Reginald F. Combs*)  
Wake Forest University School of Law

Dean Willis P. Whichard (*Kimberly W. Sieredzki*)  
Norman A. Wiggins School of Law, Campbell University

#### **Court System and Judiciary**

North Carolina Administrative Office of the Courts  
Judge Ralph A. Walker, Director (*Rosemary G. Kenyon; Judge Ronald E. Spivey*)

Supreme Court of North Carolina  
Chief Justice I. Beverly Lake, Jr. (*Justice Mark D. Martin; Martin H. Brinkley*)

North Carolina Court of Appeals  
Chief Judge John C. Martin (*Martin H. Brinkley*)

North Carolina Superior Court Judges (*John R. Cella, Jr.; Kevin G. Williams*)

North Carolina District Court Judges (*Judge A. Robinson Hassell; Judge William M. Neely*)

United States Courts (*Judge Thomas W. Waldrep, Jr.*)

### **Diversity / Specialized Bars**

North Carolina Academy of Trial Lawyers  
*(Jacqueline R. Clare)*  
President: Spencer Parris  
Chief Executive Officer: Richard Taylor

**North Carolina Association of Women Attorneys** *(Dayton T. Cole)*  
President: Lydia Lavelle

North Carolina Association of Defense Attorneys *(Julie Zydron Griggs)*  
President: Nick Ellis  
Executive Director: Lynette Pitt

### **Access to Justice Organizations**

Legal Aid of North Carolina *(Charlotte G. Blake)*  
Board chairs: Leo Allison; Cal Adams  
Executive Director: George R. Hausen, Jr.

North Carolina Justice Center *(Rosemary G. Kenyon; Sharon L. Robertson)*  
Chairs: Victor Boone, Forrest Toms  
Executive Director: Rhonda Raney

### **Major Local Bars** *(Elizabeth Derrico)*

Wake County Bar Association / 10<sup>th</sup> Judicial District Bar  
President: George Hearn  
Executive Director: Alice Roman

Buncombe County Bar Association / 28<sup>th</sup> Judicial District Bar

Mecklenburg County Bar Association  
President: John Buchan  
Executive Director: Nancy Roberson

Forsyth County Bar Association

Greensboro Bar Association

### **Clients and the Economy**

North Carolina Citizens for Business and Industry *(Thomas C. Watkins)*  
President and Secretary: Phillip J. Kirk, Jr.  
Chair: Barry W. Eveland

North Carolina Department of Commerce *(Ann E. Hanks)*  
James T. Fain, Secretary

North Carolina Economic Developers Association *(Robert E. Campbell)*  
President: Mac Williams  
Executive Director: John Peterson

UNC Center for Competitive Economies *(Stacey Bice Bawtinhimer)*  
Executive Director: Brent Lane

**North Carolina Bar Association  
Strategic Planning  
Summary of Internal Stakeholders Surveys  
by Elizabeth Derrico, ABA Division for Bar Services  
November 4, 2005**

**Note on Methodology and Report**

Over the four months leading up to the NCBA strategic planning retreat in September 2005, electronic surveys were conducted of the following NCBA internal stakeholders groups: young lawyers division, board of governors, Section Council members and Committee chairs, staff, legal assistants and members. A paper survey was mailed to members of the senior lawyers division. None of the surveys elicited a response within a statistically acceptable margin of error. Therefore, the statistics presented should not be viewed as definitive, particularly the ratings of satisfaction with various products and services that are reflected in the charts.

The challenges facing the profession, bar association, justice system, and practitioners were elicited through open-ended questions. The challenges identified quite accurately mirror those issues identified in the external stakeholder interviews as pertinent.

**Commonalities of Issues Identified Across Internal Stakeholder Groups**

There were few variations among the stakeholders groups in the challenges identified.

Professionalism

Judicial and Justice System Issues

- Independence of the Judiciary
- Judicial Selection
- Funding of the justice system
- Staffing
- Judicial salaries
- Technology

Law Practice

- Technology
- Economic changes
- Multi-jurisdictional practice
- Multidisciplinary practice
- Non-lawyers performing what was traditionally considered the province of attorneys

Lack of public understanding about the law and the legal system

Tort reform

### Challenges Facing the Profession

Changing economics of practice  
Diversity of interests among practitioners  
Public perception  
Access to justice  
Professionalism<sup>19</sup>

### Challenges Facing Practitioners

Economics of practice  
Quality of life  
Public perception

*For senior lawyers the transition out of practice and what to do in retirement were frequently mentioned as challenges. While of concern to a particular population they are reflected in “quality of life” issues as more broadly identified across stakeholder groups.*

