

# Silencing the Naysayers

*The President's Perspective by Charles L. Becton*

*It's called the President's Perspective, but no words I have penned as president are as important as NCBA's Perspective this year – lawyers fighting injustice.*

*This President's Perspective is being written during "March Madness," when ESPN and the ACC are sports-bar, if not household, words. But we must daily remember the North Carolina Bar Association's challenge: ESPN (Education, Service and Professional, Now) and ACC (Awareness, Choices, and Change).*

Those two acronyms are the rallying cheer for our new, and forever, public service challenge. As a result of that challenge, a cadre of volunteer lawyers now provide pro bono legal assistance to our neediest citizens. Two other benefits are readily apparent.

First, lawyers helping people is a personally and professionally gratifying experience. Second, it ennobles and enhances the image of the legal profession. [Fanatic NCBA "hoopsters" would call this a March to Gladness trifecta. Ardent public servants, who care little about basketball, call it unspeakable joy.

## **Our Bright Future**

If history shows anything, it shows that past, well-known naysayers have been wrong. At the Chicago World's Fair in 1893, 74 social commentators predicted that by 1993 people would live to be 150, that government would have grown more simple and that divorce would have been considered unnecessary.

In 1895, Lord Kelvin, President, Royal Society, said: "Heavier than air flying machines are impossible."

In 1905, Grover Cleveland said: "Sensible and responsible women do not want to vote."

In 1921, Tris Speaker said: Babe Ruth made a big mistake when he gave up pitching."

In 1923, Robert Milligan, Nobel Prize winner in physics, said: "There is no likelihood man can ever tap the power of the atom."

Considering the above, this year the bar association challenged members to invent, rather than predict, the future. And what a glorious year we have had! Without cutting back on membership services, the bar association has exponentially increased its public service programs. Our future is bright despite looming economic blight.

## **We Now "Walk the Walk"**

Bar association members have met the challenge this year. We don't just "talk the talk"; we now "walk the walk." With a renewed energy to serve the public and with a full appreciation of the need for equal access to our courts, bar association members have rallied around our injustice initiatives.

"To be, rather than to seem" is the North Carolina state motto. That motto is also the Bar Association's mantra for service. And, of this we can be certain. Actual service is better than lip service.

Critics and skeptics thought the bar association would never put its money where its mouth was. We have silenced those naysayers. On Feb. 15, in response to the ongoing economic downturn and its impact on legal aid, the North Carolina Bar Association awarded a one-time unrestricted gift of \$100,000 to Legal Aid of North Carolina.

The NCBA has not been exempted from the downward economic spiral. In the past, we may have cautiously flinched and retreated with a "these-are-tough-economic-times" response to all who needed our help. But not this year. At a time when LANC experienced unparalleled demands for legal assistance and also experienced decreased funding, the NCBA "stepped up." Our gift to LANC was just one of the many wonderful things the bar association did this year. Other Injustice Initiatives will be summarized after a discussion of the bar association's new perspective.

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## A Changed Mindset

Since stamping out injustice is easier, and more quantifiable, than “seeking justice,” the bar association reframed its public service and social justice initiatives this year. A heightened awareness of daily, omnipresent injustices caused bar association members to craft programs to eradicate readily apparent and notorious scenes of injustice as well as disparate, heretofore subtle or unseen, scenes of injustice.

This whole year has been about a changed mindset – a different perspective – that constantly reminds us that the bar association’s motto – Seeking Liberty and Justice – has to be lived, not lined; practiced, not proclaimed; funded, not flaunted. We have, therefore, focused on the practical, not the academic, theoretical or aspirational.

This year has been about actual service, not lip service; about fighting injustice more so than seeking justice; about public service more so than membership service; about hallowed practices, not hollow promises; about funding relevant causes, not flaunting relevant precepts.

This year we have sought to puncture the mythical cocoon of privilege.

Realizing that when we are fully aware, we can make informed choices and effect needed changes, we have sought to expose the follies of miseducation, apathy, and indifference. Understanding that diversity is a necessary prescription for social progress and that our commonality is more important than our distinctions, we have extolled the virtue of zestful inclusiveness (a sincere desire to co-mingle) and eschewed obligatory, perfunctory, and zealous tolerance.

Recognizing that people are more clannish, hedonistic, and self-absorbed these days, we have preached charitable giving that restores hope and dignity. And if we remember Leonard Pitts’ recent observation that “Hate rises when the Dow falls,” we will never let tough economic times and budget cuts dissuade us from making the argument for the poor and powerless. Otherwise, the rich and powerful will win by default.

## Practicing What We Have Preached

The bar association has always preached “service,” but membership surveys show why we should practice it with evangelical fervor. Those surveys consistently show that the most important issues for bar association members are improving the image of the profession and our justice system. Significantly, bar association volunteerism is high not because of membership service benefits but, rather, because of public service opportunities.

