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MARCH/APRIL 2025

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KIERAN MURPHY is a partner and trial attorney at Bertram & Murphy with a practice focused on representing victims of birth injuries, neonatal and pediatric injuries, and catastrophic medical malpractice. Throughout his career, Kieran has been asked by trial judges and attorneys to consult and present on issues related to the rules of civil procedure and the rules of evidence. Kieran has repeatedly been selected by his peers as a Super Lawyers Rising Star for his litigation skills and trial practice. He is the youngest medical malpractice trial lawyer to ever be named to The Maryland Daily Record's Medical Malpractice & Personal Injury Power List, which identifies the 25 "most influential figures in law" each year.

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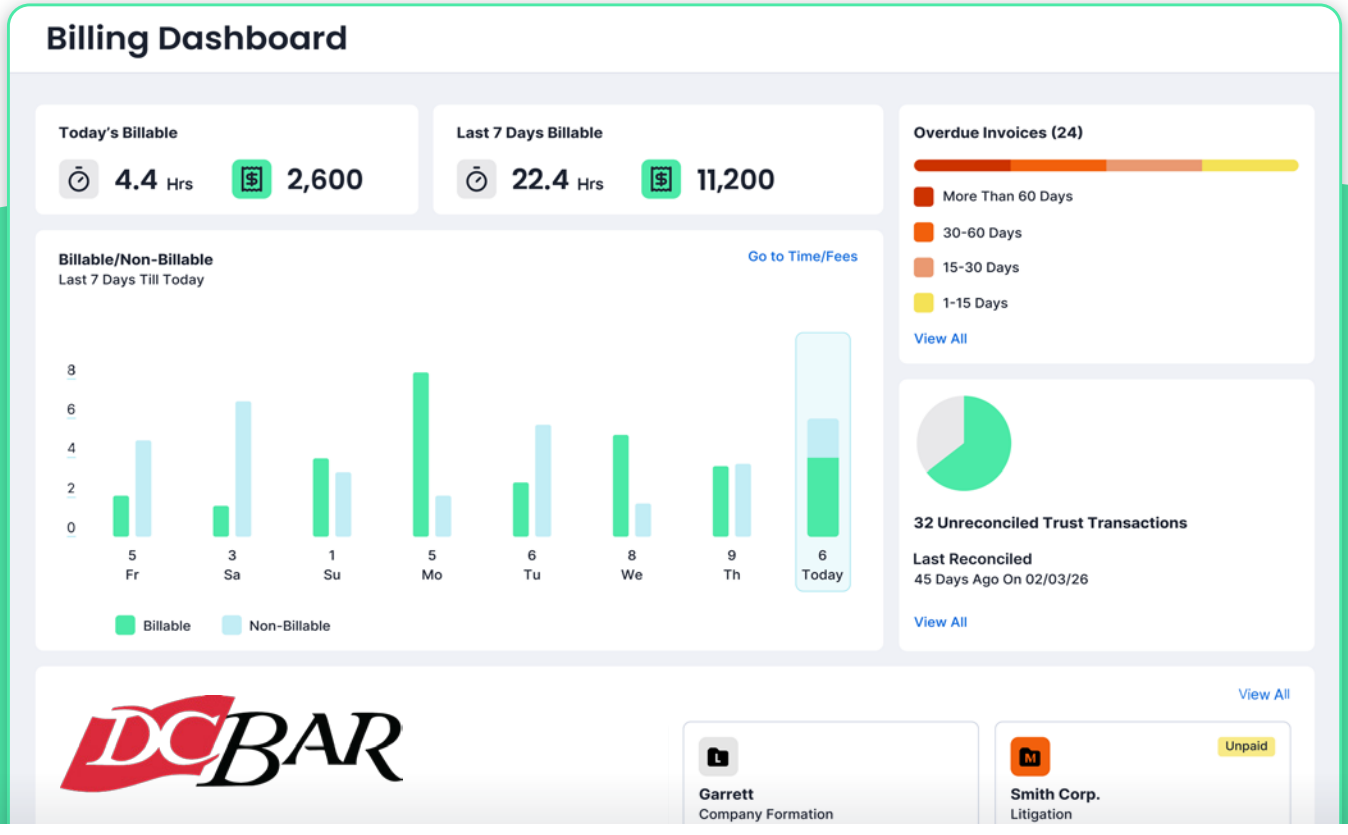

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Cover: Joan Odell, Denise Perme

This page clockwise from top: McCarter & English attorneys, Jati Lindsay; Janene Jackson, Jati Lindsay; Native American protest stock, Ian Sane/Creative Commons

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DIGITAL EXTRAS

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D.C. BAR TAX CONFERENCE GATHERS NEARLY 500 ATTENDEES

The D.C. Bar Taxation Community held its annual conference on January 15–16, featuring nearly 30 breakout sessions on corporate, financial product, partnership, compensation, and international taxation, as well as panel discussions on AI, tax credits, and U.S. Supreme Court decisions. Highlights included a keynote address by Scott Levine, former deputy assistant secretary of international tax affairs for the U.S. Department of the Treasury. Levine spoke about the importance of strengthening and stabilizing the international tax system, simplifying international tax rules, and protecting confidential taxpayer information.

dcbar.org/news

INSPIRE D.C. STUDENTS ABOUT THE LAW

Bring the U.S. Constitution to life for young students by volunteering as a teacher for the Constitution in the Classroom program on April 2 at the D.C. Bar. Lawyers can find engaging, age-appropriate lesson plans from the American Constitution Society. Sign up today!

dcbar.org/constitution-in-the-classroom

MYLES LYNK RECEIVES ABF OUTSTANDING SERVICE AWARD

The Fellows of the American Bar Foundation (ABF) honored Myles Lynk, former D.C. Bar president and dean of Emeritus College at Arizona State University, with the 2025 Outstanding Service Award for his exceptional commitment to advocacy for civil rights throughout his career. The ABF reception was held in Phoenix, Arizona, on February 1.

americanbarfoundation.org

SAVE THE DATE: D.C. BAR CANDIDATE FORUM

Get to know the D.C. Bar members running for president-elect and other positions on the Board of Governors for the 2025–2026 term. Learn about their platforms and priorities during a candidate forum on May 1 at the Bar's headquarters. Voting opens on April 15.

dcbar.org/elections

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DC BAR

Patrice Gilbert Photography

Your Vote Is Your Voice

By Shaun M. Snyder

As president of the D.C. Bar, I have the privilege of witnessing firsthand the incredible dedication, expertise, and passion that our more than 119,000 members bring to their legal practices, communities, and beyond.

Every one of you represents the strength and diversity of our profession, and together we have built a bar that is a national leader. But one of the cornerstones of any successful institution is engagement. At the D.C. Bar, our annual election is one of those important opportunities to get involved.

Voting is not just a procedural exercise; it is a meaningful way to shape the future of our organization. Each year, we vote for president-elect, treasurer-elect, members of the Board of Governors, delegates to the American Bar Association (ABA), and Communities leaders. These are not ceremonial positions. The individuals we choose will play pivotal roles in guiding the policies, priorities, and programs that impact not only our members but also the communities we serve.

Historically, voter turnout in D.C. Bar elections has hovered between 7,000 and 8,000 votes, a fraction of our total membership. The participation of those who vote year after year is commendable, but I believe we can and should do better. Imagine the power and legitimacy of decisions made by our leaders elected by a significantly larger share of our membership. Imagine what we could accomplish if every member took a moment to vote and make their voice heard.

You might wonder why you should vote in D.C. Bar elections. After all, we are all busy professionals with demanding schedules. But consider this: Voting is not just about selecting leaders; it is about affirming the values and vision of the D.C. Bar. When you vote, you:

Shape the Bar's direction. The president-elect you choose today will become the president tomorrow, setting the tone and priorities for the Bar's future. Similarly, the Board of Governors members will make critical decisions about resources, member services, and strategic initiatives.

Support a stronger profession. The ABA delegates we elect represent our members in shaping national legal policies. They advocate for issues that matter to us, such as access to justice and the rule of law.

> Our elections are more than just a procedural formality. They are an opportunity to ensure that the Bar reflects the diverse perspectives, needs, and priorities of our membership.

Elevate member engagement. A robust voter turnout sends a powerful message about the active engagement and unity of our membership. It strengthens the credibility of our organization and ensures our leaders have a clear mandate to act on your behalf.

At its core, the D.C. Bar exists to serve its members and advance the administration of justice. However, this mission can only be fulfilled when members take an active role in the organization's governance. By voting, you demonstrate your commitment to the Bar and the legal profession as a whole.

Our elections are more than just a procedural formality. They are an opportunity to ensure that the Bar reflects the diverse perspectives, needs, and priorities of our membership. Every vote counts, and every voice matters.

This year's election will open on April 15, and I encourage you to mark your calendar. Voting is simple, secure, and convenient. You will receive an email with a personalized link to the ballot, and the process takes only a few minutes. The Bar's website provides detailed information about each candidate and their position on the issues. As you review the candidates, take the time to learn about their backgrounds, their priorities, and their vision for the Bar.

If you believe in a colleague's potential to lead, nominate them or encourage them to run in future elections. I am speaking from firsthand experience when I say leadership within the D.C. Bar is a rewarding and impactful way to serve our profession and make a difference.

Let's set a goal this year: raise voter turnout. If you've voted in the past, thank you — and I urge you to do so again. If you've never voted, this is your moment to step up. Talk to your colleagues about the election, share why you believe it matters, and encourage others to participate.

Voting is one of the simplest yet most powerful ways to contribute to the success of the D.C. Bar. Together, we can ensure that our leadership reflects the best of our membership and that our Bar continues to be a beacon of excellence, innovation, and service.

Thank you for your dedication to our profession and to the D.C. Bar. I look forward to seeing the impact we can achieve together through greater engagement in this year's election.

Your vote matters. Your voice matters. Let's make them count.

Connect with Shaun at ssnyder@dcbar.org.

MAR/APR

MANDATORY COURSE

Register today for the on-demand video presentation on the D.C. Rules of Professional Conduct and District of Columbia Practice. New members have 12 months from the month of admission to complete the required course.

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3/4 & 4/1

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The D.C. Bar Communities continues this series with Financially Fit Female (3/4) and Maximizing Your Social Security Benefits (4/1).

dcbar.inreachce.com

3/4 & 18; 4/1 & 22

BASIC TRAINING & BEYOND

The D.C. Bar Practice Management Advisory Service presents this free, interactive, two-day program that covers all you need to know about starting and growing your own firm in the District.

dcbar.org/pmas

3/26

VOLUNTARY BAR FAIR

The D.C. Bar will host the first-ever D.C. Voluntary Bar Fair, a free event designed to connect legal professionals with local bar associations. Explore membership opportunities, network with peers, and gain insights from leaders shaping the District's legal landscape.

dcbar.org/voluntary-bar-fair

4/15

TIME TO VOTE!

Choose your next set of leaders by casting your vote in the D.C. Bar general and Communities elections. Eligible voters will receive an email link to the ballots from Survey and Ballot Systems.

dcbar.org/elections

Upcoming CLE Courses

3/05	Medicaid Asset Protection
3/12	Can We Talk? (And, If So, What May We Discuss?)
3/13	Leveraging ChatGPT: Practical Training for Attorneys
3/19	Title IX Enforcement: A View From the Trenches
3/31	Legal Writing: A Judge's Perspective
4/23	Statute Drafting

dcbar.org/cle

4/25

D.C. JUDICIAL & BAR CONFERENCE

Bringing together judges, Bar leaders, and attorneys, this biennial conference will focus on evolving the legal profession to meet the needs of a new era. Register today to be part of forward-thinking discussions on the future of law and justice.

events.dcbar.org/jbc2025

SAVE THE DATE! 5/3

Stay tuned for information on volunteering for the **Melvin R. Wright Youth Law Fair**, an opportunity to engage with D.C.-area students about the courts, the judicial process, and the legal profession.

Images: iStock, D.C. Bar

Strive to Be Human in an AI-Powered World

By Kaitlin E. McGee

With the surge in AI adoption by law firms, 57 percent of an attorney's work and 81 percent of hourly work performed by administrative assistants could now be automated.

According to Clio's 2024 *Legal Trends Report*, tasks like documentation, record keeping, and analyzing data — which represent 66 percent of law firms' hourly billable work — are best suited for automation. For solo and small firm lawyers especially, AI presents opportunities to increase efficiency in operations and focus time and energy on tasks that matter most.

Tools like ChatGPT, document-drafting software, and AI-powered legal research platforms and client intake systems can dramatically improve efficiency. In addition, AI tools can assist in marketing. For example, I use Descript to create and edit video clips in minutes — a process that once took hours.

ChatGPT and similar tools can also help lawyers draft LinkedIn posts, translate blog content into other languages, and repurpose content into various formats. With these tools, lawyers spend less time on tedious tasks and more time on strategy and higher-level thinking.

However, even with these advancements, technology cannot replace human connection. It's ultimately that connection — built by trust, relationships, and engagement with others — that not only drives us to practice law but also improves the quality of our work.

DOWNSIDES OF STAYING VIRTUAL

As technology has improved, I've noticed a troubling trend: Many lawyers are opting out of in-person interactions altogether. Whether due to pandemic-induced habits or the convenience of remote work, a growing number of lawyers want to run firms remotely, handle client meetings exclusively on Zoom, and attend court virtually. While these options have their place, they cannot replace the value of being present for clients, for colleagues, and for others within the legal community.

We need to ask ourselves: Are we using technology to free ourselves for meaningful work, or are we retreating into the comfort of the virtual world at the expense of our clients and our practices?

During the pandemic, Dan Mills and I taught Basic Training & Beyond over Zoom. Each session ran about seven hours, and while these programs were well-attended, the differences in participation became clear when we returned to in-person training. Lawyers in live sessions retained more information, asked better questions, and engaged in deeper, livelier discussions. There's something about being in the same room — free from distractions, surrounded by peers — that fosters focus and engagement in a way virtual platforms simply cannot.

SHOWING UP MATTERS

The benefits of showing up extend beyond the classroom. These monthly in-person sessions often spark meaningful connections outside the program. Participants exchange business cards, grab lunch together, or start informal support networks much more naturally and spontaneously than they typically would in a virtual setting. While connections can happen online, especially when participants are motivated, the format tends to limit interaction, as lawyers often prefer to keep their cameras off and speak less.

The same is true for courtroom interactions. When I practiced law, I frequently gained clients simply by being present in the courtroom. Prospective clients would approach me for help with their cases after observing my work. That kind of organic business development is nearly impossible in virtual hearings, where interactions are limited to the parties involved and the screen divides us.

Clients benefit from in-person meetings. While virtual consultations are convenient, they often lack depth and nuance. Seeing a client in their environment or observing their reactions and reading their body language in real time helps lawyers better understand their needs and personalities, allowing for tailored advice and stronger strategies. For clients, these interactions build confidence and trust in their lawyer's commitment and expertise.

The Clio report reinforces this: 70 percent of clients are neutral or prefer working with firms that use AI, but they still want meaningful human interaction for complex legal issues. Chatbots and other tools can enhance responsiveness, but they cannot replace the lawyer–client relationship.

STRIKING THE RIGHT BALANCE

This is not an argument against technology. I'm a big advocate for using AI to make your law practice more efficient and accessible. The key is to use these tools to free up time for the work that truly matters — engaging with people. Lawyers, especially those in solo practices and small firms, need to embrace technology that saves time and increases efficiency to make their firms productive while also resisting the temptation to retreat into a virtual bubble.

Show up for your clients. Show up in court. Show up for networking and professional development opportunities. The relationships you build by being present will not only grow your practice, but also make you a better lawyer.

D.C. Bar practice management advisors Kaitlin McGee and Dan Mills can be reached at kmcgee@dcbar.org or dmills@dcbar.org, respectively.

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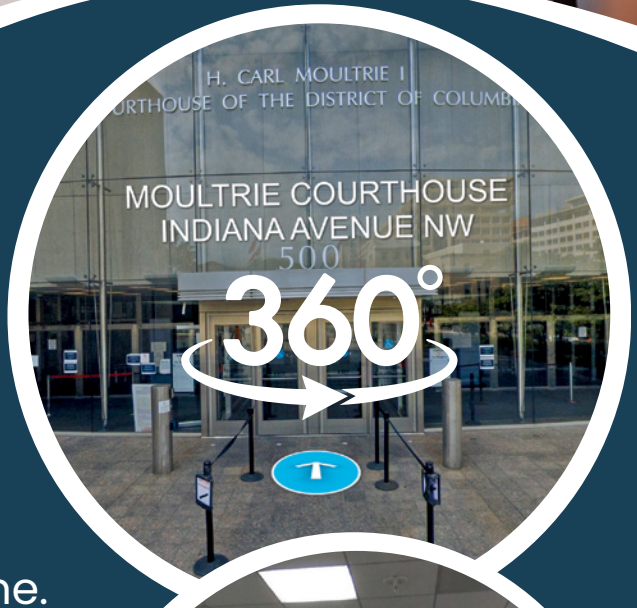

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FEATURE

The Dollars & Sense Behind Ending Involuntary Servitude

By Jeremy Conrad

"In the federal system, when I first got there, it was mandatory to work," says Robert Lindsey, who spent 30 years incarcerated. For a significant portion of that time, Lindsey worked nearly every available job in prison at one point or another — in kitchens, laundry facilities, and maintenance.

An inmate firefighter battles the Park Fire as it burns in August 2024 in Mill Creek, California. Ethan Swope/Getty Images

"I was paid $16–$18 a month. I had to work from 7 [or] 8 a.m. until 3. Either you work, or you get thrown in the hole," he says. The best jobs available would earn an incarcerated person only 35–45 cents an hour.

The money Lindsey earned barely covered basic hygiene necessities. "You have to buy soap, deodorant … hygiene would cost more than $16 a month," Lindsey says. "They feed you three meals, but the food isn't that good, so you need to buy things from the commissary to sustain yourself."

Prison labor is legal under the law, given that the 13th Amendment's elimination of slavery and involuntary servitude remains incomplete. The amendment abolished slavery and involuntary servitude "except as a punishment for crime whereof the party shall have been duly convicted." The exceptions clause, as it is known, has resulted in the continuation of unpaid, underpaid, and involuntary labor in prisons across the country, although a growing number of jurisdictions have proposed or passed legislation that rejects slavery and involuntary servitude definitively.