### Challenges Facing the Justice System in North Carolina

Funding  
Access to justice  
Public perception

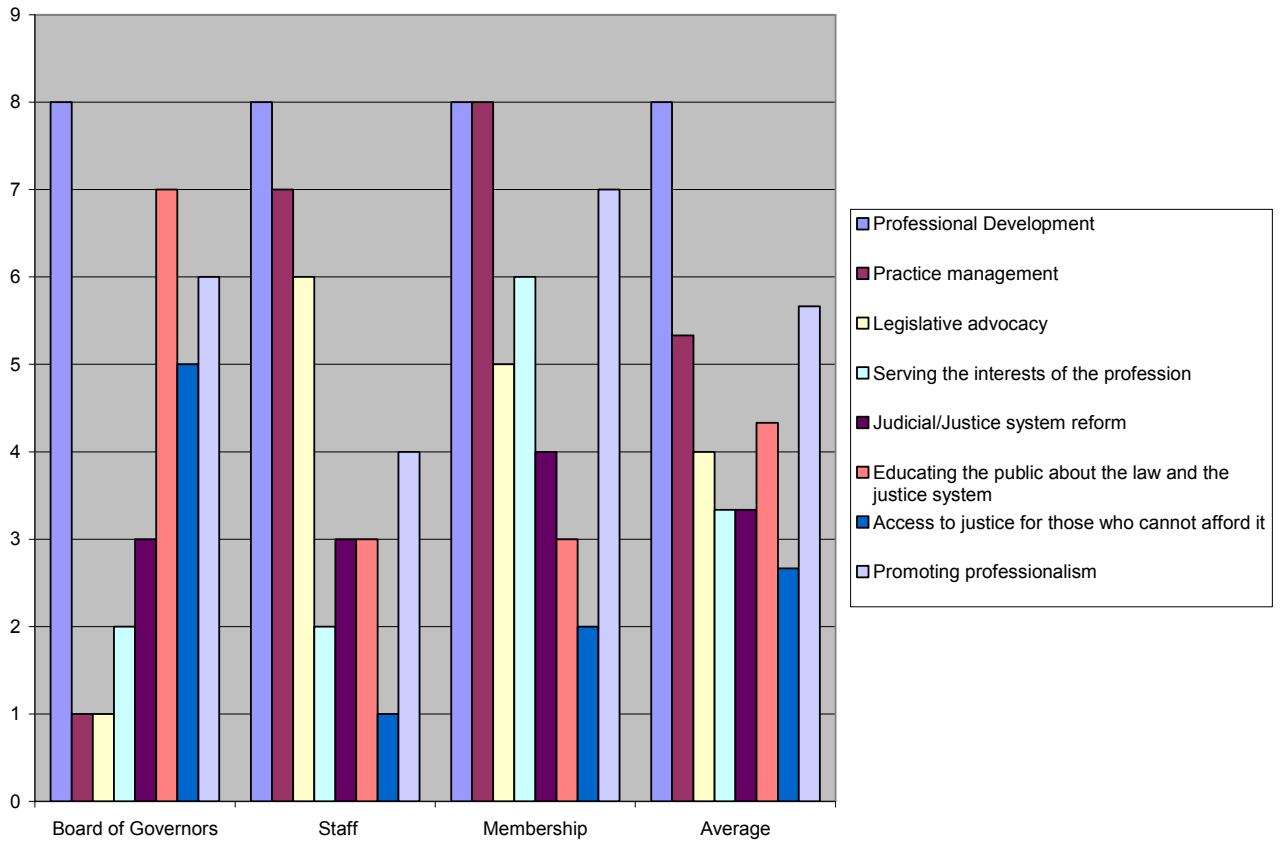
### Challenges Facing the North Carolina Bar Association

Relevance  
Diversity of members’ interests  
Public perception of the profession

