



Summit Addresses Issues Impacting Profession, Academy

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Thomas Clay ([Click here to access video](#))



Tammy Patterson



Justice Patricia Timmons-Goodson



Bill Davis

The North Carolina Bar Association, in its unique capacity as the volunteer organization representing all parts of the legal profession in this state, convened a summit on Friday, Sept. 10, to discuss changes in the profession and how those changes affect all North Carolina lawyers, law schools and law students. Almost 100 participants attended.

By design, “Preparing Lawyers For Tomorrow’s Profession: The Future Is At Hand” produced far more questions than answers. The underlying purpose of the summit, stated NCBA President Gene Pridgen in his opening address, was “to begin the dialogue and see where it takes us.”

Factors driving the need for discussion at this time include the pace of change in the profession, the recent downturn in the economy and the growing number of newly licensed North Carolina lawyers who are entering a profession that is clearly in a state of flux.

“The change is real and probably here to stay,” Pridgen noted. “We are all ultimately in this together” as the profession remains “dependent on the continuity of talent” that our law schools produce. Law schools, for their part, remain dependent on the health and well-being of the profession to provide employment opportunities for their graduates.

Pridgen called upon President-Elect Martin Brinkley and Dean Jack Boger of the University of North Carolina School of Law to co-chair the event. Boger serves as chair of the NCBA’s Law School Liaison Committee.

They were tasked with bringing together “the best minds of the academy and the profession” for a daylong discussion on various issues affecting the practice of law and the delivery of legal education at what Pridgen described as “a critical juncture in our profession.”

The roster of presenters and participants included a cross-section of stakeholders from law schools, law firms large and small, bar groups and agencies, clients and corporate counsel, young lawyers and the judiciary. All seven North Carolina law schools were represented, as were trial courts, appellate courts, the State Bar and the N.C. Board of Law Examiners.



Rob Harrington



David Fountain

Following opening remarks and introductions, nationally known consultant Tom Clay of Altman Weil presented the first keynote address, “The Changing Dynamics of the Legal Profession: An Overview.” He stressed the need to listen to “facts,” as opposed to “noise,” in analyzing the change that is taking place in the profession.

[Access video of his presentation here.](#)

[Access his PowerPoint presentation here.](#)

Clay cited 2009 survey data indicating that most lawyers believe the economy to be either an accelerator (69%) or game changer (26.5%) for the legal profession. “Few think we’re going back to normal,” Clay said. “Change is here: the pace of that change is the issue.”

He referred to law schools and law firms as “competing interests,” adding that “we need to figure out ways to get over that.”

Over the 25-year period leading into the recession, law firm profitability increased “enormously” as did the rates law firms were able to charge.

“Lowering the delivery cost will be the big issue,” Clay stated. “The most important issue is service delivery efficiency: volume to value.

“If you don’t exhibit the value, you’ll be gone.”

The good news, Clay added, is that clients are pleased with the service they have received: 62% are completely satisfied and 33% are mostly satisfied.

In other words, Clay concluded, “you’re not going to hell and your clients don’t hate you.”

The focus of the summit then shifted to the direct relationship between legal education and the profession with a panel discussion titled “Bridging the Gap Between Law School and Law Practice: Perspectives from the Front Lines.”

Tammy A. Patterson, CEO and president of the National Association for Legal Career Professionals Foundation, or NALP, in Washington, D.C., moderated a panel comprised of Justice Patricia Timmons-Goodson of the N.C. Supreme Court; David Fountain, Vice President in the Legal Department of Progress Energy Service Company; Robert E. Harrington of Robinson, Bradshaw & Hinson in Charlotte; and William K. Davis of Bell, Davis & Pitt in Winston-Salem, who serves as chair of the N.C. Board of Law Examiners.

Key points and statements derived from the panel discussion, which were prompted by questions from the moderator, included:

- The need for young lawyers to understand how the profession works and how the business of law works.
- The expectations law firms have for new lawyers have changed much over the past two

decades. Firms are still looking for lawyers who (1) are good analytical thinkers, (2) are able to assess problems, (3) can organize themselves, and (4) have the ability to write about the problem in ways the client can understand.

- Fear over inability to find a job can lead to a lack of self-confidence for young lawyers.
- Judges continue to be teachers and expect to be teachers, even as caseloads and public expectations are increasing.
- Lawyers who came out of law school 35 years ago were entering a service-driven profession, whereas lawyers coming out today are entering a business-driven profession.
- The thing that provides value in a lawyer is judgment, which cannot be taught but can be learned and refined. Clients are looking for lawyers who will be trusted counselors.
- The economy is driving this discussion: Bar groups can talk about it but law firms have to make decisions about it.
- North Carolina law school are admitting too many law students. The supply is greater than the demand for new graduates: “We need to be thinking about how to curb the inventory.”