In numerous sessions of Congress since 2020, Democratic lawmakers have introduced the bicameral "Abolition Amendment," a resolution that would strike the exceptions clause from the 13th Amendment. The bill has not passed, but even if it does, the result may not greatly impact working conditions for the incarcerated.

In 2023 Georgia Representative Nikema Williams, one of the bill's coauthors, noted that the resolution would not force a change in the level of payment for prison workers, reasoning that "they're not being forced into these programs." Regardless, closing the exception to the elimination of

slavery and involuntary servitude would be an important step in establishing fair pay and safe working conditions for incarcerated workers.

In the absence of federal action, some states have amended their own constitutions to forbid slavery and involuntary servitude without qualification. Rhode Island was ahead of the curve, having fully abolished slavery even prior to the passage of the 13th Amendment in 1865. Recently, other states have begun to follow suit. Colorado eliminated involuntary servitude in 2018, followed by Utah and Nebraska in 2020 and Alabama, Oregon, Tennessee, and Vermont in 2022.

In 2024 Nevada voted to eliminate slavery exceptions, although it pays incarcerated workers nothing. California voters, on the other hand, rejected Proposition 6, which sought to amend the state's constitution to ban forced prison labor (the slavery exemption was removed in 1974). Governor Gavin Newsom's administration opposed the bill, warning that it could cost taxpayers billions of dollars if the state were to pay its prisoners the $16 hourly minimum wage.

SCOPE AND SCALE

The scale of prison labor is undeniable, a factor that impedes efforts to eliminate the practice. According to the Bureau of Justice Statistics, the U.S. prison population stood at 1.2 million at the end of 2022. An estimated 65 percent of the prison population (about 791,500 people) work, according to *Captive Labor: Exploitation of Incarcerated Workers*, a 2022 report by the ACLU and the Global Human Rights Clinic (GHRC) at the University of Chicago Law School examining the use of prison labor throughout state and federal prisons in the United States.

The average minimum hourly wage was 13 cents and the average maximum was 52 cents, though many inmates were paid significantly less, the report shows.

Prisoners in Alabama, Arkansas, Florida, Georgia, Mississippi, South Carolina, and Texas received no compensation for the vast majority of work assignments. For example, the report indicates that in 2019, only 80 Texas prisoners who were employed by private companies were paid a wage. Rhode Island, despite its longstanding prohibition on slavery and involuntary servitude, pays incarcerated workers between 50 cents and $3 a day for their labor.

Notwithstanding the lack of pay, prisoners face another source of inequity: workplace safety. The ACLU report notes improper equipment as well as "inadequate training on how to handle hazardous chemicals, operate dangerous equipment with cutting blades, clean biohazardous materials … and use dangerous kitchen equipment." Occupational Safety and Health Administration (OSHA) standards do not typically apply to incarcerated workers because they are not considered employees.

"One person had to clean blood with their bare hands. Another incarcerated person, in California, was manufacturing glasses for a medical supplier without the proper protective equipment. She would get burned every time she made the glasses. Basic OSHA protections would have prevented various injuries," says Mariana Olaizola Rosenblat, policy advisor on technology and law at the New York University Stern Center for Business and Human Rights. Olaizola Rosenblat was one of the GHRC fellows responsible for researching and drafting the ACLU report.

The government and private industry benefit greatly from the unpaid and underpaid labor of the incarcerated. In 2021 incarcerated workers employed in prison industries programs produced more than $2 billion worth of goods and commodities and $9 billion in services to maintain the penal facilities where they were being held. Prisoners fought wildfires in California, Washington, and Nevada, and they worked on former slave plantations and slaughterhouses supplying McDonald's, Walmart, and Cargill, paid at a fraction of the cost of sourcing labor from the community.

ECONOMIC CONSIDERATIONS

The obvious hurdle in eliminating slavery and involuntary servitude is the expense. For instance, in 2019 the Florida Department of Corrections estimated the labor value of the 3,500 unpaid prisoners on state road crews and community work squads to be about $147.5 million over a five-year period, according to the ACLU report.

Inmates debone turkeys at the meat plant within the Maryland Correctional Institution on November 18, 2019, in Hagerstown, Maryland. Ricky Carioti/The Washington Post via Getty Images

"There's no way we can take care of our facilities, our roads, our ditches, if we didn't have inmate labor," Warren Yeager, a former Gulf County, Florida, commissioner, told the *Florida Times-Union*.

Economist Stephen Bronars disagrees. In January 2024, Bronars published *A Cost-Benefit Analysis: The Impact of Ending Slavery and Involuntary Servitude as Criminal Punishment and Paying Incarcerated Workers Fair Wages*,

concluding that mandating fair wages for prisoners would produce a net benefit, not just for prisoners but for society as a whole.

Bronars acknowledges that while it will cost government and taxpayers $8.5–$14.5 billion each year to pay prisoners fair wages, the expected net annual benefit to incarcerated workers and their families, crime victims, and governments is $18.3–$20.3 billion. Bronars estimates that for each dollar paid to incarcerated workers, the potential benefit for society as a whole is $2.40–$3.16 because of increased tax payments and greater financial contributions to their families.

The return on investment resulting from fair wage payment to incarcerated workers would not be immediate. "This is an investment that would take time to pay off," says Bronars, who regularly serves as an expert witness in matters involving complex datasets and economic issues, testifying about class certification, liability, and economic damages. "However, if you can reduce, even modestly, the rate of recidivism and the degree to which people are engaging in criminal behavior, there is a potential that it could pay incredible dividends."

It is worth noting that with the U.S. government spending more than $80.7 billion annually on public prisons and jails, making even a 1 percent reduction in recidivism could be financially significant.

A 2022 analysis by the Wisconsin Department of Corrections supports this assumption. Its vocational program showed a 9 percent reduction in recidivism by its graduates three years after release from 2010 to 2018, as compared to a control group that did not participate. According to Bronars, even this modest goal could save taxpayers billions of dollars on the estimated $1.2 trillion spent on the criminal justice system by state and federal governments. "Crime costs society much more than the cost of paying [incarcerated workers] a fair wage during their incarceration," Bronars concludes. "It wasn't something that I was really aware of, and the sheer magnitude of numbers [is] something you don't get a sense of until you dig into the data."

With the U.S. government spending more than $80.7 billion annually on public prisons and jails, making even a 1 percent reduction in recidivism could be financially significant.

LIFE AFTER PRISON

Most of the incarcerated people surveyed by the ACLU for its 2022 report said they wanted to work, Olaizola Rosenblat says. "They were hoping to get meaningful work with vocational training, with some programming that then would prepare them to integrate into the workplace after they left, but the situation just wasn't built up to prepare them that way. It was almost preparing them to fail in society because of the way they were treated," she adds.

D.C. resident Lee Respass was a teenager when he was sent to prison. He sought opportunities to advance himself during his 18 years locked up, but the federal facilities where he spent much of his sentence had few programs to offer. While incarcerated in Maryland for five years of his sentence, Respass earned certifications in carpentry, welding, and plumbing. When he was returned to federal prison, Respass hoped to continue to advance but was frustrated by the lack of opportunity there.

"It doesn't matter what skill set you have," he says. "They're going to place you where they want to place you. They're going to pay you what they want to pay you, which is little to nothing." Respass says he was paid $4 a month for facilities work during his federal detention.

Lack of appropriate training and opportunities presents challenges to the formerly incarcerated upon release. "That was hard," Respass says. "Not to know how to be able to set up an email account after all that time? They don't give you any of that information. They don't give you anything to come home to."

There are success stories that illustrate how even slightly better working opportunities, conditions, and pay can impact outcomes for people when they leave prison. James Robinson received training as a barber while incarcerated in Virginia, and he leveraged that skill into a position cutting hair while in federal detention. Earning about $60 a month as a grade 1 barber, Robinson was able to save a small amount of money, particularly during the last five years of his 17-year sentence.

"I came home with a little bit of money," Robinson says. "With that money I was able to buy my vehicle, so I could move around to get jobs. I had savings, so I wasn't so compelled to rush and go because the jobs weren't coming. So, I was able to become employed, and I did well."

Within three years after his release, Robinson had opened his own barbershop and purchased a home. "Everyone doesn't have that opportunity. It's a small percentage of people in prison who can save money," Robinson says.

"It's on the individual … what he wants to do and how he wants to map his incarceration out to make him a better citizen," he adds. "But if they give everyone these trades and then teach us the business, people could come out and start a business for themselves."

But prisons don't do that, Robinson says. "They teach you to go to work for someone else. Every trade has a business aspect, and I think if you teach that, more returning citizens will start businesses, which will then create more employment opportunities for returning citizens," he argues.

Ending the exception to the abolition of slavery and involuntary servitude won't solve all the problems present in our current carceral system, but as a practical matter, experts find that it makes dollars and sense.

Reach D.C. Bar staff writer Jeremy Conrad at jconrad@dcbar.org.

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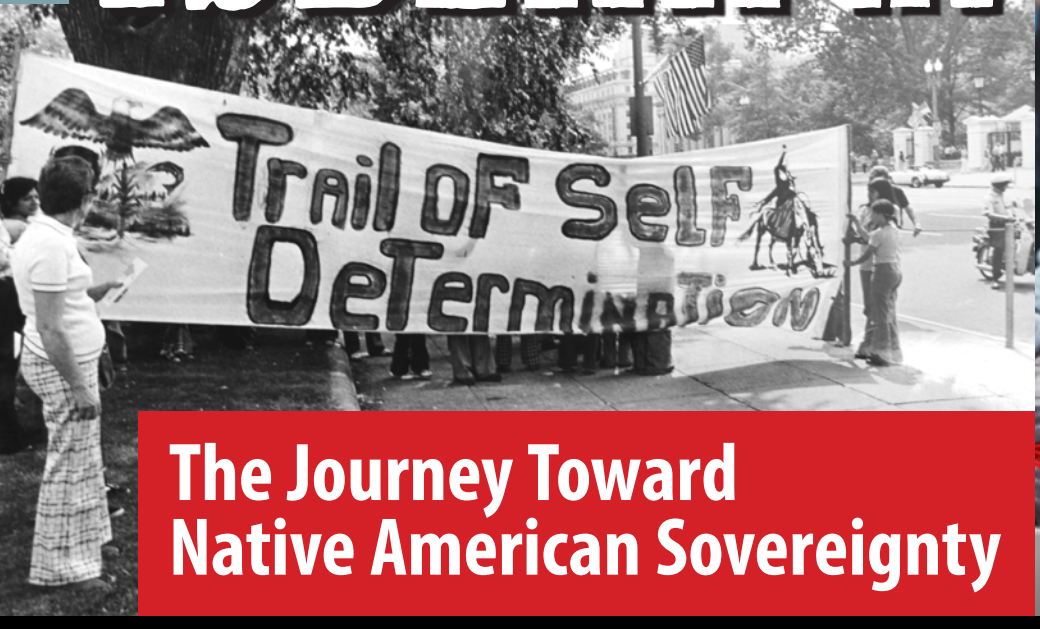

The Journey Toward Native American Sovereignty

By Richard Blaustein

Mary Pavel can still clearly recall how life on the Skokomish Reservation in Washington State, where she grew up, changed when Native tribes were empowered to operate programs that best serve their communities, giving them more autonomy to manage their own affairs.

ABOVE LEFT: *American Indian protesters outside the White House during the Trail of Self-Determination demonstration in 1976.*

Glen Leach, courtesy of D.C. Public Library Washington Star Collection

ABOVE RIGHT: *Native American demonstrators in Portland, Oregon, in January 2017 protesting the Trump administration's executive order reviving the Keystone XL and Dakota Access pipelines.*

Ian Sane/Creative Commons

Pavel's first awareness of self-determination began when Native Americans engaged in prominent struggles asserting their treaty fishing rights in the Pacific Northwest, which overlapped with the enactment of the Indian Self-Determination and Education Assistance Act (ISDEAA) in 1975.

"When tribal leaders stepped up in the late '60s and early '70s and said these treaties mean something and need to be animated, they ran head-to-head with the state of Washington and the state of Oregon," says Pavel, partner at Sonosky, Chambers, Sachse, Endreson & Perry, LLP in Washington, D.C. Specializing in Indian law, Pavel lobbies for and represents tribes across the country in various matters such as federal appropriations.

A prominent leader at the time was Nisqually Tribe member Billy Frank, whose advocacy culminated in the 1974 "Boldt Decision," named after the judge on the U.S. District Court for the Western District of Washington who found that under U.S. treaties with Native Americans, tribes retained their rights for fishing and management of salmon harvests. The U.S. Court of Appeals for the Ninth Circuit upheld the decision in 1975, and the U.S. Supreme Court denied the state of Washington's petition for certiorari review.

"When tribal leaders finally won those rights, tribal members started coming home from the cities where they had jobs. They could begin to exercise those rights to fish, hunt, and take care of their families in a way

that meant something monetarily," says Pavel, founding president of the Native American Bar Association of Washington, D.C. She has also served as staff director and chief counsel for the United States Senate Committee on Indian Affairs.

Pavel's mother was a leader in the tribe at the time. "She had to build houses, have health care and educational programs that responded to the needs of children. She had to have water, infrastructure. And by embracing the Indian Self-Determination and Education Assistance Act … she could begin to have control," Pavel says.

TRANSFORMATIVE IMPACTS

Signed into law by President Gerald Ford in 1975, the ISDEAA illustrates both the federal government's unique trust relationship with Native Americans and the legislation's underpinning substantive self-determination. "Federal domination of Indian service programs … has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities," the law states.

The ISDEAA further states that "Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with, and responsibility to, the Indian people as a whole through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs for, and services to, Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services." The ISDEAA was substantively amended in 1988, 1994, and 2000, and has been the focus of four U.S. Supreme Court cases and many disputes in lower courts.

Mary Smith, a member of the Cherokee Nation and the first Native American woman to serve as president of the American Bar Association, says the ISDEAA was a major turning point for Native Americans. "The act reversed a 30-year effort by the federal government under its preceding termination policy to sever treaty relationships with and obligations to Indian tribes," says Smith. "The act was the result of 15 years of change, influenced by American Indian activism, the civil rights movement, and grassroots political participation."

By enacting the ISDEAA, Congress recognized "that tribal leaders and members are in the best position to understand the critical needs and priorities of their communities" and "the importance of the nation-to-nation relationship between the United States and tribes," Smith adds.

The ISDEAA directly supports the transfer of governmental responsibilities — most prominently, but not solely, for health care and self-governance — to tribes and tribal organizations. Pursuant to negotiations, contracts, and compacts, the federal government transfers funds to these Indian-run programs.

Smith formerly served as CEO of the national Indian Health Service (IHS) within the U.S. Department of Health and Human Services (HHS), which supports tribe-run health care systems under the auspices of the ISDEAA. She is currently vice chair and principal of the government relations firm The VENG Group and is a board member with PTC Therapeutics.

"My grandmother, Ora Mae Pallone, was born in 1905 in Westville, Oklahoma, to a family of 16 children, only 10 of whom lived above the age of three because of a lack of adequate health care. It was in honor of my grandmother that I decided to assume the role of CEO of the Indian Health Service," Smith says. "I wanted to improve health care for Native Americans, ensuring that they were a partner with the federal government and able to exercise their right of self-determination to provide the best health care in their communities."

The independent tribal health care systems fostered by the ISDEAA are a standout success all over the country, with more than 60 percent of IHS appropriations administered by tribes through self-determination agreements. Smith cites the opening of the first tribe-affiliated medical school in the United States, located in Tahlequah, Oklahoma. The Oklahoma State University College of Osteopathic Medicine at the Cherokee Nation produced its first graduating class in 2024.

Smith also points to Alaska as an emblematic success. "I saw the reach of self-governance all over Alaska, from the Alaska Native Medical Center in Anchorage to the [Yukon-Kuskokwim] hospital in Bethel. I also traveled to Alaska villages like Chevak where the ISDEAA and the Indian Health Care Improvement Act bring health care to the most remote areas of the state," Smith says.

"The implementation of the ISDEAA has been transformative to tribes," adds Smith. "The number of tribal self-governance program success stories grows each year."

Jeremy Conrad

> "WE ARE STILL TRYING TO ANIMATE JUSTICE MARSHALL'S VISION OF WHAT THAT FEDERAL-TRIBAL RELATIONSHIP WAS MEANT TO BE."
>
> **MARY PAVEL**, *Sonosky, Chambers, Sachse, Endreson & Perry, LLP*

Courtesy of Mary Smith

> THE ACT WAS THE RESULT OF 15 YEARS OF CHANGE, INFLUENCED BY AMERICAN INDIAN ACTIVISM, THE CIVIL RIGHTS MOVEMENT, AND GRASSROOTS POLITICAL PARTICIPATION.
>
> **MARY SMITH** *(right), VENG Group*

FIGHT FOR SELF-DETERMINATION

Since the U.S. Constitution granted Congress the authority to "regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes," there have been shifts in jurisprudence as well as executive and administrative actions regarding the relationship between sovereign tribes and the federal government.

In the early 1800s, U.S. Supreme Court Justice John Marshall clarified the relationship in an iconic trilogy of cases: *Johnson v. McIntosh* (1823), *Cherokee Nation v. Georgia* (1831), and *Worcester v. Georgia* (1832). In these cases, Justice Marshall affirmed tribal sovereignty and a nation-to-nation relationship with tribes not subject to state law. He also articulated the paternalistic doctrine of federal trust responsibility, writing in *Worcester*: "From the commencement of our government, Congress has passed acts to regulate trade and intercourse with the Indians; which treat them as nations, respect their rights, and manifest a firm purpose to afford that protection which treaties stipulate." In *Cherokee Nation v. Georgia*, he described tribes as "domestic dependent nations" in a "state of pupilage."

Notoriously, President Andrew Jackson and his congressional allies contravened Marshall's principles with the 1830 Indian Removal Act, which provided for "voluntary" removal to tracts of land west of the Mississippi River. The choice was a pretense, and the U.S. government uprooted tribes in the East, creating a mass displacement known as the Trail of Tears.

Nonetheless, the Marshall trilogy remains bedrock within American legal discourse and jurisprudence, say Geoffrey Strommer and Steve Osborne, partners at Hobbs, Straus, Dean & Walker, LLP. Strommer, who has been actively involved in drafting and lobbying for amendments to the ISDEAA since 1992, was lead counsel in the two cases that established the right of tribal contractors to enter into fully funded facility leases under section 105(l) of the act. In 2015 he argued before the U.S. Supreme Court in *Menominee Indian Tribe of Wisconsin v. United States* regarding health care administration costs. Osborne works primarily on issues arising from the negotiation, performance, and enforcement of tribal contracts and compacts under the ISDEAA. His firm also represented the Northern Arapaho Tribe, whose case was consolidated with that of the San Carlos Apache in the 2024 Supreme Court case *Becerra v. San Carlos Apache Tribe*.