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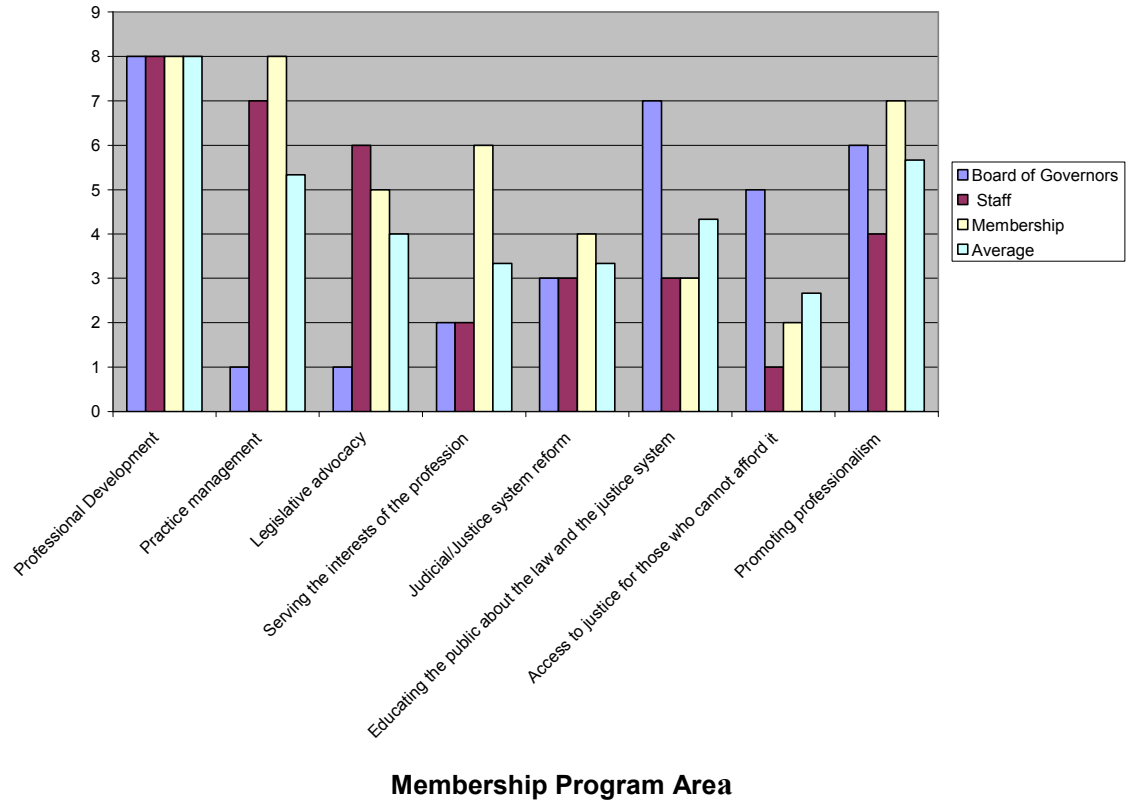
<sup>19</sup> While many survey respondents mentioned declining ethics and professionalism as problems, Judge Martin indicated that “the bar’s professionalism initiatives appear to be having a positive impact; less unprofessional conduct is being seen in courtrooms.”