The notion that we can, and must, serve every day is historically noted. Consider the first seven words of the North Carolina Bar Association’s mission statement: “Our mission is to serve the public . . . .”

Recall the elegant words of Platt Walker, the first president of the bar association, uttered in 1899: “The pursuit and practice of this profession imposes upon us responsible duties and obligations to ourselves and to the public . . . [I]t is a sacred duty we owe to the state and its people to . . . ensure each and every citizen the just and equal protection of the law.”

Expressing his concern for liberty, justice, and equal access to court, Walker continued: “the supreme law of the land should be the sure hope and our temple of justice the safe refuge, for any and all who may seek the vindication of rights or the redressed of wrongs.”

As David Ball recently observed, not even Jesus, Gandhi or Martin Luther King, Jr. could rely on words alone. They needed acts to persuade. Repeating Platt’s platitudes is not enough. We must make them a reality.

It is the bar association’s solemn deeds, not shallow words, that “will go forth when our bones are dust.” Coming to the aid of those who have lost their homes and jobs is a must. At a time when worthy endowment grantees need our help most, pray that we not “Scrooge,” stockpile, or “nest-egg” out excess income.

At a time when many commit more selfish acts, pray that we all can be guilty of first degree altruism. At a time when incivility and unprofessional acts haunt the legal profession, pray that our zealous advocacy will never trump our character and credibility.

Dare to play fair! Dare to be inclusive. Dare to ensure equal access to courts.



4ALL leaders Sara Palmer, left, and Katherine Wilkerson pose with WRAL's John Harris during service day.

**Year in Review**

In recent years, the NCBA and NCBA Foundation have responded to membership survey results with a number of programs that serve the public and help improve the image of the legal profession and justice system. Chief among these are our pro bono programs designed to increase volunteerism and financial support services to the poor and people of modest means, our N.C. LEAP program (Lawyers for Entrepreneurs Assistance Program), our 4ALL Service Day, and our Law-Related Education initiatives which include the "Lawyers in the Schools" and "We the People" programs.

This year the uplifting injustice initiatives of bar association members have been extraordinarily successful. The following work of our divisions, sections, task forces and committees show how the bar association gives selflessly to make a difference.

The Young Lawyers Division has several injustice initiatives. Since July 2008, YLD has provided more than 1,000 police officers, firefighters and EMS personnel and their spouses with more than 3,000 wills, power of attorneys, and health care powers of attorney.

In addition, Project Salute is a YLD program that assist veterans with federal disability and pension benefit matters. Moreover, YLD has scheduled "Ask- A- Lawyer" events at six locations across North Carolina in which individuals with questions about specific legal issues or the legal system in general will be able to talk with lawyers on a one-on-one basis. And, as I write this article, YLD is conducting its first Legal Feeding frenzy to collect 250,000 pounds of food for North Carolina's six major food banks.

Our Administrative Law and Health Law sections have a joint OAH Medicaid appeals initiative in which the sections recruit lawyers to represent low to moderate income people faced with

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President Clark Smith extends congratulations upon election as president-elect of NCBA.

loss of Medicaid benefits.

Our Antitrust and Trade Regulation Section is scheduling presentations across the state on privacy protection, identity theft, and other consumer protection issues.

With its Homeowners Recovery Fund initiative, our Construction Law Section is focusing on ways to increase the amount of funds homeowners can recover after being victimized by unreputable general contractors. This section is also providing pro bono assistance to LANC to help reduce its caseload.

Our Corporate Counsel Section has donated time and money to NC LEAP, specifically assisting in preparing, free of charge, a number of one-page "Ounce of Prevention" fact sheets on entity formation, contracts, bankruptcy, and other legal topics of interest to NC LEAP clients (entrepreneurs who can little afford to pay for those services as they struggle to start and grow their businesses).

The CLE Committee is working with YLD on a new project to help members of the National Guard and Reserve better understand the Uniformed Service Employment and Reemployment Rights Act and to prevent, or help resolve, disputes arising under the Act.

The Dispute Resolution Section maintains a list of 75 attorneys who volunteer to provide free mediation services to those who are unable to pay for those services.

Through its "Lift" program, our Education Law Section provides instructions on the law as it applies to teachers and students in North Carolina schools.

Our Elder Law Section has contacted statewide Alzheimer's associations regarding members' availability to speak on Elder Law issues.

Our Environment, Energy and Natural Resources Section is providing several pamphlets informing lay people of legal rights with regard to environmental law issues.

Like our Young Lawyers Division, our Estate Planning and Fiduciary Law Section is providing basic wills, durable

general powers of attorney, health care powers of attorney and living wills to first responders and to indigent hospice patients.