"On the one hand, you have the government acting in a self-appointed trust relationship, taking the tribes under its protection. And often that protection is from the state and local governments," Osborne says. "On the other hand, we have tribes asserting their self-governance authority and pushing back against the paternalism. That tension is still playing out."

Pavel also sees the trilogy of cases as solidified and vital. "The Cherokee Nation in southeast Georgia was a force; they were landholders, and they had operating economies. The Chickasaw and the Choctaw, too — all of those tribes that were the focus of the Southeast removal experience, like all tribes, were forces in the economy of the nation," Pavel says. "There was a responsibility of government to treat them as governments. We are still trying to animate Justice Marshall's vision of what that federal–tribal relationship was meant to be."

AGENCY RESISTANCE

The original 1975 ISDEAA set high principles for self-determination, but bureaucratic resistance from the U.S. Department of the Interior (DOI) and HHS (formerly the Department of Health, Education, and Welfare) was an obstacle to Indian authority, with governmental officials asserting prerogatives to restrict or deny contracts and other arrangements.

"When the statute was enacted, conceptually it was intended to allow tribes to go to the IHS and the Department of the Interior's BIA [Bureau of Indian Affairs], primarily but not exclusively, and take over the funds those agencies use for Indian people in their communities. The BIA and IHS staff were not really enthusiastic about doing this over the first 15 years," Strommer says.

The IHS and BIA did enter into agreements with tribes, but "instead of reducing the staff in both agencies, the staff grew because they just shifted their mission from delivering services to micromanaging how tribes were delivering services," adds Strommer.

As Native Americans voiced their dissatisfaction, Congress responded with major amendments, including an additional Title III in 1988 directing the DOI secretary to establish what became the "Indian Self-Governance Demonstration Project." The amendment authorized the establishment of programs giving tribes broad funding redesign and reallocation authority.

In 1994 Congress amended the ISDEAA by adding Title IV to permanently implement the tribal self-governance program within the DOI, enabling tribes to assume programs, functions, services, or activities that were formerly provided by the federal government.

The Tribal Self-Governance Amendments of 2000 established Title V, which extended the BIA self-governance model into the health care realm and repealed Title III. Other important provisions in the 2000 amendments included appeal procedures and burden-of-proof stipulations for HHS heads who reject terms in an offer by tribes. As of 2021, 50 percent of federally recognized tribes have been accepted into the self-governance program, overseen by the Office of Self Governance within the DOI.

"In the 1980s, in response to the paternalism these agencies brought to the implementation of the statute, the self-governance movement blossomed," Strommer says. "What the self-governance program did was strengthen the tribal position at the bargaining table and open up a number of things either agency would decide on a policy level not to put on the table for negotiations. Once tribes negotiated the agreements, there were provisions in both of those statutory provisions that prevented both agencies from micromanaging how tribes carried out the program."

Pavel says it took not just amendments but court cases for the ISDEAA to be fully enabled. "There is something about bureaucracies that they don't want to give up control," Pavel says. "Those amendments made it very clear that the original act meant what it said — tribes get every dollar that the feds would have used to operate that program."

ONE STEP FORWARD, TWO STEPS BACK

The High Court has heard a handful of cases involving the ISDEAA, with funding for administrative costs being a major and consistent issue. "A lot of this litigation has focused on to what extent the administrative cost is required to be paid for these tribal contractors," Strommer says.

In *Cherokee Nation v. Leavitt* (2005), the Court determined that the government was legally bound to pay the contract support costs. The Court also addressed fundamental issues, including the binding nature of self-governance contracts, according to Strommer.

Self-determination contracts "are not procurement contracts," Strommer stresses. "They are different. They are government-to-government contracts between two sovereigns, and agencies are required to fully fund them for administrative costs on top of the program dollars."

The most recent Supreme Court case involving the ISDEAA is *Becerra*. In a 5–4 decision authored by Chief Justice John Roberts, the Court in 2024 agreed that IHS must pay contract support costs for the activities that tribes carry out under self-determination contracts, including expenses incurred when spending program income from third-party payers such as Medicare, Medicaid, and private insurers.

Smith says that in *Becerra*, the Supreme Court upheld the very essence of the ISDEAA's promise of self-determination. Quoting Justice Roberts, Smith says that the ISDEAA was intended to provide an "effective voice in the planning and implementation of programs responsive to the true needs of their communities," and that IHS not covering the administrative costs of outside programs would result in "a penalty on tribes for opting in favor of greater self-determination."

"This case was a significant victory for tribes," Smith adds.

However, while *Becerra* is a cause of relief, Smith says that every year the justices take up a case involving Native Americans, and that "it is sometimes one step forward and two steps back with Indian law at the Supreme Court." She points to the Court's 2022 decision in *Oklahoma v. Castro-Huerta*, which held that the federal government and states have concurrent jurisdiction to prosecute crimes committed by non-Natives against Natives on Native American land.

"It overruled almost 200 years of precedent," says Smith. "This case was a massive blow to tribal sovereignty and reversed the long-standing principle established in *Worcester v. Georgia*."

Hobbs, Straus, Dean & Walker

GEOFFREY STROMMER
Hobbs, Straus, Dean & Walker, LLP

A LOOK AHEAD

Notwithstanding uncertainty in the courts, there is much to appreciate about the ISDEAA. Osborne says that the act's expanding scope is a signature of its success. He points to Congress's enactment in 2015 of the U.S. Department of Transportation's (DOT) Tribal Transportation Self-Governance Program, which emulates the ISDEAA in providing tribes greater control and decision-making authority over DOT funds for safe and adequate transportation and public road access.

"That illustrates the success from the past and also the trajectory into the future as tribes hopefully can replicate this mode across other agencies," Osborne says.

For Pavel and Smith, the ISDEAA informs their own leadership and advocacies. Smith often speaks to Native American students, encouraging them to pursue a career in the law and to appreciate that "it is really important to recognize the government-to-government relationship between the United States and Indian tribes and promote tribal self-determination."

When Pavel helped create the Native American Bar Association of Washington, D.C., in the mid-1990s, the organization gave Native American attorneys a place to share experiences. "The work we do in D.C. is hard, and it is hard to be this far from home. But tribal leaders need us to be here because they need to further their growth, their capacity, and the exercise of their rights," she says.

These rights tie in directly with the ISDEAA. "The success we are seeing in Indian Country really can be laid at the foundation of the Indian Self-Determination Act," Pavel says. "It was really that movement of self-determination that has led us to where we are today, where tribal governments are key stakeholders in the success of rural economies across America and hold the federal government accountable to be better, more effective, and efficient with its resources."

Richard Blaustein is a D.C. Bar member and freelance journalist covering science, the environment, and legal issues.

FROM LEGACY TO Gen Z

Cultivating Multigenerational Law Firms

By Jeffery Leon

Although generation gaps can exist in any workplace, law firms are particularly prone to challenges because of their increasing age diversity. According to the American Bar Association's 2024 *Profile of the Legal Profession*, more than 13 percent of lawyers are 65 or older, compared to 7 percent of all U.S. workers.

Generational differences can affect firm culture, especially when it comes to work–life balance, training, diversity, and succession. A 2023 survey by consulting firm Major, Lindsey & Africa confirms that law firms face increasing demands of a diversifying legal field, including calls for better work–life balance and more opportunities for collaboration and growth, particularly from Gen Z and millennial lawyers. Firms can meet these demands by strategizing on how best to pass down institutional knowledge from older partners to younger lawyers while offering strong training for their midlevel attorneys.

How can firms best leverage their multigenerational talent and meet the needs of everyone? *Washington Lawyer* spoke with several law firms for in-

ABOVE: *McCarter & English attorneys (left to right) Cara Wulf, partner; Matthew Wright, partner and D.C. office managing partner; John Adragna, partner; and Philip Lee, associate.*

sights into how they are cultivating a multigenerational workplace that recognizes the strengths, needs, and values of each generation.

MANAGING TRANSITIONS

New Jersey-based McCarter & English, LLP established its presence in Washington, D.C., by acquiring energy law firm Miller Balis and O'Neil in 2014. Today, several of the D.C. office's oldest lawyers are legacy Miller attorneys with decades of energy regulatory experience.

"That generational transition is something we've been attentive to for the last several years," says D.C. office managing partner Matthew Wright.

In the District, the firm has 27 lawyers focused on energy, regulatory, and government contract issues. Wright, who has managed the office for more than two years, says that McCarter & English has been cultivating its younger cohorts and lateral hires, giving them substantial lead time to integrate into the practice and work closely with senior lawyers. This strategy allows the firm to institutionalize the work and clients that Miller had cultivated since its founding in the 1960s, ensuring that McCarter & English is best positioned to continue serving those clients.

"If you want your legacy to survive you, you know you need to have another generation behind you to continue providing quality services to your clients," says Wright, adding that longstanding relationships between attorneys and clients lead to inherited interests and familiarity that benefit all parties.

McCarter & English fosters generational connections through training, formal and informal mentorships, lateral connections and partnerships, and feedback solicitation. For more experienced attorneys, the firm offers continuing legal education and training on how to work cohesively with their peers and attorneys of varying ages and experience levels. Junior associates are also paired with partners to work on cases.

A generational difference Wright has noticed is the approach that junior associates take toward research — this cohort tends to search for answers instead of taking the time to understand the problem first.

"When you don't fully understand the area of the law that you're researching, you miss a lot," says Wright, who has been in practice for nearly 25 years. "There's a narrowness that excludes a lot of nuances and exceptions that could lead to mistakes." Wright encourages younger attorneys to think more broadly about the law, noting that "once you know the information, you have it for life."

Another challenge has been bolstering the development of younger attorneys following the pandemic. McCarter & English offers a flexible, hybrid schedule where attorneys must be in-person at least two days a week. "Being in the office more can never hurt," Wright says, adding that it can be beneficial for younger attorneys to connect, network, and learn.

Wright says it is important for firms to invest time engaging their multigenerational ranks and encouraging attorneys to make a commitment to law, their clients, and their work. "It makes your work much more rewarding and, frankly, makes you a better lawyer," says Wright.

EVOLVING FOR A SUSTAINABLE FUTURE

For McDermott Will & Emery, diversity is crucial to success. "A multigenerational, multiracial workforce brings a variety of viewpoints that help to enhance the firm, including creativity, the ability to solve problems in different ways, and fresh perspectives," says Lisa M. Richman, a co-national hiring partner at McDermott who previously served as managing partner of the firm's D.C. office.

LISA M. RICHMAN
McDermott Will & Emery

McDermott emphasizes lean and responsive teams where associates closely collaborate with partners on cases. Pairing a seasoned practitioner with junior attorneys who bring fresh thinking and new approaches creates a sustainable future for the firm and an ability to transfer knowledge both ways, says Richman, co-leader of McDermott's international arbitration practice group. "We're constantly trying to change and evolve," she adds.

Richman says that the practice of law has changed dramatically in the two decades she has been practicing. As a young lawyer, she hid her pregnancy from the firm, wearing baggy clothes and scarves to avoid judgment from colleagues. She had to be dutiful and driven about moving up the ladder and be strong and masculine when conducting herself.

Today, colleagues at the firm respectfully call Richman "Mom" and turn to her for help and guidance, reflecting a big change from her early years in the profession. Richman also notes that younger attorneys now have life aspirations beyond simply moving up the ladder and expect more from their senior colleagues. "We've had to learn and adapt, especially our senior lawyers," says Richman.

Jocelyn Francoeur, McDermott's global director of professional development, says the firm is doubling down on growth and development and ensuring that its attorneys are staying on the cutting edge of the latest developments in legal practice.

JOCELYN FRANCOEUR
McDermott Will & Emery

Francoeur says that in the past, training sessions were generally lunch sessions or conference calls, but today the firm is thinking generationally about creating bite-sized, on-demand content that is easily accessible and engaging for its attorneys, as well as offering more robust in-person programming.

"You're only as good as your next generation; you have to be developing and retaining that talent to ensure that the firm's culture and client services continue," says Francoeur.

McDermott attorneys of every age and stage are expected to learn and grow at the firm, says Richman. The firm emphasizes the basics, such as how to effectively communicate and collaborate with others, especially those of different backgrounds and generations. "Everyone needs to give and take a bit," Richman adds.

To stay competitive, McDermott seeks to incorporate artificial intelligence into its toolbox, ensuring that its ranks are ready for these new technologies that could impact the practice of law.

For firms with a multigenerational workforce, Richman recommends talking with their attorneys and finding out what they know and what they want their colleagues to know. "Be curious and be caring," says Richman.

"If you're being authentic and doing those things, people will give you grace."

FACILITATING KNOWLEDGE EXCHANGE

At Morrison & Foerster LLP, D.C. office managing partner Natalie Fleming Nolen believes that senior attorneys' institutional knowledge is essential for tackling cases and engaging with clients, but it's also crucial to have fresh pairs of eyes in the mix.

NATALIE NOLEN
Morrison & Foerster LLP

"Having a whole bunch of different perspectives at the table creates better ideas, better results, and the ability to be more innovative and more nimble and to think about creative solutions that we might otherwise not have understood before," says Nolen.

Morrison & Foerster embraces a culture of knowledge sharing, Nolen says. Several senior attorneys in the D.C. office previously served in the government, bringing to the firm their unique regulatory insights and experience. On the other end of the spectrum are younger attorneys with hands-on knowledge and experience with new tech, Nolen says.

The firm is thoughtful about how it approaches these different cohorts, encouraging a culture that allows for direct interactions between senior and younger attorneys. Through its MoFo Navigate, a mentorship program, attorneys are paired up and down as well as laterally, allowing them to build stronger bonds and ensuring that everyone is growing in their careers.

"Facilitating an environment where everyone feels that they can contribute and are expected to contribute helps us to bring out the great ideas," says Nolen.

The firm is also proactive in training its practice groups, offering attorneys many opportunities to stay current with the latest regulations and legal developments. The D.C. office hosts monthly meetings where attorneys can share information learned from conferences and outside meetings, case updates, and more.

One challenge of a multigenerational firm is navigating the retirement of an integral partner, Nolen says. Although Morrison & Foerster does succession planning for its senior partners, passing their clients on to other attorneys, the loss of generational knowledge is always felt. "I think we try to train and build up the associates and partners that we have as best as we can, but [with the] understanding that there are people who have such a broad knowledge base [and] it's really hard to truly replace them," says Nolen.

In 2025 Morrison & Foerster is continuing its recently launched Parents + Caregivers Network, an initiative that provides support and resources for attorneys balancing work and parenting or caregiving responsibilities. The network helps attorneys navigate demanding life issues, creating more casual opportunities for connections and interactions. "I think it helps to create a greater bond and a greater sense of commonality, even across age groups or other differences," says Nolen.

INVESTING IN CONNECTIVITY

An advantage of a multigenerational firm is having many backgrounds and life experiences under one roof, allowing for plenty of opportunities for learning and growth, according to Richard Alexander, chair emeritus of Arnold & Porter Kaye Scholer LLP. "I've been practicing for 42 years, and I'm learning every day from my colleagues," says Alexander.

Alexander likens law firms to a guild or apprenticeship, where younger lawyers are trained by senior attorneys who pass on their skills and knowledge. But the practice is transforming, says Alexander, and law firms need to be aware that each new generation has different expectations and aspirations for their legal careers.

"We need to be attuned to what the next generation wants," says Alexander.

Among the firm's multiple mentoring programs is its Executive Leadership Academy (APEX), where recent lateral hires and newly promoted partners and counsel are guided by a more senior partner. APEX is designed to provide participants with a safe environment for discussing challenges, offering guidance and support, and addressing questions related to this important transition time in their careers.

Following the pandemic, Alexander says there have been challenges with hybrid work and the disruption of in-person collaboration, but firms must champion a return to the office as a value proposition that benefits, not hinders, attorneys.

RICHARD ALEXANDER
Arnold & Porter Kaye Scholer LLP

Firms must also take advantage of new technology like AI, be nimble, and keep an eye toward new ideas and concepts, Alexander adds.

Law firms can also build stronger bonds with their attorneys, particularly junior associates, by leaning in on their history and culture, Alexander says. One of Arnold & Porter's renowned attorneys was Abe Krash, who worked on the team that represented Clarence Gideon in the landmark 1963 U.S. Supreme Court case *Gideon v. Wainwright*. Krash, then a junior lawyer at the firm, assisted Abe Fortas, a partner on the case. Alexander says the retired Krash was frequently invited back to the firm to speak with attorneys about the importance of *Gideon* and the firm's role in a watershed legal moment.

"I think using those opportunities to create the connectivity between the generations is really important," says Alexander.

Multigenerational firms should also take advantage of each generation's expertise and perspective, says Alexander, noting that it's not a one-way street. At Arnold & Porter, they're making "a decision to invest in us, and we're making a decision to invest in them," Alexander adds.

Jeffery Leon is a freelance writer based in Washington, D.C.

McCarter & English attorneys, Jati Lindsay; Lisa M. Richman and Jocelyn Francoeur, courtesy of McDermott Will & Emery; Natalie Fleming Nolen, courtesy of Morrison & Foerster; Richard Alexander, courtesy of Arnold & Porter Kaye Scholer

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Women Rising in White-Collar Defense

By Sarah Kellogg

Back in 1999, during an American Bar Association conference on white-collar crime, Karen Popp of Sidley Austin LLP noticed very few women lawyers in attendance and hardly any on the panels. At the time, Popp had just left the government, where several strong, prominent women held positions of power, so it was surprising for her to find there weren't more women in the private sector.

Susan Bozorgi experienced the same sense of isolation when she entered private practice in 2000. "I was one of the few women criminal defense lawyers in private practice," says Bozorgi, partner at Bozorgi Law PLLC and founder of the *Women Criminal Defense Attorneys* blog.

In 2015 Bozorgi wrote "Finally Statistics for Criminal Defense" after the ABA Commission on Women and the American Bar Foundation published the report *First Chairs at Trial: More Women Need Seats at the Table.* The "first of its kind" study found that of women appearing as lead coun-

KAREN POPP
Sidley Austin LLP

sel in criminal cases, 69 percent appear for the government and 31 percent for defendants.