**Rankings of NCBA Services by Stakeholder Group  
(8=Most Important and 1=Least Important)**

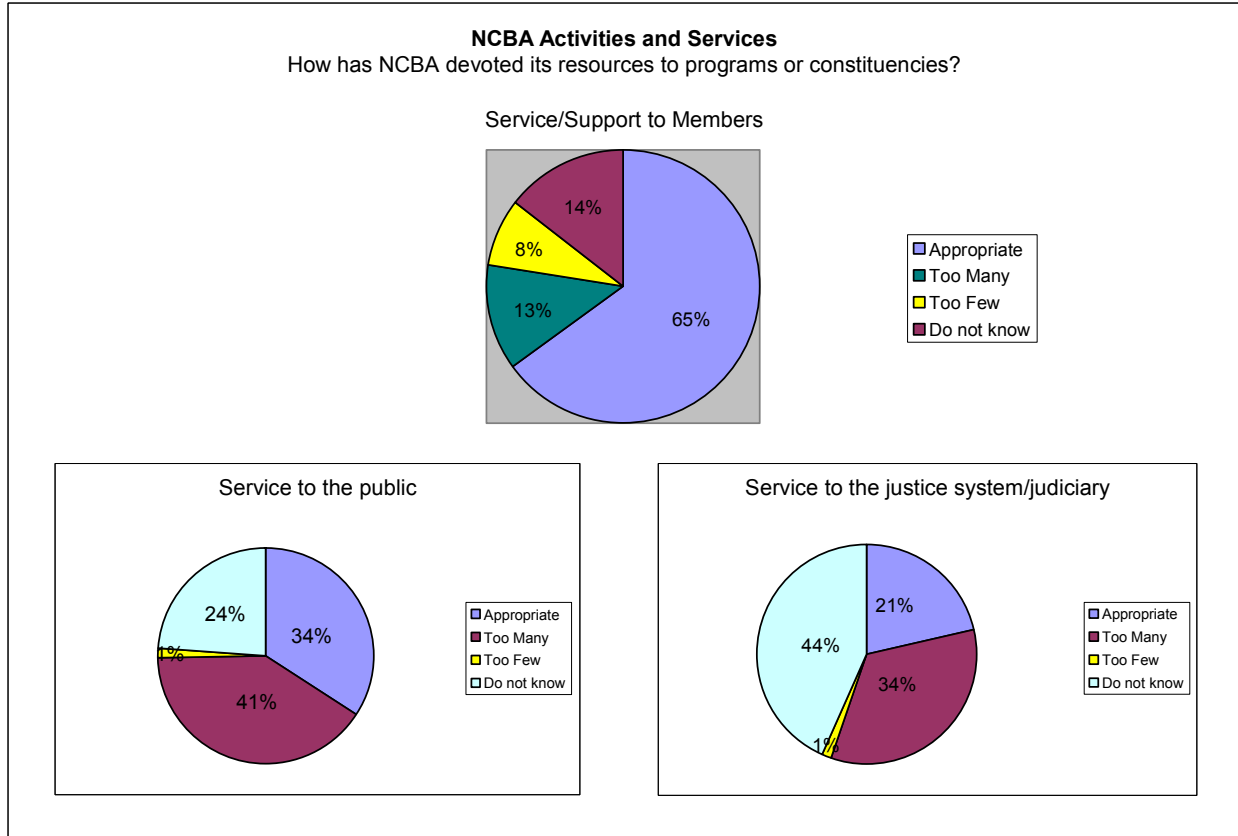


Stakeholder Group

**Comparative Rankings of NCBA Membership Service Areas by Stakeholder Group  
(8=Most Important Service, 1=Least Important Service)**



*Satisfaction is the highest with the association’s activities to confront the challenges facing lawyers. These also are the services (professional development, professionalism) that were ranked highest in importance. These results also may reflect that respondents have greater familiarity with those services and activities that are personal and affect their practice rather than those that are more externally focused.*



**All reporting groups**

- Young Lawyers
- Board of Governors
- Legal Assistants
- Members
- Senior Lawyers
- Section/Committee Leaders
- Staff

*It is most likely that those responding to the survey are more aware of NCBA services and activities that are tangible such as CLE and therefore have a greater familiarity with the resources devoted to them.*

**Staff Responses**

Generally, the staff responses are concomitant with those of other internal stakeholders. For the staff, providing value to members and remaining relevant is THE challenge that the association faces.

In response to the question, “If you had to eliminate one product or service, what would it be?” of the 10 responding staff members, six mentioned the annual meeting.

This is likely because survey was distributed at the time of the annual meeting when enormity of the undertaking can seem futile! The other item frequently mentioned was eliminating non-performing Sections and Committees. If additional resources were available, staff would invest in technology and staff salaries.

1. Professional development (CLE, Annual Meeting)
2. Promoting professionalism
3. Access to justice for those who cannot afford it
4. Serving the interests of the profession
5. Legislative advocacy
6. Educating the public about the law and the justice system
7. Judicial/Justice system reform
8. Practice management (Casemaker)

**General Observations from the Survey Results**

<b>NCBA resources devoted to each of the following programs/constituencies are:</b>				
	<b>Appropriate</b>	<b>Too few</b>	<b>Too many</b>	<b>Don't Know</b>
Service/support to members	80% (16)	5% (1)	10% (2)	5% (1)
Service to the public	60% (12)	35% (7)	0% (0)	5% (1)
Service to the justice system/judiciary	55% (11)	10% (2)	0% (0)	35% (7)

The professional development services are rated both the highest in value and the most important by all stakeholders surveyed. In addition to traditional “CLE” programs there is a desire for skill development programs such as time management, hiring office staff, and career development. Members do not differentiate between “practice management” and “professional development.”

Members want the association to serve as an “advocate” not only for their professional interests but more broadly on behalf of the profession and the system of justice.

There appears to be an expectation that the association will be ahead of the technology curve and will help members to negotiate that curve. Staff also are eager to have an edge in the technology available to them.

Effectively communicating the depth and breadth of the value of the association’s activities will continue to be a challenge. This observation is based on the number of “Don’t Know” responses reported in the survey, particularly among young lawyers. This is of particular concern given that those who responded to the survey are likely to be engaged in the organization at some level.

Independence of the judiciary and the attendant issues are important not only to association leaders but to the general membership. This contrasts with surveys from other states where we have found a much greater focus on the “big” issues among leadership than among members.

The court system's use of technology appears to lag behind lawyers' expectations.

Members want help earning a living. The challenge for the association is to define what this means relative to providing services and being an advocate. For some members the expectation is that the association will stem the tide of non-lawyer encroachment into various areas of practice such as real estate. For other members the expectation is more practical, it is about practice management and business development. This conclusion is drawn from the open ended questions and not from the rankings or satisfaction levels reported.

Interestingly, association leaders rated the association's role as legislative advocate as less important than did members.

Local bar presidents reported the same challenges, albeit writ smaller.

### **Observations Regarding Stakeholders and the Planning Matrix**

Generally, the broad priorities identified by the stakeholder groups comport with those that emerged from the planning session. Professional development, not simply CLE, was emphasized in both.

The NCBA is perceived as "standing for something," and there is an expectation among the stakeholders that the organization can have an impact on issues such as judicial independence and professionalism.

Those who responded to the survey care about the state of the judiciary (salaries, competence, independence) and the role that the association can continue to play emerged as a priority in the planning session.

The challenge for the association is to communicate with members in a way that resonates and reinforces their sense of affiliation.

## APPENDIX C

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## APPENDIX D

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