Our Family Law Section is helping to provide housing for victims of domestic violence.

Our Juvenile Justice and Children's Rights Section is surveying school systems to determine the best way to deal with the disproportionate number of minority youth suspended from public schools. The Section has scheduled community legal clinics in Nashville, Rocky Mount, Wilmington, and Winston Salem (in English and Spanish) for parents, students, and professionals concerned with school suspensions and academically low performing students.

Because unscrupulous employers sometimes take advantage of workers who are unaware of laws that protect them in the workplace, our Labor Law Section is implementing a pro bono project to present the basics of employment and labor law to students, skilled tradesmen, laborers, and administrative and professional staff at community colleges around the state.

The Latino Affairs Committee is scheduling a Latino student reception to attract more Latino students to law schools in North Carolina and to ensure that these students practice law in North Carolina after they graduate.

The Lawyer Effectiveness and Quality of Life Committee has instituted a pilot project to pair "food collection" with CLE programs. The effort began with delivery of food to the Food Bank of Eastern North Carolina and to the Greensboro Food Bank.

In partnership with N.C. Prisoner Legal Services, Inc. and the Civil Rights Section of the North Carolina Advocates for Justice, our Professionalism Committee is sponsoring a series of walk-in legal clinics to help ex-offenders transition back into society.

Our Real Property Section continues to conduct foreclosure training sessions so skilled lawyers can help people with foreclosure problems.

As its injustice initiative, the Tax Section will assist in at least 10 pro bono tax cases referred by Legal Aid of North Carolina.

The Women in The Profession Committee's "Rise And Shine" injustice initiative will bring female members of the bar together with disadvantaged women in need of employment for the purpose of providing them with basic tools, skills, and other assistance that will enable them to more effectively compete for jobs.

Among the fund-raising efforts of the Workers' Compensation Section is a Kids' Chance Raffle, held to help fund scholarships annually to students between the ages of 16 and 25 whose parents on-the-job death or injury resulted in a substantial decline in family income.

Our Public Service Advisory Committee is developing a "know-the-law" informational brochure designed to assist the general public in matters of quasi-judicial proceedings.

Other committees have formed Injustice Initiative subcommittees and are developing Injustice agendas.

### The Future

We can safely predict that injustices will roar and that the rolls of those denied equal access to our courts will swell in the midst of the current economic cyclone. During the course of this and other human crises, the bar association must always aid the oppressed and the less fortunate. After all, service is our mission, motto, and "mantra."

What our divisions, sections, task forces and committees did this year – our opening volley – sets the stage for what we must do in the future. From this day forward, bar association members need to respond with renewed energy to the legal needs of the poor. The bar association must create a lasting culture of pro bono participation on a statewide level; it must create a brighter future for our children with a sustained out-pouring of time and monies in our Law Related Education programs; and it must affirmatively address the legal professions and judicial systems's diversity shortcomings.

As our 4ALL program and Injustice Initiatives this year have shown, the bar association has the ability to mobilize thousands of volunteer attorneys to donate time to pro bono efforts and social injustice initiatives. We can invent our glorious future.

But we, of course, must tout the good we do. We can not simply bask in notable, past public service "gold strikes." Our state is immeasurably better because the bar association created Lawyer Referral Services in 1975, Legal Services of North Carolina in 1976, and North Carolina Volunteer Lawyer Program in 1983. But that was over 25 years ago. We need to discover other "Mother Lodes" at least every five years. In short, we must cultivate bold leaders to blaze new public service trails.

Without doubt, the North Carolina Bar Association is the envy of other bar associations around the country. We have been blessed with an exceptional executive director, a wonderful, highly capable staff, visionary leaders, and indefatigable member volunteers. But we have to be ever vigilant against seductive self-righteousness that makes us feel snugly entitled. Other specialty bars have equally skilled, caring and visionary leaders. And we must reach out in a spirit of cooperation, form meaningful alliances, and jointly sponsor or support legislation and programs that benefits the consuming public.

By way of example, the North Carolina Advocates for Justice and other specialty bar associations can help us with our Law-Related Education, Equal Access to Justice, Diversity, Consumer Protection and Judicial Salary initiatives. And, they can brainstorm with us on Medico-Legal, Judicial Selection and Retention, and Uniform Apportionment of Tort Responsibility issues. We will not agree with all specialty bars on every issue, but collaborating with them on issues of mutual concern that benefit the consuming public and brainstorming with them on issues they deem important is, like public service, a "win-win" for all.

Our future is bright. Our revenues, even during the current economic crisis, exceed our expenses. Let's, therefore, sustain our "win-win" public service championship mentality. Let's, therefore, fund worthy causes. Let's silence the skeptics, critics and naysayers.

Let's invent our glorious future. ■