For Bozorgi, the statistics showed that "women excel in the public sector, but things shift as they enter the private sector." One can extrapolate from general criminal trials to white-collar cases.

For decades, the white-collar bar was dominated by male attorneys, but the past 25 years have ushered in a quiet yet undeniable transformation. From the courtroom to the corporate boardroom, women are remaking white-collar defense practice in the United States, leveraging their expertise, resilience, and formidable referral networks. Still, while progress is tangible, the future isn't entirely female.

"The imbalance in the number of women and men in white-collar practice continues to be quite apparent in my day-to-day practice," says Holly Drumheller Butler, principal at Miles & Stockbridge. "It's still not unusual for me to be the only female at the table, whether it's with general counsel, defense counsel, the government, or clients. That being said, over the last 5 to 10 years, there really has been a shift, an increase in the number of women in the practice."

WOMEN SUPPORTING WOMEN

Grassroots networks have played a pivotal role in empowering women lawyers within white-collar practices, fostering meaningful change in the profession while cultivating mentorship for the next generation of female attorneys. Among these networks, the Women's White Collar Defense Association (WWCDA) stands out as the preeminent organization in the field.

Established in 1999, WWCDA encompasses 50 chapters across the world, representing a global community of more than 4,000 practicing members. "Networks play a critical role in any law field, and historically those networks were male-dominated in white-collar criminal defense," according to Popp, WWCDA global chair and cofounder. "That's why, early on, WWCDA focused on creating referral networks and platforms to advance women. We collaborated with other organizations like the American Bar Association to put women on panels, and WWCDA has used our platforms to promote their successes and to help them achieve recognition through rankings in publications."

Referrals are the lifeblood of the white-collar bar, a practice defined by its distinctive nature and discretion. Unlike traditional litigation, Drumheller Butler notes, there are no public dockets that broadcast the names of companies embroiled in legal disputes or under investigation. Often, court records are sealed, and by the time a matter surfaces, the client has already retained counsel.

Moreover, white-collar practice differs fundamentally from traditional corporate law, where firms might represent clients for decades, says Popp. These cases demand precision, strategy, and the expertise of a "hired gun" capable of orchestrating a targeted, surgical response. In such a specialized arena, trusted referrals are not just advantageous — they are indispensable.

"To be successful, you have to be able to bring in business, and that means you've got to have developed a name," says Popp. "You've got to have a referral network, and it helps to be at a firm that can help generate business. A key part of being able to advance women is to help women build their books of business."

In this, WWCDA has fulfilled its core mission: growing a powerful referral network for women attorneys in private practice who specialize in white-collar defense. By all accounts, it has exceeded expectations. "Put simply, no longer are women in the field on an island by themselves," Bozorgi says.

WWCDA's storied origins trace back to a legendary meal. In 1999, a close-knit group of assistant U.S. attorneys (AUSAs) in the Department of Justice (DOJ) gathered for a lunch, with U.S. Attorney General Janet Reno as their inaugural speaker. That intimate gathering of 10 laid the foundation for WWCDA's Washington, D.C., chapter later that year, a spark that soon ignited chapters in New York City and Boston.

"That generation of women who were at the DOJ in the 1990s experienced real responsibility and respect as federal prosecutors," says Drumheller Butler. "They led sections. They mentored people. When they left government service, it made sense to do what men in their positions had done for years, which is go work in white-collar defense. They found out the transition [wasn't] as easy for women AUSAs as it had been for men. They took a different path."

SUSAN BOZORGI
Bozorgi Law PLLC

Another reason for the growing diversity in the field is that those veteran women white-collar leaders have vigorously embraced their responsibility as mentors to the next generation of young women lawyers. Through WWCDA, in law firms, and through the D.C. Bar, these women attorneys are passing on knowledge and contacts.

"All my mentors were men because female mentors weren't available to me," says Bozorgi. "Today, I am the managing partner of an all-female law firm where it's a priority for us to mentor young female lawyers."

SEEN, HIRED, AND TRUSTED

Progress has been hard-won. Today, women are not only chairing high-stakes cases and leading white-collar practices at major law firms but also running in-house counsel offices and influencing legal hiring deci-

sions from the inside out. These leadership roles are instrumental not only for individual advancement but also for cultivating a professional environment where women lawyers can thrive, innovate, and lead.

"Clearly, we have been moving the needle through our networking by promoting women in law firms and in the companies [that] become our clients," says Anne K. Walsh, director of Hyman, Phelps & McNamara, P.C. "I think all of that reflects more acceptance of women lawyers, and it has led to getting more women seen, hired, and trusted in this space."

A new generation of women attorneys is assertively reshaping the landscape of white-collar practice, infusing it with fresh perspectives and forward-thinking strategies to dismantle long-standing barriers. At the same time, law firms are undergoing a cultural revolution, increasingly recognizing that diverse teams are not merely a talking point or moral imperative toward fairness but a strategic advantage in a competitive market.

REEM SADIK
Steptoe LLP

As corporations themselves grow more diverse, law firms are expressing the need to mirror this evolution to effectively serve their clients. In high-stakes cases, cultural fluency is not a luxury but a critical asset — one that enables lawyers to navigate the subtleties of a client's background and deliver nuanced, strategic representation.

"You don't have to change your standards to hire a woman lawyer," says Ilene Jaroslaw, partner at Elliott Kwok Levine Jaroslaw Neils LLP. "You have more qualified women out there in the pool because they're underutilized. You've got this pool of incredibly talented people, and you would be foolish not to hire them."

INSTITUTIONAL BARRIERS PERSIST

One of the enduring challenges for women in white-collar practices lies in the continued dominance of male partners at law firms, many of whom remain active well into their 80s, and in some cases, their 90s. These senior figures, often regarded as pillars of the firm, can unintentionally act as gatekeepers of client business.

Despite frequently carrying the lion's share of client work, including relationship management, women still feel overlooked when it comes to receiving credit. "While firms are making meaningful progress through diversity, equity, and inclusion initiatives — bolstered by the advocacy of male allies and firm leadership — there is still significant ground to cover," says Reem Sadik, a partner in Steptoe LLP's white-collar defense practice.

"A male partner might have originated a client 10 or 15 years ago," continues Sadik, "but today a female partner might be managing the relationship — attending dinners, overseeing document production, and providing day-to-day support. Despite that, the male partner often receives the credit."

Encouragingly, there has been some progress, particularly within the general counsel offices of Fortune 500 companies. Corporations are implementing their own frameworks for assigning cases, determining credit for client relationships, and evaluating compensation for legal service providers. "Clients are driving the change," says Walsh. "They have their own goals to reach for diversity."

In addition to credit recognition, women in white-collar defense face persistent challenges surrounding work–life balance, a particularly pronounced issue in a field defined by demanding hours and high-stakes cases.

However, the pandemic has served as a catalyst for change, accelerating shifts in workplace culture. Many firms have embraced flexible work arrangements and have begun placing greater emphasis on mental health and well-being, changes that hold promise for a more inclusive and sustainable future within the profession.

A BRIGHTER FUTURE

Despite continuing hurdles, the outlook for women in white-collar defense remains one of steady progression and promise. In 2023 women for the first time constituted the majority of law firm associates, according to the ABA's 2024 *Profile of the Legal Profession*. Additionally, women now represent 41 percent of all practicing attorneys in the United States, a figure that, while increasing gradually each year, underscores a slow but constant shift in the legal landscape. Today women comprise 56.2 percent of law school enrollment, consistently outnumbering men, a gap that continues to widen year after year.

The scope and frequency of government investigations and litigation have accelerated progress on diversity within the field. Two decades ago, such investigations were relatively limited in scope, but today they span all levels of government and touch companies of every size and sector. This broadening landscape presents a wealth of opportunities for women to showcase their expertise and leadership.

Popp says the rise of women in white-collar defense is a powerful testament to perseverance, exceptional talent, and the strength of collective action. Over the last two decades, women have redefined the industry by shattering barriers and setting new benchmarks for excellence. Through determination and ingenuity, they have forged pathways not only in the profession but also for the clients they serve.

Jaroslaw emphasizes the significance of building meaningful connections and nurturing opportunities for others. "If you build relationships by referring people to new business, at least stochastically, I believe it comes back to you," says Jaroslaw. "I have found through experience, the more business you're doing and the more you're a connector to other people, it will redound to your benefit."

Sarah Kellogg is a freelance writer based in the Washington, D.C., area.

Woman attorney stock image, Shutterstock; Karen Popp, courtesy of Karen Popp; Susan Bozorgi, courtesy of Susan Bozorgi; Reem Sadik, courtesy of Steptoe

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TRUE GRIT

Women Lawyers on the Unfinished Work of Shattering Barriers

JOAN ODELL, *Law Offices of Joan E. Odell*

By Denise Perme

The story of women in the legal profession is one of perseverance despite obstacles.

Margaret Brent, the first woman lawyer in the United States, litigated more than 100 cases in the unstable colony of Maryland in the mid-1600s. In 1645 the Catholic colony was in crisis after Governor Leonard Calvert fled to Virginia following a militant Protestant attack. When he returned to power, he made Brent his executor.

Brent used her formidable negotiation skills to convince the court to grant her power of attorney for Governor Calvert's brother, Cecil Calvert, who ruled Maryland as Lord Baltimore from his home in England. She sold some of Lord Baltimore's cattle to pay the soldiers who had ousted the Protestants, quickly restoring order. However, her feat was underappreciated by Lord Baltimore, who never forgave her for selling his livestock.

The country's first Black woman lawyer was admitted to the District of Columbia bar in 1872. Charlotte E. Ray graduated from Howard University's law school at a time when both women and people of color were largely prohibited from practicing law. Applying under the name C. E. Ray, she may have been granted her law license because the bar admissions committee assumed she was a man.

In her most well-known case, Ray represented a Black woman whose husband was abusing her, which was allowed in many states in 1875. Against the odds, Ray litigated the case before the Supreme Court of the District of Columbia and won. Prejudice doomed her law practice, however, and Ray was forced to return to New York to work as a teacher, one of the few professions open to women at the time.

'SUCH AN ANOMALY'

Women lawyers in the 20th century faced less resistance than Brent and Ray, but the road was not smooth.

Joan Odell graduated from the University of Miami School of Law in 1958, when only three percent of lawyers were women. After being turned down by law firms in Miami because the partners' wives objected to her hiring, Odell moved to Washington, D.C., to get a job with the federal government.

"My professor recommended that I talk to our state senators and representatives," says Odell, 92, an active member of the D.C. Bar since 1974. When she reached out to her senator, Odell recalls being told to "apply for a job as a clerk secretary, and after I had 'proven myself,' I could apply for an attorney's job."

"That hurt my feelings," Odell says. "I had a very good record from school. It would match any man's record."

Odell turned to her state representative, who helped her secure interviews. She received three offers and accepted a position with the U.S. Securities and Exchange Commission (SEC), joining an office where she was the only woman trial attorney among "very aggressive" male colleagues vying for the important cases.

"I finally got assigned a big case. I left [the file] on my desk that night. The next morning, it was gone," Odell recalls. In the middle of the night, another attorney had stolen her case file. "He spent the whole night working on it and persuaded our boss that the case should be his." After that, Odell wisely began taking her files home with her.

Odell alternated between work in federal agencies like the SEC and Environmental Protection Agency, where she was associate general counsel, and county agencies in Florida. In the early 1970s, she was hired to head the legal department for Palm Beach County. "I believe I was the first woman prosecuting attorney in Florida," she says. "I was such an anomaly."

Fortunately, Odell says, she did not experience overt sexism or sexual harassment in those days, attributing it to the novelty of her situation and the fact that there were so few women lawyers. "I think it hadn't raised its ugly head [yet]," she says.

Covert sexism was thriving, however. Odell's ascent caught the attention of the *Miami Herald*, which ran headlines like "Joan Odell: Public's Pretty Protector" and lines such as "Your money never had a prettier babysitter," reflecting societal attitudes in 1971 that minimized women's contributions. "Part of it was because I was pretty. I had been homecoming queen at the university," Odell says.

Undeterred by the hoopla, Odell focused on her job, working long hours to tighten county contracts and save taxpayers money. Despite this, the Dade County Bar Association Board of Governors reprimanded Odell, instructing her to "stop the publicity," something that she had not sought in the first place.

CONTINUING CHALLENGES

Another longtime D.C. Bar member is Marilyn Levine, who graduated from law school in 1977. Levine had a teaching career for decades after graduating college in 1950, but teaching was not her first love. In elementary school, she remembers visiting a courthouse in Brooklyn, New York. "I fell in love," recalls Levine, now 94. "I started a lawyers' club in sixth grade at P.S. 161, and we would enact trials."

Levine married shortly after college and worked full-time as a teacher while raising her three children. When Levine was nearly 45 and her son, Ronald, was preparing to take the LSAT, she decided to take the test as well. Mother and son attended law school at the same time, though at different schools. They both graduated in 1977 and took the New York bar exam together — in the same room.

"We were interviewed at the same time by the character committee," her son recalls. "I remember telling the examiner, 'Well, you know my mother is sitting outside.' He said, 'You brought your mother?' and I said, 'No, she's next for an interview.'"

The elder Levine was drawn to dispute resolution and began working for a small firm. "Becoming an attorney and working as an arbitrator fulfilled all my dreams," she says.

Levine enjoyed a long career, retiring just shy of 88. She doesn't recall experiencing sexism or bias in her career, though her role as an arbitrator, rather than as an associate at a large firm, may have offered protection from sexist behavior. "Arbitrators are like judges. You don't treat women judges with disrespect," says Ronald Levine, who has worked at a large firm for 40 years. "An associate is another story."

The younger Levine thinks that although implicit bias affected everyone, women in large firms may have encountered the worst of it. He observed less overt sexist behavior in his years at large firms, but it was running in the background. "I think there was a fair amount of what I call 'hidden sexism,'" he says. "It happened behind closed doors — for things like partnership decisions." He points to the low numbers of women partners as evidence. "It was a boys' club on a lot of levels." Even today, only 28 percent of equity partners at law firms are women.

From the 1960s through the 1990s, the enrollment of women in law school steadily climbed. In 1992, when D.C. Bar member Gennivieve Henriques graduated from the University of Miami School of Law, 34 years after Odell, 20 percent of lawyers in the United States were women.

Henriques, founding partner of Henriques Law & Mediation Group in Miami, decided early on not to let others' beliefs or behaviors derail her. As a young girl in Jamaica, she had wanted to become an attorney. "I'm very short — 4'11" — and I don't like bullies," she says. "I thought the law would be a good way for me to help even the score."

MARILYN LEVINE, *Retired Arbitrator*

GENNIVIEVE HENRIQUES
Henriques Law & Mediation Group

Henriques faced challenges when she first opened her practice. Judges excoriated her for arriving a few minutes late, and new clients didn't believe she was an attorney because, as a woman of color, she didn't look like who they expected. She refused to let her anger at the blatant bias overcome her, though maintaining composure sometimes took effort.

Most of the time, Henriques says, opposing counsel were white men. Once, she was waiting outside the courtroom, dressed in a suit, when the opposing counsel team arrived. "They started discussing their strategies in front of me," she says. "They thought I was the court reporter!" When the courtroom finally opened for her client's hearing, the attorneys realized their error. Henriques laughs, recalling, "I didn't hear anything helpful to my client, but I loved the look on their faces when I walked in!"

A SHIFT IN ATTITUDES

Women lawyers have also faced other challenges as they juggle careers and caregiving. At a time when women with children under the age of six made up 24 percent of the labor force, Odell had few models for how to be a full-time trial lawyer and a mother — there were so few women litigators to begin with.

Odell, who was single at the time, adopted two babies and raised them with the help of her family. "I had great support from everybody — my mother, father, and sister. I wanted my career, but it didn't seem like I couldn't have both. I did have both," she says.

Odell's family pitched in to watch her children, and she paid for childcare. One time she asked the Florida Supreme Court law clerks to watch her baby while she argued a case because her babysitter had not shown up. In hindsight, she recognizes that she was fortunate to have resources and support that many women lawyers do not.

Henriques, married at 22, wanted children as well. She and her husband raised two children, one of whom had special needs. She remembers times when judges were rigid and unreasonable in scheduling court dates. In the last few years it has gotten easier to set boundaries between work and home, Henriques says, and judges are more accepting today and have a greater awareness of the need for mental health and self-care.

"Things have changed in terms of people respecting the fact that, as a female attorney, you might need family time," she says. "The men are also recognizing that it's important for them to spend time with their family."

FULL EXPRESSION OF HUMANITY

In the last five years, especially at the height of the pandemic, women lawyers struggled with burnout to a troubling degree. The stressors are numerous, from untenable billable hour requirements to work–family conflicts to an adversarial structure that Shirley Horng calls "draining."

Horng, who worked for 17 years for a legal services provider, found the winner-take-all mentality to be emotionally depleting, even when she was winning cases. Despite this, she remained committed to public interest law. "My job was everything," she says, "but when I entered a different chapter in my life, I had to adjust."

In just a few years, Horng experienced a life-threatening childbirth and a pulmonary embolism, and her priorities shifted. These health crises were

SHIRLEY HORNG
Former Legal Services Attorney

a frightening eye-opener for her. "I was a parent, an attorney, a spouse, and a daughter to an ailing parent," she says. "I think it is difficult to be in the legal profession long term, while also prioritizing health and family."

After her father passed away last year, Horng decided to leave her position. "I was doing important work that I cared deeply about, but I was draining myself," she says. "I'm incredibly fortunate to be able to step away; many people don't have that choice."

Lawyer well-being researchers Patrick Krill and Justin Anker assessed work–family conflict in their 2021 study, *Stress, Drink, Leave: An Examination of Gender-Specific Risk Factors for Mental Health Problems and Attrition Among Licensed Attorneys*. More than 24 percent of the women in the study had thoughts of leaving the profession, with work–family demands associated with the highest likelihood of leaving.

The authors suggest that legal employers develop strategies to reduce work–family conflict to support their attorneys' overall well-being and reduce attrition, particularly by women. They state unequivocally, "a career in law should not be antagonistic to the full expression of a lawyer's humanity, including their ability to undertake and navigate familial obligations should they so desire."