The afternoon session began with a keynote address by Deborah Epstein Henry of Philadelphia, founder and president of Flex-Time Lawyers LLC, on “Law and Reorder: New Models of Legal Practice and Career Paths.” Flex-Time is a national consulting firm that focuses on work-life balance and women lawyers that Henry founded in 1999.



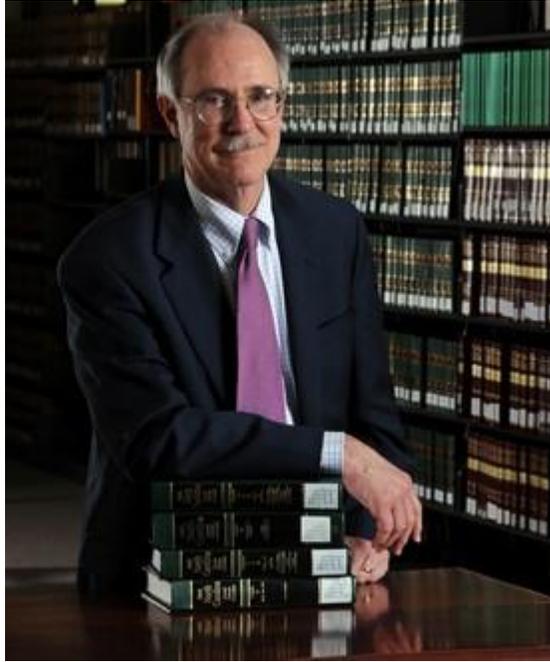
Deborah Epstein Henry ([Click here for video](#))



Martin Brinkley



Blake Morant



Jack Boger



Raymond Pierce

Her presentation, which mirrored remarks she provided at the recent annual meeting of the National Conference of Bar Presidents in San Francisco, focused on innovative approaches to the delivery of legal services by lawyers who maintain non-traditional office and practice models.

[Access video of her presentation here.](#)

[Access her PowerPoint presentation here.](#)

She also discussed innovative approaches to measuring the performance of young associates, apprenticeship programs, and the ongoing challenge of determining value

based on the value of a matter, the measurement of value of profitability to the law firm, and the measure of value to the associate.



Gene Pridgen

Henry's presentation set the stage for three breakout sessions: "Challenges for Law Firms and the Profession," "Challenges for Law Schools," and "Challenges for Law Students and Young Lawyers."

Martin Brinkley moderated Challenges for Law Firms and the Profession, a discussion which began with a question regarding who will train young associates or, as Brinkley stated, "Who will pay for the apprenticeship?" NCBA Board of Governors members Ann Anderson of Pilot Mountain and Jon Heyl of Smith Moore Leatherwood in Charlotte served as co-reporters for the breakout. The breakout discussed the following topics:

- With the dramatic increases in associate compensation over the last 15-20 years, law firms face pressure to break even in the first year or two after an associate joins the firm. Time spent training new associates is often time not spent on billable matters, which also increases the firm's investment. The expectation is that in two to three years the associate will begin contributing to the profitability of the firm.
- The profession is failing to inculcate values of ethics and civility to the fact lawyers who have recently entered the solo market after being laid off are often ill-equipped to run firms or form partnerships.
- Effective writing skills are lacking with many young lawyers.
- Who is the profession's gatekeeper? How can law schools be prevented from enrolling more and more students if they remain profit centers for their respective universities and stakeholders? Law school debt, often coupled with carryover debt from undergraduate degrees, is a major concern, especially when young lawyers are without a job or, subsequently, a mentor.

In response to these and other concerns, Brinkley surmised that three key elements must be addressed in regard to young lawyers: the provision of apprenticeships; the inculcation of ethics, professionalism and civility; and training focused on the business of managing the law firm.

Dean Blake Morant of the Wake Forest University School of Law moderated the breakout session on Challenges for Law Students and Young Lawyers. Not surprisingly, discussion at the breakout showed that young lawyers are greatly affected by the issues raised by the profession and law schools. Three primary questions were discussed:

- What is right about young lawyers?
- What is wrong about young lawyers?
- What are the pressures young lawyers face that cause the first two points?

The issue of student debt – undergraduate and law school loans– is of serious concern as many new lawyers are struggling to make loan payments with a decrease in pay and work availability in the job market. Mandatory debt counseling was a popular suggestion for law schools to consider providing to law students to help with the transition and management of not only their debt but financial counseling in general.

