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Pessimism for the future: Given a second chance, half of the state's attorneys would not become lawyers

By Nancy McCarthy
Staff Writer

California attorneys are "profoundly pessimistic" about the state of the legal profession, and its future, and only half say if they had to do it over, they would become lawyers. In a survey conducted by the Commission on the Future of the Legal Profession and the State Bar, many lawyers said they believe:

- Their colleagues compromise professional standards as a result of business and economic pressures;
- Ethical standards leave something to be desired;
- There are too many lawyers in California and they charge too much;

More than half also think attorney advertising has contributed to a decline in professionalism.

"As California bar members view the future, the picture they see is far from rosy," says Deborah R. Hensler, director of the Institute for Civil Justice and RAND, which conducted the survey.

"A court system struggling to deal with increasing demands from the public in the face of declining financial resources; a public increasingly aware of legal remedies for its problems but without the wherewithal to pay for legal services; and a profession struggling to deal with the challenges posed by growth and social change."

Fully two-thirds of the state's attorneys believe lawyers compromise their professionalism as a result of economic pressures. Only 41 percent think the ethical standards of most lawyers are high. Sixty-three think there are too many lawyers, and 43 percent think fees are too high.

Not surprising, but a grave concern

Pat Phillips, the Los Angeles attorney who chairs the commission, said the pessimism entrenched in the legal profession, although not a new phenomenon, "should be of grave concern. It is one of the problems the commission is really looking at - what can we expect, how is the practice of law going to get better. We can't have a profession where half the people aren't happy."

The unhappiness is not surprising, added State Bar President Don Fischbach. "Most of us believe we're doing a good job and benefitting society, but nobody likes us," he said.

“We have threats of malpractice, other people tell us when and how we can do things. This all adds to a tremendous burden. So when people make those comments or a study shows people are not happy with the legal profession, I understand it.”

RAND conducted the survey for the commission earlier this year. Questionnaires were sent to 5,000 randomly selected attorneys, and nearly 2,700 responded.

Designed to elicit attorneys’ perceptions of trends in the legal profession and their views on how the bar might best meet their needs and those of the public in the future, the survey produced these highlights:

- Nearly two-thirds (64 percent) of California lawyers believe collegiality and civility will decline in the future.
- 78 percent believe the practice of law will become increasingly stressful. Although more attorneys will want to work part-time, three-fourths of those surveyed think economics of law practice make that a difficult prospect.
- Two-thirds believe attorneys will leave the law because of dissatisfaction with their jobs.
- Sixty-nine percent believe prospective attorneys should be required to pass a class on professionalism before they are admitted to the bar. Half believe new attorneys should complete an internship, but only one-third believe they should be required to act as mentors to young lawyers.
- While 91 percent think it is important for the bar to conduct activities related to attorney discipline, only 20 percent believe the bar does a good job of disciplining unethical attorneys.
- Just over half (54 percent) believe individuals and institutions will rely increasingly on the courts to solve society’s problems, and the vast majority (89 percent) think criminal cases will take up an increasing share of court time and resources. Eighty percent think alternatives to litigation will be used increasingly to solve disputes.

Perhaps surprisingly, the survey found no evidence of widespread dissatisfaction with current State Bar activities or opposition to its policies.

In fact, more than 90 percent feel that discipline and admissions should continue to fall within the structure of a unified bar. Most of those surveyed expressed satisfaction with the range of services and benefits the bar currently provides.

In the future, they want the bar to work to improve the administration of the justice system and educate the public; enhance professionalism through training, regulation of professional practices and discipline; and promote increased access to justice.

And while they look to the bar to protect them from increased competition from non-lawyers, most of those surveyed oppose policies and programs that would impose new burdens on them.

Fischbach said he is pleased that most lawyers believe the bar serves a useful purpose and noted

that the “no-new-regulation” message came through clearly. “I am not about to impose rules and regulations which would be another burden on attorneys” he said.

The survey found strong disapproval of attorney advertising, with more than half of those questioned saying they think it has contributed to a decline in professionalism and has not made it easier for average citizens to find a lawyer when they need one. Half also expect the bar to regulate attorney advertising to the extent permitted under the constitution.

In other trends, those questioned believed the number of lawyers who practice alone or in small firms will rise, and non-attorneys will provide more services than they do now. They expect new technology to enhance productivity and improve the quality of the legal product.

The survey’s findings will be used by three subcommittees of the commission - those dealing with the structure of the profession, services for the public and professionalism, and services for lawyers. They will report to the commission, which is expected to present its final recommendations to the Board of Governors in February.

The Legal Profession	Agree	In-between	Disagree
1. Attorneys are compromising professionalism as a result of business and economic pressures	67%	18%	15%
2. The ethical standards of most lawyers are high	41%	34%	25%
3. Attorney advertising has made it easier for average citizens to find attorneys	27%	24%	49%
4. Attorney advertising has contributed to a decline in attorney professionalism	54%	22%	24%
5. Lawyers’ fees are too high	43%	29%	28%
6. There are too many attorneys in California	63%	23%	14%
7. If I were to pick a career, I would still choose to become an attorney	52%	19%	29%

Expectations of the future	Agree	In-between	Disagree
1. Attorneys will engage in less public service, including pro bono activities	43%	31%	26%

2. Lawyers' ethical standards and practices will decline	31%	34%	35%
3. Collegiality and civility will decline	64%	24%	12%
4. Attorneys' professionalism will decline	43%	34%	23%
5. The public image of the legal profession will continue to decline	44%	42%	14%

What the Bar should do: Attorney training	Agree	In-between	Disagree
1. Provide continuing education programs in specific practice area	60%	27%	13%
2. Important to conduct MCLE activities	58%	19%	23%
3. MCLE is likely to improve attorney competence	40%	21%	39%
4. New attorneys should be required to complete an internship	49%	18%	33%
5. It should be a professional obligation of bar members to act as mentors to law students/ new admittees	33%	23%	44%
6. Assist attorneys in incorporating new technologies into their practices	53%	29%	18%

What should the bar do: Disciplining attorneys	Agree	In-between	Disagree
1. Important to conduct activities related to attorney discipline	91%	5%	4%

2. Current discipline system does a good job of disciplining unethical attorneys	20%	36%	44%
3. Attorney discipline system should have a mechanism to identify and address client relations problems	50%	22%	28%
4. All disciplinary proceedings should be open to the public from the time a disciplinary complaint is filed	18%	16%	66%
5. Favor random audits of attorney trust accounts	37%	28%	35%
6. Attorneys who have been disbarred for disciplinary offenses should never be readmitted	28%	23%	49%

Practice Characteristics	
Type of Practice:	
For profit	83%
Public service/non-profit	15%
Other law-related	2%
Number of attorneys at primary employer:	
0 - 1	25%
2 - 5	23%
6 - 50	28%
51 - 500 +	24%
Avg. number of work hours at practice of law per week:	
0 - 40	39%
41 - 55	43%
56 - 70	17%
71 +	1%

1993 income from practice of law:

0 - \$ 24,000	40%
\$25,000 - \$74,000	42%
\$75,000 - \$124,000	17%
\$125,000 +	1%

Year of admission to Bar (in U.S.)

Before 1960	6%
1960 - 1969	10%
1970 - 1979	33%
1980 - 1984	16%
1985 - 1989	19%
1990 - 1994	16%