Horng is cherishing time with her daughter, now six, and knows how precious, and fleeting, time with young children is. "I don't take the future for granted," she says. Horng states she loved being a legal services attorney and is proud of the work that she did for her clients. "It was exhausting, but it filled my cup," she says. However, she admits that the days of prioritizing her legal career over her health and family are behind her. "I anticipate returning to the workforce," she says, "but I'm not sure if I'll return to litigation."

While today's women lawyers face fewer barriers than pioneers like Margaret Brent and Charlotte Ray, there is still progress to be made. "Law is a wonderful calling," Henriques says. She hopes the profession continues to evolve to meet the needs of all lawyers, regardless of gender, so future generations can experience her sense of fulfillment.

Denise Perme is associate director of the D.C. Bar Lawyer Assistance Program.

Joan Odell, Denise Perme; Gennivieve Henriques, courtesy of Gennivieve Henriques/Glamour Shots; Shirley Horng, Denise Perme

The D.C. Bar Lawyer Assistance Program's Women's Support Group offers support and connection for women attorneys facing unique challenges in the legal profession. If you are interested in attending its bimonthly meetings, please email lap@dcbar.org.

D.C. BAR'S ACAB

Service Powered by Volunteer Arbitrators

By John Murph

One day in December 2024, Maryam Hatcher and two other volunteer attorneys spent hours arbitrating a nearly $100,000 fee dispute between a client and a law firm.

John Murph

ACAB volunteer arbitrators Maryam Hatcher and Andrew Marks.

Working without pay to comb through the parties' filings and hear their arguments, they demonstrated the kind of commitment that volunteer arbitrators bring to the D.C. Bar's Attorney/Client Arbitration Board (ACAB), a confidential, cost-effective adjudication service available to Bar members and their clients for faster resolution of disputes over legal fees.

Many of these disputes involve complex issues, prehearing motions, and multiple parties, occasionally resulting in multiday hearings. "In addition to addressing the issues at hand, arbitrators often have to manage high emotions in these types of matters," says Hatcher, senior counsel for corporate sustainability at Mars, Inc.

ACCESSIBLE FORUM

Voluntary fee arbitration with the D.C. Bar was conceived in 1982. With the adoption of Rule XIII of the Rules Governing the District of Columbia Bar on January 1, 1995, fee arbitration through ACAB became mandatory for Bar members if requested by a current or former client. The establishment of mandatory fee arbitration was born out of a recommendation from the D.C. Bar's Disciplinary System Review Committee after studying the ABA's "McKay Commission Report," which made "specific recommendations for improvement in lawyer discipline in the United States and . . . to include a more comprehensive system for resolving disputes and problems arising from the lawyer–client relationship."

"We are in a minority of jurisdictions that have mandatory fee arbitration. When Rule XIII was adopted, it was a critical step in client protection, but it also put the D.C. Bar ahead of most bars in the quality and availability of fee arbitration options for our members," says Kathleen Lewis, associate director of the Bar's Attorney/Client Relations Program. "We have professional staff, we have mechanisms to compel both lawyers and clients to arbitrate fee disputes, and our arbitration decisions are final and binding."

"Additionally, the program is accessible not only in terms of cost but [also] in the reduced formality, which allows parties to present their issues without strict adherence to the rules of evidence. The arbitrators are generally more focused on the substance of the dispute rather than the technicalities of how evidence is presented," Lewis adds.

ACAB's lawyer and nonlawyer arbitrators are keenly aware that they are resolving disputes that arise from the unique relationship between a lawyer and a client. "I am deeply grateful for the dedicated service and commitment of the arbitrators who generously volunteer their time and expertise. Their impartiality, professionalism, and tireless efforts help ensure fairness and access to justice for all involved," Lewis says. "Through their invaluable contributions, they play a vital role in maintaining the integrity and efficacy of the legal system."

SUPERIOR SOLUTION

Private arbitration forums can be cost-prohibitive, even for lawyers, Lewis says, but with ACAB, typically a party is only paying $25 to $100 to file a dispute. "And that's their total cost; we don't have other charges along the way," Lewis says.

The key to this is ACAB's use of volunteer arbitrators. ACAB's volunteer pool consists of 87 arbitrators, a number of whom have been volunteering for decades. Among them is Andrew H. Marks, managing director of

the Law Offices of Andrew Marks PLLC and former D.C. Bar president (1998–99). Marks has been serving on ACAB for more than 40 years, starting when he first launched his legal career as a litigator in the early 1980s.

Marks says ACAB presented a great opportunity to practice something that he believes in. "Many lawyers, from [those in] very big firms to solo practitioners, want to have the ability to require a client to arbitrate a fee dispute instead of going to court," which could be both more time-consuming and expensive, he says.

Another longtime volunteer was Harold Kessler who, until September last year, spent 31 years on ACAB as a nonlawyer member. Kessler brought to ACAB his decades-long work experience in federal agencies that administer labor and employee relations programs, including the U.S. Department of Labor and the Federal Labor Relations Authority.

Kessler's expertise as a field examiner with the National Labor Relations Board investigating unfair labor practices also proved invaluable to ACAB. "A field examiner goes out and finds relevant witnesses to events, [and] then asks them questions," says Kessler, who also served as volunteer arbitrator for the Better Business Bureau and the Montgomery County (Maryland) Merit Systems Protection Board. "I'm someone who can process facts regarding fee agreements without falling into some bias."

John Murph

HAROLD KESSLER
Former ACAB Volunteer

"I came to believe in the power of parties reconciling their own beliefs," says Kessler of his motivation in joining ACAB. "Arbitration is superior to [having] long, extensive court trials with high legal fees."

During his time on ACAB, Kessler served as either an arbitrator or mediator on approximately 60 cases. "He is a skilled neutral who easily devoted hundreds of hours in volunteer service to the D.C. Bar and community," Lewis says.

Kessler attributes his long service with ACAB, in part, to the D.C. Bar's staff. "The staff has always been great," he says. "They're just people you wanted to work with and people you wanted to be helpful with."

OPPORTUNITY TO DELIVER JUSTICE

Those who are unfamiliar with alternative dispute resolution might assume that most arbitration rulings will be favorable toward attorneys, but this is not the case, says Marks. In fact, arbitrators can be tougher on lawyers than on clients.

"It's because the lawyers understand what lawyers should do," Marks says. "When they see a lawyer who has not done as good a job as they might have done in terms of keeping their time, recording their time, and communicating with the client, the lawyers on the panel are actually tougher on the lawyer."

"Should you have billed for that? How much time did you bill for that?" are some of the questions that Marks has posed to attorneys in arbitration proceedings. "Having that background experience [about the billing process] is helpful because an arbitrator will be hearing the back and forth between a lawyer and a client about what the client expected and what the lawyer expected," he says.

Conversely, nonlawyer arbitrators tend to be harder on clients, says Marks. "'You should have asked that question. Why did you not ask that question? Why did you wait until the end?' [These] are some of the things that a layperson arbitrator will often ask," he says.

The rules of evidence are also much more flexible in arbitration proceedings than in court, Marks points out. "An arbitrator will be more open to hearing evidence that might not be allowed in a court of law — hearsay, for example, or documents that may not be authenticated as well. The arbitrator, therefore, must be able to parse what is reliable and what is not, what is persuasive and what is not. A lot of times, it comes down to a credibility issue," he adds.

Nonlawyer arbitrators bring a lot of value into these proceedings, according to Hatcher. "I think nonlawyers probably don't have to think about taking off the advocate hat," Hatcher says. "I really think the nonlawyer arbitrators bring as much to the table as the lawyer arbitrators."

Expert listening skills, patience, and diligence are crucial for good arbitrators. "Also, a real awareness of what the role of an ACAB arbitrator is and the scope of the issue being resolved," says Hatcher, ACAB chair since July 2024. "It's keeping in mind the reasonableness of the attorney's fees and controlling the hearing in such a way that all the information — the testimonies solicited from witnesses and parties — [helps get] to the heart of that issue."

The decades-long service of some of ACAB's arbitrators is a testament to the rewards of volunteering on the board. Real-time training in dispute resolution can benefit any lawyer, Marks says, especially one looking to sharpen their litigation skills.

Marks says his experience with ACAB also has provided him a better understanding of how clients view their relationships with lawyers and the whole billing process. "As a lawyer, it helped me understand the importance of really keeping the client informed, sending out bills timely, and not waiting until the end of a matter. Send it out timely because, that way, if the client has a question, they can raise it," he says. "Also, it taught me to be proactive with clients to make sure they understand the attorney–client relationship. And if there is an issue, deal with it early. Don't let it linger."

Hatcher began volunteering with ACAB in April 2019, inspired by a desire to lend her legal expertise in a pro bono capacity but also to gain experience for joining the bench one day. "I thought this would also be good practical training for potential service as a judge," Hatcher says.

Serving on ACAB has also taught Hatcher how much clients entrust lawyers to resolve their issues. "The conflicts that I see in arbitrations remind me of the important role that lawyers play in society," she says. "They play the literal role of advocating for their clients, but they also serve a symbolic role by representing the opportunity for justice."

Reach D.C. Bar staff writer John Murph at jmurph@dcbar.org.

Janene Jackson FOCUSES ON PEOPLE IN POLICY WORK

By John Murph

Becoming a lawyer wasn't Janene Jackson's first career aspiration. "I wanted to be Oprah Winfrey," says Jackson, executive partner in Holland & Knight LLP's Washington, D.C., office. "I wanted to be on [a] couch interviewing people as a television personality."

Jackson wound up attending the City College of New York and earning a bachelor's degree in English literature, then hanging out in the Big Apple after graduation to avoid conversations with her mother, who gave her two options: go to grad school or get a job.

Jackson ultimately took the legal path, perhaps an unsurprising choice to those who noticed her gift for gab early on. Growing up in Manhattan's Yorkville neighborhood on the Upper East Side, Jackson and her older sister were raised by a single mother who worked as a corrections officer. One year, Jackson's mother was injured on the job and consulted an attorney about disability compensation. The lawyer met the young Janene and remarked, "She talks a lot. She should be a lawyer."

Jackson made her way to Washington, D.C., to attend American University Washington College of Law, earning her JD in 1998. Jackson clerked for Judge Reggie Walton at D.C. Superior Court, and then for Judge Donald L. Ivers at the U.S. Court of Appeals for Veterans Claims, the first African American woman to do so.

WORKING FOR THE PEOPLE

Following law school and clerkships, Jackson found herself immersed in D.C. politics and government. Between 2000 and 2001, she served as assistant corporation counsel in the Office of the Corporation Counsel (now Office of the Attorney General), representing the city in class-action lawsuits. In September 2001, she started working as a committee clerk for then-D.C. Councilmember Kevin Chavous (Ward 7) and was heavily involved in Chavous's work as chair of the Council's Committee on Education, Libraries and Recreation.

Jackson's public policy work in education continued when she served as executive director of the State Complaint Office of the District of Columbia Public Schools (DCPS), beginning in 2003. During her 18 months there, she rebuilt the federally mandated office, which became defunct during the tenure of Mayor Marion Barry. "The U.S. Department of Education contacted D.C. Public Schools and warned, 'if you do not get this federally mandated office running again, we are going to sanction you because you are receiving federal funds for it.'"

Jati Lindsay

In less than three months, Jackson designed and wrote DCPS's agency plan, which included organizational infrastructure and procedures. She successfully secured U.S. Department of Education (DOE) approval within a few months, turning the city's public schools DOE-compliant again.

In 2005 Jackson returned to D.C. Council, this time as counsel for Committee on the Judiciary and Public Safety Chair Phil Mendelson, before joining the D.C. Chamber of Commerce two years later as senior vice president for government relations and public policy. As the chief lobbyist for the organization, she was responsible for crafting and executing legislative strategies and negotiating with the executive and legislative branches of government to pass pro-business amendments.

From 2011 to 2014, Jackson served as deputy chief of staff and later director of the Office of Policy and Legislative Affairs under the Executive Office of the Mayor. It was there that Jackson says she achieved her proudest accomplishment in her D.C. government career.

In the fall of 2013, the federal government briefly shut down. During that time, it was customary for the city government to follow suit, but Jackson and her team at the Office of Policy and Legislative Affairs recommended to Mayor Vincent Gray to keep the District open.

"That had never been done before because we were always like dominoes: If the federal government shuts down, we shut down, too," Jackson says. "The mayor thought about it, held a

senior staff meeting with the city administrator, the attorney general, all the deputy mayors, and his chief of staff. We talked about it, and then we met with the Council, and we all agreed to keep the District's government open."

Jackson and her team argued that the city was not subsidized by the federal government. "We asked, 'Why can't we take our citizens' tax dollars that are given to the government for the purpose of keeping the government operational?' We should be able to spend local dollars. That was the premise of the recommendation to the mayor. So, we kept the government operating during sequestration, which had never been done before."

Another area of success for Jackson was helping to secure passage of legislation granting the District of Columbia budget autonomy for revenue raised on its own. As lead liaison among the mayor's administration, D.C. Council, Congress, the White House, and federal and state agencies, Jackson navigated a complex issue that began with the 2012 Budget Autonomy Act, which the mayor signed and D.C. voters approved but was blocked until D.C. Superior Court upheld the act in 2016, after Jackson had left her position.

TRANSITIONING TO BIG LAW

Jackson credits her smooth transition to Holland & Knight in 2014 to the presence of practitioners there "who are exclusively focused on our clients that interact with the District of Columbia government."

"My clients usually have some interaction with the D.C. government, whether it is through lobbying D.C. Council on a bill or through an enforcement action because they got a notice of infraction from one of the District agencies," Jackson says.

Jackson has represented a nonprofit daycare before the Office of the State Superintendent of Education, a for-profit educational institution before the Commission on Higher Education and Learning, and several clients before the Department of Human Services.

Jackson also represents companies seeking to either advance policies and legislation that would help them operate in the city or fight policies that could negatively impact their businesses, such as when the city granted a sole-source contract to a sports wagering company in 2018.

"For five years, the District had been a sole-source jurisdiction, and it was losing revenue," Jackson says. She met with members of D.C. Council and shared with them financial information from other jurisdictions with competitive markets. "My work as a lobbyist helped to move D.C. into a competitive market, where now you can use all the various sports wagering apps that exist in any other jurisdiction. That is an example of helping clients who are seeking to affirmatively change the policy that was enacted."

"Everything that the government does, in some way, shape, or form, touches a D.C. resident," says Jackson. "There is no way that I cannot think about human beings and their conditions, or discard that when we [are] developing policies."

MAKING AN IMPACT

Although her multifaceted career is not by design, Jackson says that each of her jobs helped build up her skills and expand her network,

> "Everything that the government does, in some way, shape, or form, touches a D.C. resident.

making it possible to have a rewarding professional life. "I have built relationships in each job that I have been able to bring to bear at the next job," she says.

In April 2024 Jackson was named executive partner in Holland & Knight's D.C. office, overseeing the day-to-day management of nearly 200 lawyers, while continuing to manage her local government practice.

Her background in humanities and literature has proved invaluable to her work, informing her critical thinking as a public policy and regulation attorney when it comes to understanding the challenges faced by her clients. "Who would have thought dissecting Dante Alighieri's *Inferno* or the works of Thomas Hardy and Charlotte Brontë would come in handy?" says Jackson.

"The problems I'm solving usually involve people," she says, and character analysis skills are "absolutely essential."

"Those skills help me understand their motivations — who they are and why they do what they do," Jackson adds. "It's like figuring out, for instance, why Tess of the d'Urbervilles was such a tragic character, or why it took so long for Elizabeth Bennet and Fitzwilliam Darcy to get together in Jane Austen's *Pride and Prejudice*."

Jackson applied the same skills in working with D.C. councilmembers. "What is important to them? Maybe they will vote this way or the other way. How do I connect the dots within the human conditions of those councilmembers and figure out their motivations like I would in English literature?" Jackson says.

Being able to make an impact on people's lives has been the driving force behind Jackson's career. "Any job where I cannot do that is probably a job that I am not going to take," she says. "If I cannot make a difference or make someone's life better, I am probably going to leave."

Jackson brought that same commitment to service to the D.C. Bar, serving on its Board of Governors beginning in 2019. "I chose to serve on the Board of Governors because its work directly contributes to the integrity and success of the profession. Our work ensures attorneys practice with the highest ethical standards, improves the practice of law by pursuing legal excellence, and promotes access to the courts and justice for those in need of legal services. I look at my time on the Board of Governors as service to the profession."

In May 2024, Jackson received the Council for Court Excellence's Justice Potter Stewart Award, which recognizes people and organizations whose work on behalf of administrative justice resulted in significant contributions to the law, the legal system, the courts, or administrative processes in Washington, D.C. The honor came as a huge surprise to Jackson — she had done so much during her two decades of work in the D.C. government that she had forgotten about some of the accomplishments she was being recognized for.

"In receiving the award, it was a reminder of the good work that I did … and the impact that I had on young people," she says. "It was like somebody said, 'Hey, we saw what you did, and it mattered. You made a difference in people's lives,' So, I'm very appreciative."

Reach D.C. Bar staff writer John Murph at jmurph@dcbar.org.

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SCAN FOR MORE INFORMATION

Let's Make Time for More Time With People

By Ava Morgenstern

The year was 2019 and my calendar was packed. In tiny bars, I crowded into countless networking happy hours. In conference rooms across downtown, I ducked in for committee meetings and project trainings, making small talk with colleagues.

My purse filled with business cards. My email brimmed with invitations. I joked that I had a "clichéd D.C. life."

Six years later, that life has vanished. Most trainings and meetings have moved to Zoom. Happy hours occur far less often. At a mentoring event I attended recently, one that used to be crowded pre-pandemic, almost no mentees showed up. At a panel I sat on to advise law students, just one student attended. I now work from home, and getting out takes effort. Though I have chosen this lifestyle and like it, I see far fewer people than I used to, which can be isolating.

Remote work is good for productivity and work–life balance, but it can strain mental health. You may have heard of the "loneliness epidemic" afflicting our society. While the discussion often centers on personal lives, loneliness also affects our professional lives. Because of the competitive and stressful nature of our profession, demanding long hours spent alone, many of us suffer from loneliness. The pandemic and its aftermath have worsened this. (For a mental health practitioner's perspective, see Denise Perme's column, "The Loneliest Profession," in the May/June 2022 issue of *Washington Lawyer*.

Here I'd like to offer a few tips from my own experience with professional loneliness. Since so many lawyers feel the same, I want to emphasize that it's normal to feel this way. As writer Jonny Sun shared in a TED talk, you are not alone in your loneliness. And you can change it.