Many recent law school graduates are struggling to find work as a lawyer, especially in established large firms. Many in the group suggested that the supply of lawyers is outweighing the current demand for attorneys. Larger firms are hiring young lawyers as paralegals, allowing them to enter the profession while providing the firm with highly qualified and motivated paralegals.

It was suggested that law students should also be encouraged to explore other options and uses for law degrees outside of the traditional fields of practice, while others suggested that professional career training and counseling be made mandatory in law school to help law students understand how they can best utilize their education.

The lack of writing proficiency among young lawyers was discussed. One bar examiner remarked that there would be a higher fail rate on the exam if grammar and writing ability were judged along with a substantive understanding of the law.

The generational gap was discussed with the thought that young lawyers today have a different skill set than the previous generation(s) of lawyers. An increase in technology, the ability to be proficient at multi-tasking, the use and application of social media provide a different type of lawyer. These young lawyers should, however, be aware of this generational gap and both sides should understand the differences, then and now, when it comes to what professionalism means.

Dean Boger moderated the discussion on Challenges for Law Schools. He began the discussion by outlining four factors that law schools have to consider when examining changes they should consider in response to the changes in the legal profession: curricula, faculty, cost, and number of students.

Concerns were voiced by practicing attorneys that the historical practice of attrition is no longer happening – you simply are no longer, as a student, told that perhaps this isn't the profession for you – the effect of which may result in a greater number of lawyers graduate with a lower average competence. The challenge is that in some cases, less competent graduates ultimately turn to criminal defense or other public service positions, reaching parts of our population that others may not consider.

As the discussion turned from attrition to capability, the question of curricula comes into play. The general consensus is that law schools have been training large firm lawyers because that's what the market had demanded for the past 20-plus years. However, with economic changes, positions in large firms are no longer plentiful. Do law students need to be provided more clinical opportunities or practical skills?

The challenge is that the diversity of the profession is increasing. Should law schools provide distinct career tracks not unlike medicine and other fields do, thereby diversifying the supply of attorneys to help answer the demand in multiple fields and prevent market saturation?

Does the sheer quantity of attorneys inundating the market affect the quality of training? Academic affiliates commented that the screening process has been intensified, and that perhaps the trouble with competency among lawyers should be addressed as a bar passage issue. But no one entity can be all things to all people at the same time.

What begins to be revealed is a continuous cycle:

- Law schools revise curricula based on the demands of the market.
- New faculty members are required to provide adequate training and meet the demands of the new curricula; nuts and bolts training falls by the wayside, and the focus is pushed to substantive content.
- A greater number of students are accepted, since tuition funds the expanding program.
- A greater number of students matriculate than historically, flooding the market.
- The market demands stronger training, based on the changing competency requirements, driven by the availability and type of jobs. . . and the cycle begins again.

How do you teach what the profession itself has a hard time defining? Are we giving our students enough information about ethics and professionalism? Are we creating lawyers who we expect to have the innate obligation to serve the public, the profession and their community that prior generations instilled in the population of lawyers through mentoring?

Participants then reconvened to discuss the highlights of their conversations in a session moderated by Dean Raymond Pierce of the North Carolina Central University School of Law. The reporting session gave law school deans and their associates a chance to respond to the concerns which had been addressed and also to outline various initiatives that are under way at their respective law schools.

The day concluded with a closing conversation by the summit co-chairs and closing remarks by NCBA President Gene Pridgen.

Dean Boger noted the widespread concerns among summit participants over the relatively weak writing skills of recent law graduates, including grammar, critical thinking and organization, reporting that UNC and other law schools were moving to strengthen their writing programs. He also commended the mentoring efforts that had been begun by Campbell and Elon, among other N.C. law schools, and lamented that greater exposure of law students to practicing lawyers while in law schools could effectively combat "the sense of prolonged adolescence" among some law students who "live in a world of their contemporaries who don't interact very much with adults."

Brinkley looked to the future, to the inevitable question from a summit participant: “What did you do about that thing we spent a day talking about?” In other words, what can be done to help law schools produce graduates who are “immediate trusted advisors who can write?”

And what, as always, can the North Carolina Bar Association do to facilitate both the discussion and solution, as it did throughout the day on Sept. 10, 2010?

“I certainly learned much by coming here today,” Pridgen concluded. “The issue is more complicated, more nuanced than I realized.”

“There is power in dialogue. There is power in trying to understand what the real facts are. And there is power in the good intentions of those who care about our profession and come together to talk about it.”

“We have some challenges ahead of us. When have we not?”