Show up. Sometimes I don't feel like going out after work. But I convince myself to go, and it's worth it. In-person happy hours and conferences, while less common post-pandemic, are still valuable. Even if socializing feels more awkward than back in 2019, I remember that others feel awkward too, and I feel better after flexing those social muscles. Consider showing up for the next networking event you're invited to. Even if you feel tired and hesitate to go, you may regain energy in good company.

> We lawyers tend to think we're self-sufficient and shouldn't ask for help. But by reaching out, we can fight isolation.

Ask others what they need from you. Even as a newer attorney, I have a lot to offer. I've served as a mentor and volunteered on committees. I've reached out to my LinkedIn and social networks offering help for those needing legal services in immigration, my practice area. Not only am I building my reputation and serving the profession, I'm also connecting with many people. I encourage you to reach out to bar associations and pro bono programs to see how you might help and meet people at the same time.

Ask for what you need from others. We lawyers tend to think we're self-sufficient and shouldn't ask for help. But by reaching out, we can fight isolation. I've often had to swallow hard and click send on that email or LinkedIn message asking for help with a job search, thoughts on a legal question, or feedback on a piece. Most often, I'm glad I asked, and people are glad to help. As a bonus, I've made wonderful connections with colleagues I never would have met had I not asked a question on a listserv. If you need something, try reaching out for help — you might be surprised by how well it goes.

Build social systems like you build work systems. At work I diligently track my clients and cases. I use case management software and intricate spreadsheets to remember who's who and who needs what. For my social network, I do the same. I keep a spreadsheet of professional contacts, use LinkedIn daily to see what colleagues are up to, and check in with people regularly to see how they're doing. By optimizing my social systems, I can ultimately spend less time on administration and more time with people. Consider making a list of your key professional contacts, even just a few, and scheduling reminders to regularly check in with them. People will appreciate your efforts.

Spend time with nonlawyers. After writing all these tips about networking with lawyers, I'll admit I spend a lot of my free time with nonlawyers. Getting out of my professional bubble helps me learn how diverse people are tackling loneliness. Meeting them, I feel less stuck in my own problems and more integrated into a greater whole. In the struggle against loneliness, this is the perspective I need.

I wish you the best in your own quest to feel more connected. And in that spirit, I invite you to reach out to me on LinkedIn if you want to talk!

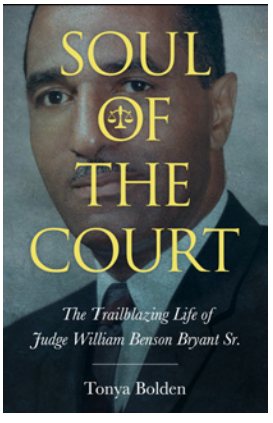
Ava Morgenstern is an associate attorney practicing immigration law at Meltzer Hellrung LLC.

Soul of the Court: The Trailblazing Life of Judge William Benson Bryant Sr.

Tonya Bolden
University Press of Mississippi, 2025

Review by Diane Kiesel

During the Great Depression, it made more sense for a Black man living in Washington, D.C., to take a menial government job than to attend Howard University School of Law.



A government job — no matter how lowly — meant a guaranteed paycheck. The life of a Black lawyer meant representing clients of color, most too poor to pay. William Benson Bryant Sr. took the foolish route, enrolling in Howard's law school in 1933. Tonya Bolden's *Soul of the Court* is the story of Bryant's taking the road less traveled. A quarter century later that road led him to the United States Supreme Court, where he argued — and won — a landmark case for a man on death row.

In *Mallory v. United States* (1957), Bryant represented Andrew Mallory, convicted of raping a woman in the building where they lived. When arrested, the evidence against Mallory was flimsy. Police strengthened their case by postponing Mallory's arraignment until he confessed. In a unanimous decision, the High Court reversed the conviction, holding that defendants must be arraigned without unnecessary delay. It was one of several cases from the Warren Court that paved the way for the *Miranda* decision nine years later.

Bryant's life story begins in the Jim Crow South. He was born in 1911 in Wetumpka, Alabama, where 10 years earlier a white mob had burned to death a teenage Black boy a mile outside town for allegedly attempting to "outrage" a white woman. It was not a hospitable environment for Bryant and his family, consisting of his mother, Alberta (abandoned by Bryant's father), and his maternal grandparents, Lizzie (a washerwoman) and "Papa Charlie" Wood (operator of a general store). Papa Charlie slipped out of town in the dead of the night disguised in women's clothing to avoid getting lynched for standing up to white boys harassing one of his daughters. Fleeing to Washington, D.C., he sent for his family when Bryant was one year old.

To help readers appreciate Bryant's struggles, Bolden recounts the injustices suffered by his race. These ranged from humiliating insults to disruption of their livelihoods when President Wilson segregated the federal workforce, relegating Blacks mainly to jobs that involved a broom. And there was the ever-present threat of violence. Nonetheless, the nation's capital was home to an elite and vibrant Black community during Bryant's youth. U Street businesses thrived, the premier Dunbar High School accepted the race's academically gifted, and the upscale LeDroit Park neighborhood was home to Howard's professors.

As a Howard undergraduate, Bryant worked at a job that was once ubiquitous for men of color — elevator operator — and then entered law school. The dean was the stellar Charles Hamilton Houston, the architect of the legal strategy that prevailed in *Brown v. Board of Education* and ended the "separate but equal" doctrine. Bryant and Houston locked horns because Bryant worked full time as a night switchboard operator while in law school. Consequently, Bryant was denied the scholarship reserved for the top student in the first-year class. Still smarting two years later, Bryant boycotted graduation. "I sat on my front porch," he said. In 1954, four years after Houston's death, Bryant would join Houston's prestigious firm.

Bryant began his legal career at the bottom — in a one-man practice in a two-room office in the shadow of the municipal courthouse, hustling for appointments to represent indigent clients charged with petty crimes.

Prosecutors were impressed with Bryant and urged him to join the U.S. Attorney's Office, though Bryant could name only one Black person in the office, and that lawyer never went to court. Bryant became an assistant U.S. attorney in 1951; a year later he was prosecuting felonies in D.C. Municipal Court. Future Virginia Senator John Warner, who clerked for Judge E. Barrett Prettyman on the U.S. Court of Appeals for the D.C. Circuit, recalled meeting Bryant in 1953, saying that Bryant was a "magnet" for him and his fellow law clerks because of his courtroom skills.

Bryant did not always experience smooth sailing, however. When Judge Thomas J. Bailey, an old jurist from Tennessee, looked up from the bench and saw Bryant's Black face, he snapped, "What are you doing here?" With strength and grace, Bryant replied, "Representing the government, Your Honor."

On July 12, 1965, President Johnson nominated Bryant, then 53, to the U.S. District Court for the District of Columbia, the second Black lawyer appointed to that court (Spottswood W. Robinson III was the first). In 1977 Bryant became the court's first Black chief judge, serving in that position until 1981 and then assuming senior status. He served until his death at 94 in 2005.

Among Judge Bryant's prominent cases were the Korean government bribery scandal involving former California congressman Richard Hanna; the trial of drug kingpin Linwood "Big Boy" Gray, the reputed boss of a $30 million heroin smuggling ring; and the two-month trial of high-ranking FBI agents W. Mark Felt (later revealed to be Woodward and Bernstein's "Deep Throat") and Edward Miller for illegal break-ins at the homes of friends of radical Weather Underground members. Bryant oversaw conditions in the D.C. Jail for more than 30 years pursuant to a pair of class-action lawsuits filed on behalf of prisoners.

Judge Bryant could be controversial. For example, he called for the decriminalization of heroin possession as early as 1977, to the dismay of some of his colleagues. He was criticized for his lenient sentencing. In 1987, when Congress adopted mandatory Federal Sentencing Guidelines that increased prison terms, Bryant rebelled by refusing to handle criminal cases. (The guidelines became advisory in 2005 after being declared unconstitutional in *United States v. Booker*.)

Overall, *Soul of the Court* is a loving tribute to the man's long, prestigious career, topped off by the construction of the William B. Bryant Annex to the U.S. Courthouse on Third Street and Constitution Avenue, N.W., in 2006.

Diane Kiesel is a retired judge of the New York Supreme Court, adjunct professor of law, and author.

When Charlie Met Joan: The Tragedy of the Chaplin Trials and the Failings of American Law

Diane Kiesel
University of Michigan Press, 2025

Review by Jeremy Conrad

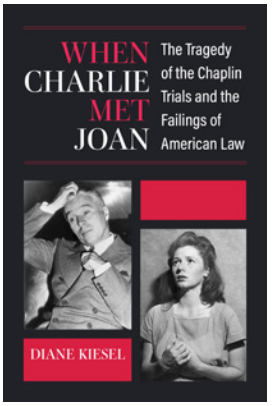
Charlie Chaplin was a superstar of the early 20th century — one of the biggest celebrities of the silent film era, cofounder of the United Artists distribution company, and a millionaire.

He was also a notorious womanizer who had a penchant for pursuing young aspiring actresses. This proclivity and his outspoken leftist politics would result in a series of media circus lawsuits in the 1940s as well as the British national's eventual exile from the United States.

Retired New York Supreme Court Judge Diane Kiesel's new book, *When Charlie Met Joan: The Tragedy of the Chaplin Trials and the Failings of American Law*, focuses on Chaplin's relationship with Joan Barry, his former protégé and mistress. Barry successfully sued Chaplin for paternity in 1943, despite a blood test definitively establishing that the "Tramp" was not the child's father. Chaplin was also the subject of criminal prosecution for his actions during the relationship, facing Mann Act charges for transporting a woman across state lines for immoral purposes in 1944. The prosecution was unsuccessful. Finally, during a 1952 trip abroad, Chaplin's reentry permit was cancelled by the United States attorney general, citing his political leanings and immorality as the basis for the revocation.

Some things have changed since Chaplin's trials. Scientific evidence that was discounted in his paternity suit receives a much higher degree of respect in today's courts, and social attitudes about sex outside of marriage are considerably less fraught than they were in the 1940s. But those aspects of the trials involving scandal, celebrity, and the abuse of power remain incredibly relevant.

Kiesel does remarkably little proselytization, however, preferring instead to provide unflinching descriptions of the players in the drama as it unfolds. Barry is a sympathetic character whose aspirations make her easy to manipulate, but she is also repeatedly described as being erratic and difficult to manage. Barry broke into Chaplin's home on more than one occasion, threatening him with a gun at one juncture. Illustrations of her financial mismanagement, mental health issues, and sexual dalliances with a variety of powerful men are balanced with clear examples of Chaplin's callousness as well as reminders of the significant power imbalance between the two.



Chaplin is also permitted some redemption. Kiesel's assessment of the man includes significant acknowledgment of the potential political motivations driving the legal actions taken against him. His involvement in efforts to support the Second Front movement during World War II to bolster Russian efforts against Germany led Herbert Hoover and others to accuse the actor of having Communist sympathies.

Having gotten word in 1947 that he would potentially be summoned before the House Un-American Activities Committee (HUAC), Chaplin sent a preemptive telegram that said: "While you are preparing your engraved subpoena, I will give you a hint where I stand. I am not a Communist. I am a peace-monger." Questioned by Immigration and Naturalization Service District Director John P. Boyd in 1948, Chaplin gave a somewhat more pointed answer: "I am sure that I am not a Communist and my name will never be connected with any Communist. I have $30,000,000 worth of business — what am I talking about Communism for?" HUAC never ended up summoning Chaplin. While others were blackballed from Hollywood, Chaplin was effectively untouchable.

Kiesel finds scant evidence of Chaplin holding any firm political belief, writing that he might be called a "Parlour Bolsheviki" at best, fond of making scandalously leftist comments and socializing with left-wing radicals. Evidence of the problematic nature of his sexual interests, however, is much more abundant and damning. Although the Mann Act prosecution brought against Chaplin failed to establish that he transported Barry across state lines for immoral purposes, or that he arranged to have her run out of Hollywood when she became an annoyance, in violation of her civil rights, it was uncontested that the 52-year-old star had a sexual relationship with the 21-year-old Barry.

Nor was the relationship an outlier. As his relationship with Barry ended, Chaplin met and married Oona O'Neill, the estranged daughter of Nobel Prize-winning playwright Eugene O'Neill. The two were wed just months after O'Neill's 18th birthday.

Assessing Chaplin against more contemporary scandal, Kiesel captures the situation's complexity, writing, "Chaplin's bad behavior pales next to [Harvey] Weinstein's. Weinstein was a bullying sexual predator; Chaplin was a charming womanizer who had a penchant for seducing girls barely out of adolescence." However, the author sees similarities in the role of the media in demanding justice. Weinstein's reckoning would land him in prison. Chaplin would avoid incarceration, but his damaged reputation lost him his American audience. His later films did poorly in the United States, though their reputation has improved as the scandals that eclipsed his stardom have faded into the background. Regardless, Chaplin's later years in Switzerland were not uncomfortable, and he returned to the United States in 1972, when he was recognized with an Honorary Academy Award for his contributions to cinema.

Less is known about the impact on Barry. Her daughter continued to collect child support from Chaplin until she turned 21, but Barry was institutionalized in 1953 at the age of 33. There is little evidence of what happened to her since, but Kiesel's research was successful in identifying the unmarked grave of a woman who died in 2007 as Barry's likely final resting place.

It is a sad ending to an unhappy story. Today, it may fall on ears very differently than it did then. At the time of the Chaplin trials, many perceived Barry to be a deranged stalker and a conniving gold-digger. Kiesel's book invites a reassessment of the individuals and legal processes in play and provides an opportunity to reflect on how changes in gender politics, science, and the law impact our perceptions.

Reach D.C. Bar staff writer Jeremy Conrad at jconrad@dcbar.org.

By John Murph

ON THE MOVE

Iana Benjamin, a family and immigration law attorney, joined the U.S. Navy's Office of the Judge Advocate General in Jacksonville, Florida, where she focuses on disability assistance… Mayer Brown LLP elevated to partnership **Morgan Bailey**, an employment and benefits attorney; **Tyler M. Johnson**, a tax attorney; **Mickey Leibner**, a litigation and dispute resolution attorney; and **Michael L. Lindinger**, an intellectual property attorney… **Samuel Cottle**, a health law attorney, joined Baker, Donelson, Bearman, Caldwell & Berkowitz, PC as an associate… **Edward Zughaib**, a real estate attorney, became a partner at Pierson Ferdinand LLP… **Mark C. Williams**, an energy law attorney, joined Day Pitney LLP as a partner… **Jacob Preiserowicz**, a leading authority on Commodity Futures Trading Commission regulation, rejoined Schulte Roth & Zabel LLP as a partner… **Jonathan Rosen**, an investigations and white-collar defense attorney, joined Potomac Law Group, PLLC as a partner… **Jenny Durkan** joined Bryan Cave Leighton Paisner LLP as a partner in the firm's business and commercial disputes practice group… **Max Bonici**, specializing in financial services, is now a partner at Davis Wright Tremaine LLP… Redgrave LLP welcomed a new e-discovery team that includes partners **Robert D. Keeling**, **Ray Mangum**, and **Kristen A. Knapp**; counsel **Jon Dugan**, **Eli Nelson**, **Amy Hanke**, and **Kimberleigh A. Stuart**; and review and analytics associates **Carole A. Harris** and **Heather Irwin**… **Ronald K. Anguas Jr.**, a complex commercial litigation attorney, joined Paul Hastings, LLP as a partner; **Benjamin W. Snyder** joined the firm as a partner and cochair of the appellate litigation practice… **David M. Connelly**, an energy regulation attorney, rejoined McGuireWoods LLP as a partner… **Noah Pollak**, an energy project financing attorney, and **Jeremy Bylund**, a regulatory litigation attorney, became partners at Willkie Farr & Gallagher LLP… Haynes Boone promoted to partnership **Greg Van Houten**, an insurance recovery attorney, and **Angela Oliver**, an intellectual property appeals attorney… **Robin Crauthers**, an antitrust trial attorney, joined McCarter & English, LLP as a partner… **Sacred B. Huff** is now a senior associate at Kalijarvi, Chuzi, Newman & Fitch, P.C.… Venable LLP promoted to partnership **Matt Allman** (land use), **Emma R. W. Blaser** (technology and innovation), **Christopher L. Boone** (financial services), **Robin L. S. Burroughs** (labor and employment), **Jean Yin Crews** (commercial real estate), **Janice P. Gregerson** (labor and employment), **Kristin M. Koger** (commercial litigation), **Nicholas A. Mongelluzzo** (investigations and white-collar defense), **Emily A. Plocki** (private wealth planning), **Erin E. Segreti** (corporate), **Andrew L. Steinberg** (nonprofit organizations), **Wes S. Sudduth** (international trade), and **Kevin W. Weigand** (commercial litigation); the firm also promoted to counsel **Ashleigh A. Allione** (nonprofit organizations), **Brian J. Healy** (products, liability, and mass torts), **William C. Lawrence** (advertising and marketing), **Stephanie S. Molyneaux** (corporate), **Chelsea Reckell Richmond** (technology and innovation), and **Alicia M. Sharon** (IP litigation)… Bradley Arant Boult Cummings LLP promoted **Erin Malone-Smolla** (litigation and bankruptcy) and **Jessica L. Zurlo** (IP) to partnership… Morrison & Foerster LLP promoted **Jaclyn M. Goldberg** (tax), **Kerry C. Jones** (antitrust litigation), **Nathanael Kurcab** (national security), and **Seth W. Lloyd** (appellate and Supreme Court practice) to partnership… **Vincent DeVito** joined Eckert Seamans Cherin & Mellott, LLC as special counsel in its energy, utilities, and telecomm practice group… Baker & Hostetler LLP elected **Nicholas C. Mowbray**, a federal tax-planning attorney, to partnership… Estate planning attorneys **Sarah Broder** and **Adam Abramowitz** joined FisherBroyles, LLP as partners… Axinn, Veltrop & Harkrider LLP promoted antitrust attorneys **Michael O'Mara** to partner and **Lindsey Strang Aberg** and **Allison M. Vissichelli** to counsel… **Gregory A. Mason** joined Pietragallo Gordon Alfano Bosick & Raspanti, LLP as senior counsel in its government enforcement, compliance, and white-collar litigation practice group as well as in its qui tam and False Claims Act group.

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GREGORY MASON

AUTHOR! AUTHOR!

Leslie K. Miles, principal at Topside, LLC, published her first book, *The Statue, the Silk and the Story* (Two Tulips Press)… **Michelle Trong Perrin-Steinberg**, a regulatory attorney, wrote and published the book *Kindly, Michelle*.

COMPANY NEWS

In the 2025 edition of *Best Law Firms*, **Friedlander Misler, PLLC** received a Regional Tier 2 metropolitan ranking for real estate law in Washington, D.C. **Jackson Lewis P.C.** received a Tier 1 metropolitan designation for employment law (management) and litigation (labor and employment) and a Tier 2 ranking for employment law (management) and immigration law… **Bradley Arant Boult Cummings LLP** was hailed a 2024 "Tipping the Scales" firm by the Diversity & Flexibility Alliance for having 50 percent or more women in its 2024 U.S.-based new partner class… **Venable LLP**'s podcast, *Ad Law Tool Kit Show*, returned for a second season.

D.C. Bar members in good standing are welcome to submit announcements for this column. Email submissions to attorneybriefs@dcbar.org.

Lawyers Seeking Greener Pastures

By Saul Jay Singer

The D.C. Bar Legal Ethics Helpline regularly receives a broad spectrum of questions from lawyers who are leaving one law firm for another, particularly regarding their right to take firm clients with them and what duties and responsibilities they have to their clients and to their soon-to-be former firms.

Questions also come in frequently from angry firm partners who call to complain that an exiting lawyer "poached our clients." Then they are none too pleased when we advise them that they do not have, and never had, any ownership or proprietary interest in firm clients. Many such partners respond with outrage: "What do you mean? *I* am the billing partner; *I* am the one who brought the client to the firm; *I* am the one who manages the client, wines and dines her, and ensures that she remains pleased with the services that we provide, and now you're telling me that a mere associate — who, by the way, we have incurred great expense to train and develop — can steal our clients?"

Well, yes … because clients are not chattel.

One of the basic precepts of the legal ethics rules is that clients, at all times and for any reason — good reason, bad reason, no reason at all, anything short of a court order to the contrary — have the right to the counsel of their choice. Practically, that means the clients decide which lawyer will represent them (provided, of course, that the lawyer agrees to the representation).

However, while the exiting lawyer is still employed by their old firm, that lawyer likely owes continuing fiduciary duties to their employer, including the duty to take no action contrary to the firm's interests and to not interfere with the firm's reasonable business expectations.[1]

DUTIES TO CLIENTS

Pursuant to Rule 1.4 (Communication), a lawyer has the affirmative duty to "keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information" and to "explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation."

Thus, in Legal Ethics Opinion 273 (Ethical Considerations of Lawyers Moving From One Private Law Firm to Another), the Legal Ethics Committee determined that:

> Lawyers who depart one law firm for another, and those law firms, must be attentive to ethical concerns arising from such changes in affiliation. Most importantly, client files must be made available to the lawyer or law firm continuing the client representation, *clients must receive suitable notification of their lawyer's change in professional affiliation*, and conflict of interest inquiries must be made by the new law firm based on the new lawyer's current and prior representations.

(Emphasis added.) In most situations, hypothetical Departing Lawyer's change of affiliation during a representation will be material to a client, as it could affect client concerns such as billing arrangements, the adequacy of resources to support the lawyer's work for the client, and conflicts of interest.[2]

Departing Lawyer can effectively walk the line between maintaining his fiduciary duties to the firm while also meeting his ethical duties to the client by advising the client — in a strictly neutral manner — about the client's options going forward, including:

1. Moving with Departing Lawyer to New Firm, where the lawyer will continue to represent the client.[3]
2. Discussing with Old Firm the possibility of it continuing the representation through other firm lawyers subsequent to Departing Lawyer's departure; and
3. Going in an entirely new direction, including finding a new lawyer to represent them or proceeding pro se.[4]

In providing such guidance, Departing Lawyer must be careful not to denigrate or disparage Old Firm. Thus, for example, if clients ask Departing Lawyer why he is leaving Old Firm, he may answer generally about opportunities for growth and promotion at New Firm, but he must exercise care not to breach his fiduciary duty by commenting negatively on Old Firm.[5]

Note that there is no ethical requirement that Departing Lawyer advise Old Firm of his planned departure before he so advises his clients. However, as the Legal Ethics Committee notes in LEO 273, Departing Lawyer may be obliged pursuant to an agreement or partnership or other law to inform Old Firm of his planned departure at or around the time he so notifies clients.

As LEO 273 makes clear, any communications beyond those that are expressly mandated by the ethics rules — including, for example, actively soliciting the client to leave Old Firm to join Departing Lawyer at New Firm — could violate the lawyer's obligations under partnership law (for departing partners), corporate law (for shareholders of a professional corporation), or common law of obligations of employees (for lawyers who are employees of a firm).

Which clients must be notified? If Departing Lawyer had no direct contact with the client, or if he performed only minimal services for the client — say, checking cites on a brief at 1 a.m. in the firm library — such that the client

will not need to know, or care, that the lawyer is leaving the firm, then there is no duty for the lawyer to advise the client about the departure. On the other hand, one need not be a "billing lawyer" to have the duty to advise clients about their departure. The general rule of thumb is that if the client recognizes and/or identifies the lawyer as their counsel, then the lawyer would have Rule 1.4 duties to keep the client informed.

Who must advise the clients about the lawyer's departure? Departing Lawyer has the duty to inform his clients about his change of affiliation but, if he is unable to represent the client, or declines to continue such representation, he may rely on Old Firm's representation that it will provide the requisite notice, if such reliance is reasonable.[6]

In some instances, Departing Lawyer may be contractually bound to cooperate with Old Firm in issuing a joint letter advising Departing Lawyer's clients about their options going forward, or Old Firm and Departing Lawyer may agree to collaborate on the issuance of such a joint letter.

Although, absent a contractual or other legal obligation, Departing Lawyer has no ethical duty to issue a joint letter, the Legal Ethics Committee cites with approval the conclusion in ABA Formal Opinion 99-14 (1999) that "far the better course to protect clients' interests is for the departing lawyer and her law firm to give joint notice of the lawyer's impending departure to all clients for whom the lawyer has performed significant professional services while at the firm, or at least notice to the current clients." [7]

When must notice to clients be given? Departing Lawyer is not required to wait until his employment at Old Firm terminates to provide this required guidance to his clients,[8] and there is no rule precisely delineating how much advance notice of departure a lawyer is required to provide. The D.C. Rules are "rules of reason" and, accordingly, Departing Lawyer is required to provide notice within a reasonable time, which may vary by the circumstances.[9]

OLD FIRM DUTIES

The District of Columbia is an "entire file" jurisdiction, pursuant to which the entire file — every relevant piece of paper, every note, every electronic communication — belongs to the client.[10]

Thus, when a client chooses to continue representation with Departing Lawyer at New Firm, Old Firm has the affirmative duty to turn over the entire file to the client or, at the client's direction, to deliver it to Departing Lawyer. Again, pursuant to Rule 1.16(d), under these circumstances Old Firm would be required to "surrender[ ] … papers and property to which the client is entitled …." The failure to comply expeditiously may dramatically harm both the client and Departing Lawyer, who, without the file, could be deprived of the ability to provide the client with competent representation.[11]

Old Firm may not interfere with Departing Lawyer's right to seek employment elsewhere or to take clients with him.

May Departing Lawyer recruit other Old Firm lawyers and staff to join him at New Firm? The Legal Ethics Committee sees this question as being resolved primarily, if not entirely, "under law other than ethics law, such as the common law of interference with business relations and fiduciary obligations."[12]

Old Firm may not interfere with Departing Lawyer's right to seek employment elsewhere or to take clients with him. Rule 5.6 (Restrictions on Right to Practice) provides that "[a] lawyer shall not participate in offering or making: (a) A partnership, shareholders, operating, employment, or other similar type of agreement that restricts the rights of a lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement."

Because such a provision in a partnership, employment, or other agreement would limit both the lawyer's professional autonomy and the clients' unfettered right to the counsel of their choice, Old Firm may not interfere with Departing Lawyer's right to seek employment elsewhere — even if such new position involves direct competition with Old Firm — or to take clients with him. This prohibition extends not only to absolute bars upon competition with Old Firm, but also to "[r]estrictions … that impose a substantial financial penalty on a lawyer who competes after leaving the firm …."[13] Moreover, Old Firm may not limit Departing Lawyer's right to communicate with clients.[14]

May Old Firm take legal action against departing clients to collect outstanding fees? In general, Rule 1.6(e)(5), an exception to the broad Rule 1.6 duty for attorneys to maintain and protect confidences and secrets, permits lawyers to make otherwise prohibited disclosures "to the minimum extent necessary in an action instituted by the lawyer to establish or collect the lawyer's fee."[15]

Where the lawyer or law firm whose relationship with the client is being terminated in this process is owed money for legal services provided, a retaining lien against client files is available only to a very limited extent in the District of Columbia.[16]

D.C. Bar legal ethics counsel are available for confidential inquiries on the Legal Ethics Helpline at 202-737-4700, ext. 1010, or at ethics@dcbar.org.

NOTES

1 This is ultimately a question of fact and substantive law, upon which the Legal Ethics Program staff is not authorized to comment.

2 *See* LEO 221 (Law Firm Employment Agreement).

3 To be clear, Departing Lawyer is not ethically required to continue to represent any clients at New Firm; in fact, he may be prohibited from doing so either because of a conflict or New Firm policy. However, if Departing Lawyer will no longer be representing the client going forward, the lawyer will be required to effect a withdrawal from the representation. Depending on the circumstances, including the procedural rules of the tribunal and the willing participation of Old Firm, such withdrawal may require a formal motion to withdraw or be effected through a simple line/praecipe notice.

4 Note that, as a matter of general substantive law, entities may enter a court appearance only through counsel and may not proceed pro se.

5 This general proscription does not apply if Old Firm has committed or is committing ethical violations or other acts that harm the client; in such cases, the lawyer — whether or not departing — would have the affirmative duty to warn the client about the firm's wrongful acts.

6 Not surprisingly, Old Firm — which, in most cases, will want to keep the clients of Departing Lawyer — would be more than happy to assume responsibility for communication with the client regarding future representation.

7 *See* LEO 372 (Ethical Considerations in Law Firm Dissolutions).

8 As the Legal Ethics Committee acknowledges in LEO 273 (Ethical Considerations of Lawyers

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Disciplinary Actions Taken by the District of Columbia Court of Appeals

Original Matters

In re Steven Kreiss. Bar No. 58297. October 10, 2024. The D.C. Court of Appeals suspended Kreiss for one year with fitness for violations of Rules 1.1(a) and (b), 1.3(a), 1.3(b)(2), 1.4(a) and (b), 1.5(a), 1.15(a), 1.16(d), and 8.4(c). In connection with his representation of a client who sought to become a permanent resident and to avoid deportation, Kreiss failed to represent his client with competence, skill, and care; failed to act diligently during the representation; failed to keep the client informed; intentionally prejudiced the client during the course of the professional relationship; and engaged in dishonesty. In addition, Kreiss charged an unreasonable fee, failed to keep records of entrusted funds, and failed to return the client's file and papers.

In re James M. Loots. Bar No. 384763. October 24, 2024. The D.C. Court of Appeals indefinitely suspended Loots based on disability pursuant to D.C. Bar R. XI, § 13(c).

In re Richard L. Sloane. Bar No. 489140. October 4, 2024. The D.C. Court of Appeals granted Sloane's petition for reinstatement.

In re Cheryl Moat Taylor. Bar No. 448435. November 21, 2024. The D.C. Court of Appeals indefinitely suspended Taylor based on disability pursuant to D.C. Bar R. XI, § 13(c).

Reciprocal Matters

In re Lawrence J. Anderson. Bar No. 439983. October 3, 2024. In a reciprocal matter from Maryland, the D.C. Court of Appeals imposed reciprocal discipline and disbarred Anderson with reinstatement conditioned upon reinstatement in Maryland. The Supreme Court of Maryland disbarred Anderson for misconduct involving intentional misappropriation of client funds.

In re Carl H. Franklin. Bar No. 438829. November 21, 2024. In a reciprocal matter from Louisiana, the D.C. Court of Appeals imposed reciprocal discipline and suspended Franklin for six months, stayed in favor of a one-year probation wherein he must comply with the conditions imposed in Louisiana. In Louisiana, Franklin acknowledged mishandling his trust account.

In re Marcy Gendel. Bar No. 306183. November 21, 2024. In a reciprocal matter from New Jersey, the D.C. Court of Appeals imposed reciprocal discipline and suspended Gendel for one year, nunc pro tunc to September 26, 2024, with reinstatement conditioned upon a showing of fitness. In New Jersey, Gendel was found to have negligently misappropriated client funds, committed a criminal act reflecting adversely on her honesty, trustworthiness, or fitness as a lawyer, and dishonesty.

In re John C. Heath. Bar No. 486041. November 27, 2024. In a reciprocal matter from Utah, the D.C. Court of Appeals imposed reciprocal discipline and placed Heath on a two-year probation wherein he must comply with the conditions imposed in Utah. In Utah, Heath was found to have misled clients into believing that credit repair services would be performed by lawyers and to have improperly charged advance fees for credit repair services.

In re Francis H. Koh. Bar No. 486602. November 21, 2024. In a reciprocal matter from Virginia, the D.C. Court of Appeals imposed reciprocal discipline and suspended Koh for six months. In Virginia, Koh was found to have acted incompetently, neglected client matters, failed to supervise nonattorney staff, and improperly signed documents submitted to the U.S. Patent and Trademark Office.

In re Brian M. Kurtyka. Bar No. 440410. October 31, 2024. In a reciprocal matter from Maryland, the D.C. Court of Appeals imposed reciprocal discipline and disbarred Kurtyka with reinstatement conditioned upon reinstatement in Maryland. The Supreme Court of Maryland disbarred Kurtyka after he pled guilty to two counts of embezzlement and one count of forgery.

In re Jibran Muhammad. Bar No. 1024558. November 27, 2024. In a reciprocal matter from Virginia, the D.C. Court of Appeals imposed reciprocal discipline and suspended Muhammad for six months, nunc pro tunc to November 14, 2024. The Virginia State Bar Disciplinary Board found Muhammad engaged in dishonesty, failed to safeguard client property, neglected multiple clients in immigration matters, and failed to represent those clients with the diligence and competence expected of an attorney.

In re Danielle Alexandra Phillips. Bar No. 1673229. October 3, 2024. In a reciprocal matter from the United States District Court for the District of New Mexico, the D.C. Court of Appeals imposed reciprocal discipline and disbarred Phillips. The U.S. District Court for the District of New Mexico permanently disbarred Phillips after she pled guilty to one count of conspiracy to defraud the United States through wire fraud.

In re Michael S. Rosier. Bar No. 373449. November 21, 2024. In a reciprocal matter from Maryland, the D.C. Court of Appeals imposed reciprocal discipline and suspended Rosier for 30 days, stayed in favor of six months' probation wherein he must comply with the conditions imposed in Maryland. The Supreme Court of Maryland suspended Rosier for misconduct involving failure to communicate, mishandling of client funds, poor recordkeeping, failure to protect client interests, and improper contact with a represented party.

In re William H. Thompson Jr. Bar No. 439132. October 24, 2024. In a reciprocal matter from Virginia, the D.C. Court of Appeals imposed substantially different reciprocal discipline and suspended Thompson for six months with fitness. In Virginia, Thompson failed to comply with trust account monitoring requirements from a 2022 Virginia disciplinary order and consented to a six-month suspension.

In re Sherri L. Washington. Bar No. 975044. October 31, 2024. In a reciprocal matter from Georgia, the D.C. Court of Appeals imposed reciprocal discipline and disbarred Washington with reinstatement conditioned upon reinstatement in Georgia. The Supreme Court of Georgia disbarred Washington for dishonesty and repeated neglect of client matters.

Interim Suspensions Issued by the D.C. Court of Appeals

In re Marc S. Alpert. Bar No. 196386. November 20, 2024. Alpert was suspended on an interim basis based upon a Massachusetts suspension.

In re Duncan K. Brent. Bar No. 445234. October 9, 2024. Brent was suspended on an interim basis based upon discipline imposed in Virginia.

In re Alisa Lachow Correa. Bar No. 888283858. November 20, 2024. Lachow Correa was suspended on an interim basis based upon discipline imposed in Virginia.

In re William S. Stancil. Bar No. 370895. November 27, 2024. Stancil was suspended on an interim basis pursuant to D.C. Bar R. XI, § 9(g), pending final action on the Board on Professional Responsibility's September 17, 2024, recommendation of a 90-day suspension with fitness.

In re Stephen E. Whitted. Bar No. 448194. November 20, 2024. Whitted was suspended on an interim basis based upon discipline imposed in Maryland.

In re Michael Alan Yoder. Bar No. 1600519. November 20, 2024. Yoder was suspended on an interim basis based upon discipline imposed in Virginia.

In re Andrew Scott Ziegler. Bar No. 1019299. October 1, 2024. Ziegler was suspended on an interim basis based upon discipline imposed in Pennsylvania.

Disciplinary Actions Taken by Other Jurisdictions

In accordance with D.C. Bar Rule XI, § 11(c), the D.C. Court of Appeals has ordered public notice of the following nonsuspensory and nonprobationary disciplinary sanctions imposed on D.C. attorneys by other jurisdictions. To obtain copies of these decisions, visit www.dcattorneydiscipline.org and search by individual names.

In re Johnnie D. Bond Jr. Bar No. 485488. On July 1, 2024, the Board of Professional Responsibility of the Supreme Court of Tennessee censured Bond.

In re Sheridan L. England. Bar No. 1025953. On September 10, 2024, the Virginia State Bar reprimanded England.

In re Alisa Lachow Correa. Bar No. 888283858. On March 21, 2023, the Virginia State Bar Disciplinary Board reprimanded Lachow Correa.

In re Irving L. Nussbaum. Bar No. 1562740. On June 20, 2024, the Massachusetts Board of Bar Overseers reprimanded Nussbaum.

In re Travis Walker. Bar No. 90023639. On June 4, 2024, the Florida Bar admonished Walker.

Disciplinary Actions Taken by the Board on Professional Responsibility Hearing Committees on Negotiated Discipline

In re Claudia Flower. Bar No. 489682. October 25, 2024. The Board on Professional Responsibility's Ad Hoc Hearing Committee recommended that the D.C. Court of Appeals accept Flower's petition for negotiated discipline and publicly censure her for violations of Rules 1.1(a) (competence) and 1.16(d) (failure to protect client's interests in connection with termination of representation), or the parallel violations under 8 C.F.R. § 1003.102 (Executive Office for Immigration Review's grounds of discipline, or EOIR Rules).

Disciplinary Actions Taken by the Board on Professional Responsibility

Original Matters

In re Lynn Burke. Bar No. 1006423. November 1, 2024. The Board on Professional Responsibility issued a decision recommending that the D.C. Court of Appeals suspend Burke for two years for misconduct in five client matters, that she be required to prove fitness prior to reinstatement, and that she be ordered to pay restitution with interest to one individual. Burke's misconduct involved violations of 12 Rules of Professional Conduct in three jurisdictions. Specifically, the matters included (1) a motion in the United States District Court for the Middle District of North Carolina, (2) a matter in a Maryland Circuit Court, (3) two immigration matters, and (4) a matter in which Burke agreed to meet with an incarcerated individual in North Carolina but never did so. In the first matter, Burke violated North Carolina Rules 1.4(a) and (b) (failure to communicate) and 7.1 (misleading communications concerning a lawyer's services). In the second matter, Burke violated Maryland Rule 19-301.3(a) (diligence and zeal). The D.C. Rules applied to the remaining matters, in which Burke violated Rules 1.5(a) (unreasonable fee), 1.5(b) (failure to provide fee agreement), 1.15(a) (failure to keep records and commingling), 1.15(b) (failure to keep client funds in a trust account), 1.16(d) (failure to return unearned fees and client files), 7.1(a) and 7.5(a) (misleading communications concerning a lawyer's services), and 8.4(c) (dishonesty). In three of the matters, Burke engaged in the unauthorized practice of law in violation of D.C. Rule 5.5(a).

The Office of Disciplinary Counsel compiled the foregoing summaries of disciplinary actions. Informal Admonitions issued by Disciplinary Counsel and Reports and Recommendations issued by the Board on Professional Responsibility are posted at www.dcattorneydiscipline.org. Most board recommendations as to discipline are not final until considered by the court. Court opinions are printed in the Atlantic Reporter *and also are available online for decisions issued since August 1998. To obtain a copy of a recent slip opinion, visit www.dccourts.gov/court-of-appeals/opinions-memorandum-of-judgments.*

To Innovate Pro Bono Help, Former Clients Show the Way

By Jeremy Conrad

Zachary Wimbish struggled with addiction for 38 years. After moving to North Carolina in 2021 and getting clean, he sought custody of his two children, whose mother resided in the District and struggled with her own issues.

Wimbish had difficulty securing representation, which is not unusual for individuals who have a criminal record, a history of domestic violence reports, or difficult facts. Wimbish's past experiences with the criminal justice system also left him skeptical.

"I used to always think that the white man was trying to take my kids away," says Wimbish, who is Black. "If I go to court they may remove my kids from their mother's house, but they might not put them in my custody because I've been to prison. I said, they're not going to give me no kids."

Wimbish found his way to the D.C. Bar Pro Bono Center's Jenadee Nanini, managing attorney of family law and immigration, who pushed back against these preconceptions and, over time, won Wimbish's confidence. Nanini took his case, and Wimbish's children now live with him in North Carolina.

Wimbish's relationship with the Pro Bono Center did not end there, however. He is now a board member of the center's newly established Client Advisory Board (CAB), which aims to improve pro bono efforts through feedback from the communities being served.

A SEAT AT THE TABLE

There has long been an understanding that Pro Bono Center programs could be enhanced through the introduction of community voices to guide their implementation. In 2024 Gabriella Lewis-White, the center's director of pro bono legal services, and staff identified past clients who might be willing to serve on an advisory board. Seats on the newly formed board filled quickly with individuals like Wimbish who have been helped by a variety of Pro Bono Center programs.

"The main goal is to hear the voices of the people we serve," says Nanini. "We get tunnel vision sometimes because we are so busy working on our mission that we rarely have the space and time to have a truly two-way conversation where we hear back from our clients — understanding what works, what doesn't, and where there are gaps in services. That was at the center of our efforts on this project … to ensure that we listen to the people we serve, and that we are giving them a voice and a seat at the table."

The Pro Bono Center compensates CAB members for their time and provides a stipend for

ABOVE AND RIGHT: *D.C. Bar Pro Bono Center staff and members of the Client Advisory Board strategized ways to provide holistic services to the community, including leveraging their connections with various entities.*

transportation, an acknowledgment that their contributions are valued, Nanini says. Staff members also undertook an analysis to ensure that participation would not impact members' income or eligibility for public benefits.

After operating guidelines were established, the inaugural board, made up of 10 former Pro Bono Center clients, convened for the first time in August 2024 at the Bar's headquarters. Wimbish attended virtually.

Also sitting on the board is Bernita Paige, who sought advice from the Pro Bono Center in January 2024, when she was looking to expand services offered by the Consumer Advocate Network (CAN), an organization committed to empowering District consumers seeking mental health and substance abuse services. "In my 20s I was studying pre-law to be a paralegal," says Paige, director of advocacy at CAN. "So, the law field and advocacy, counseling, and mentoring have been a passion of mine."

Paige's commitment to and familiarity with the struggles of people in crisis in the District made her an early candidate for CAB. Paige says she agreed to take the position because the board's goals reflect her own efforts to empower CAN's clients. With her deep contacts in the District government and service organizations, Paige's contributions to CAB are particularly meaningful.

Paige says she left the first CAB meeting with valuable information she could take to her clients about resources and services available on top of legal help.

Wimbish says that he is there to listen and provide insights where he can, but his ongoing work at improving himself and supporting his children sheds light on the pressures experienced by pro bono clients after their cases are resolved.

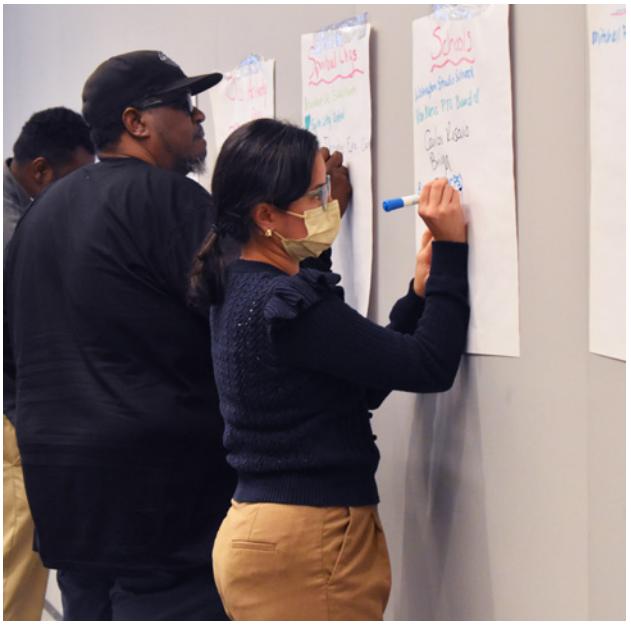
"This is my first time being a parent," Wimbish says, his voice cracking with emotion. "I was told that it's a full-time job, but I was told wrong. It's more than a full-time job; it's constant, and I can get overwhelmed."

"It gets hard sometimes, and I'm never going to give up, but I just think that maybe I could get some kind of support … sure, getting the kids back is good, but learning how to take care of them is another job, too," Wimbish adds.

This perspective on the legal and nonlegal needs of clients helps inform the Pro Bono Center's efforts on where it can offer additional assistance or guidance. Wimbish says that parents, for example, could benefit from resources committed to helping them with both parenting skills and emotional and psychological challenges, suggesting a holistic approach to addressing their problems.

AGENTS OF CHANGE

CAB is designed to help ensure that the Pro Bono Center appropriately addresses its clients' needs but, even at this early juncture, it's clear that the board can also help empower individuals to launch their own service efforts. For example, Kiara Williams, one of CAB's youngest members at 28, is already forming her own organization to provide services and support to community members.



Williams sought help from the Pro Bono Center for a custody matter two years ago. Like Wimbish, Williams says that the trust formed in that representation, as well as the Pro Bono Center staff's interest in her well-being throughout the process and beyond, were as important as the legal advice and representation she received. Today her efforts are focused on providing holistic services to people in her community.

"I am building an outreach program for my community, so having this support system and these resources is beneficial because the community I'm reaching out to, I see growth in, and the D.C. Bar is definitely a gateway to that because there are a lot of legal obstacles that hinder a lot of people and they don't have the resources, or don't even know who to ask," she says.

In 2022 Williams incorporated her nonprofit, Oath for Growth, dedicated to creating better opportunities for young people. The organization hosts brunches, art events, cookouts, and back-to-school events as a way of "creating a bond where people can trust each other enough to make a village," Williams says. "The unity in our community is definitely a problem, so that's part of what the events are about. I also wanted to pick people's brains about … what kinds of resources they need."

Williams says that as a result of her participation in CAB, she is increasingly able to direct individuals in need to the right place. "I want to be able to help, so being on this [board] has given me an opportunity to be a resource for my community," she says.

"I just want to see change, not just for myself but also for my community," Williams says. "I don't like walking outside and being uncomfortable. I'm an empathetic person, so I understand the person who just robbed this lady; I understand the man who is stealing from the store. I understand them, but they are hurting someone to have a temporary satisfaction."

Change is what CAB is about — an innovative and forward-looking approach to serving the community. At a meeting in December, CAB members drew up an impressive list of legal organizations that they were connected to, from school and religious groups to government agencies and nonprofits, that will form the basis of future efforts toward outreach and collaboration. CAB is still in its early days, but the determination and vision of the board members are promising.

As Williams puts it, "Comfortable is not where it's at. There's beauty in discomfort. There's beauty in change."

Reach D.C. Bar staff writer Jeremy Conrad at jconrad@dcbar.org.

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Moving From One Private Law Firm to Another): "Typically, a lawyer planning to change law firms will be interested in having the clients to whom the lawyer has provided professional services accompany him/her to the new law firm, and may want to make arrangements to that end *before* the actual departure." (Emphasis added.)

9 *See* also Rule 1.16(d), pursuant to which a lawyer terminating a representation must give "reasonable notice to the client" and allow "time for employment of other counsel." As such, if Departing Lawyer will no longer be representing the client going forward, this rule requires that he provide sufficient notice for the client to secure alternative representation.

10 *See, e.g.*, LEO 333 (Surrendering Entire Client File Upon Termination of Representation); LEO 357 (Former Client Records Maintained in Electronic Form).

11 Similarly, Rule 1.16 (and other rules) mandate that Old Firm expeditiously transfer all client unearned funds in its IOLTA or other trust account to the departing client or, at the client's direction, to Departing Lawyer. *See also* Rule 1.15 (Safekeeping Property); LEO 293 (Disposition of Property of Clients and Others Where Ownership Is in Dispute); Singer, Saul Jay, "In Trust Accounts We Trust" (*Washington Lawyer*, March 2010).

12 LEO 372 (Ethical Considerations in Law Firm Dissolutions).

13 *See* D.C. Rule 5.6, Comment [2]. *See also* LEO 325 (Agreement to Distribute Former Firm Profits to Partners From Former Firm Only as Long as They Continue to Practice in New Merged Firm: Rule 5.6(a)); LEO 241 (Financial Penalty Imposed on Departing Lawyer Who Engages in Legal Practice in D.C. Area); LEO 368 (Lawyer Employment Agreements — Restrictions on Departing Lawyer Who Competes With Former Firm).

14 LEO 221 (Law Firm Employment Agreement).

15 Nonetheless, the lawyer is required to take substantive steps to protect client confidentiality in these circumstances, including characterizing the deadbeat client as "John Doe" and filing the fee claim under seal. *See* Rule 1.6, comments [26], [27].

16 *See* Rule 1.16(i). *See also* LEO 379 (Attorneys' Charging Liens and Client Confidentiality). As per LEO 250 (Duty to Turn Over Files of Former Client to New Lawyer When Unpaid Fees Are Outstanding): "It seems clear to us that retaining liens on client files are now strongly disfavored in the District of Columbia, that the work product exception permitting such liens should be construed narrowly, and that a lawyer should assert a retaining lien on work product relating to a former client only where the exception is clearly applicable and where the lawyer's financial interests 'clearly outweigh the adversely affected interests of his former client.'"

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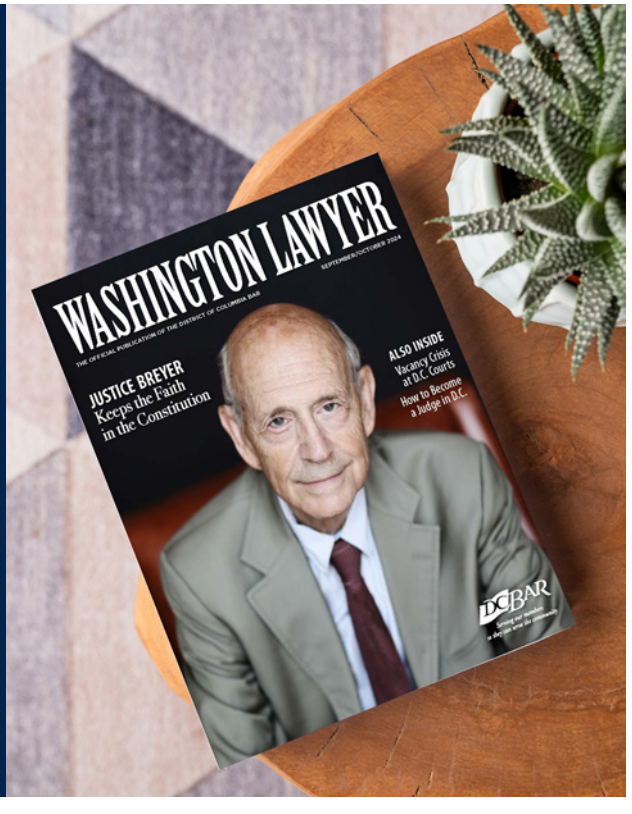

Words to Live By

By Paul Kiernan

Black's Law Dictionary is recognized as the premier expositor of legal terms, and as the gift that is always welcome at graduation.

Now in its 12th edition, the dictionary is lovingly edited by Bryan A. Garner, our country's leading authority on legal writing and lexicography — and himself always welcome at graduation. But even the thorough efforts of Garner and his dedicated editors and contributors have left holes, missing concepts that practicing lawyers grapple with each day. A sample:

attorney–family privilege *n.* Lawyer's right to withhold information about what the law actually requires when drunk uncle at Thanksgiving rails about a constitutional right to print his own currency and, dammit, Safeway has to accept it as legal tender. Privilege also extends immunity to lawyer who is bombarded with questions from cousin about starting a doggie daycare.

blew-sky law *n.* Sinking feeling that you missed a deadline with that IPO filing.

blockchain block *n.* 1. A string of bundled articles about cryptocurrency that you have read but have been unable to retain for longer than a day. 2. Slang term for inability to remember concepts that you know you should care more about, like quantum computing, prebiotics, and Dua Lipa.

doesomebody *n.* Person needed to locate opposing party's document production on litigation-support software, as in "Doesomebody know how we coded the hot docs?" *interj.* Frustrated cry of senior partner as e-filing deadline nears. *Cf.* **whathe**.

duel-factor authentication *n.* Series of escalating challenges that the IT department requires personnel to conquer before being granted access to information stored in the cloud. Not to be confused with "dual-factor authentication," these challenges do not stop at two and are designed to force users to surrender short of access:

> "Our firm's new duel-factor authentication wore me down with its ninth request — for the name of the first pet owned by my childhood friend's mother."
>
> *Cf.* **captcha gotcha**.

folderitis *n.* Debilitating condition marked by the need to have each piece of paper placed in a separately labeled manila folder. And then have those folders put into a larger accordion folder. And then have those accordion folders stored in a bucket folder. And then have everything shredded.

lateral hard-pass *n.* Hiring partner's strong rejection of résumé that shows unexplained hiatus of 24–36 months and refers to "good behavior."

litigation bag *n.* Known in the civilian world as a "sample case," this fine piece of luggage is a combination briefcase-supply room-rucksack-recycling bin-first-aid kit. Typical contents include manila folders, a rulebook, four packs of yellow stickies, laptop cord, three ketchup packs, and fragments of research. Gash on end.

oblitus bibliotecha *n.* Latin: "forgotten library." Refers to the strange sensation that we used to have a library here, didn't we? Like with newspapers on long sticks, and F.R.D. and Tax Notes, and I think there was a world atlas and something called Shepard's? In the space where we now have a café and microgreens salad bar?

pen envy *n.* Jealousy or resentment triggered when you see that another firm's conference rooms are stocked with better supplies than yours. Pen envy is sometimes followed by **pad swipe** or, in extreme cases, **coffee mugshots** when an attorney tries to abscond with another firm's branded thermos.

prebill *n.* 1. Collection of time entries and expenses that needs to be crafted into an invoice. 2. The larval stage of adult invoices. *v.* To engage in creative writing to curate an invoice that meets the client's billing requirements:

> "Tom prebilled the hell out of the *Anntee* matter. He ripped apart the associate's block billing like he was a Lego master. And his expense entries were prebilling at its best: 'snacks' is genius!"

re-write-down *n.* 1. Intermediary step between time entry and final bill during which lawyer modifies description of the work that's been performed in order to make invoice more collectible. 2. The thin line between historical fiction and science fiction.

Rule in Favor of Perpetuities *n.* A very common law rule prohibiting the accurate recollection of concepts first encountered in property class. Did the guy on the horse get to keep that stupid fox? Why did Shelley have a case? Can a possibility of reverter become impossible?

turkey contract *n.* Not to be confused with "turnkey contract," this term refers to the implied-in-law agreement that if you are the guest at a meeting or deposition and your host orders you a turkey sandwich, you agree to eat it without complaint. See also CHIPS Act (no one at this deposition better eat the salt-and-vinegar ones).

work–life balance *n.* Fleeting — some would say mythical — state where an attorney's professional obligations and goals coexist in harmony with the rest of the universe. Happened for two days last May.

zoomies *n.* That restless feeling after 17 minutes in a Zoom meeting. First detected in 2020, the condition was later surpassed by the emergence of "I'm not camera-ready," and "I'll be right back but you go ahead."

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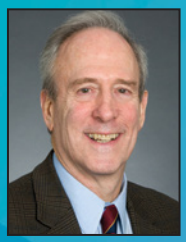
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