

CONCLUSION

By Evan Gutman CPA, JD (2002)

After more than six years of research and work on this topic, I have determined that the manner in which this nation's legal profession should function is as follows. Objective criteria and qualifications for entrance into the profession will be maintained, while subjective assessment will be eliminated to the extent possible. The requirement of receiving a three year law degree from an ABA law school will essentially remain unchanged, but there will be no differentiation in the number of credit hours required for graduation between part-time and full-time law students. Currently, part-time students are required to have more class hours for graduation in comparison with full-time students, which is ridiculous. The equalization of credit hours required will allow more people to attend law school on a part-time basis.

A moral character review process will be maintained for admission to the Bar which will for the most part be similar to that of all other professions. Typically, it will entail inquiring whether the individual has ever been convicted of a crime, or disciplined by a professional Board. Those individuals who correctly answer in the negative, will pass the character review and no admissions interview will be required. That is how virtually all other professions currently work. It is the standard our society has set for assessing each other. For the most part, if one person asks another "Have you ever been convicted of a crime?" and the person answers "No," then that person is typically considered an alright individual.

Individuals who have been convicted of crimes will attend a Bar admissions interview at which time further information related to the conviction may be obtained and determinative of whether to grant admission. The focus ultimately will be on convictions and not much else. It will be virtually impossible for an individual who has been convicted of a serious crime to gain admission to the Bar. I support a great deal of freedom and leeway for individuals to express themselves, but have absolutely no tolerance for individuals who resort to force or violence.

The MBE which is currently much too easy to pass will be made more difficult. The number of questions will be doubled, and the number of topics expanded. A large portion of the exam will be dedicated to American history. This will further the general public's interest in ensuring that we do not have too many dumb attorneys running around, as is currently the case. It is well known that law and history are closely related. There will be no limit on reexaminations, as it is a treasured American value that "if you don't succeed at first, try, try, again." Partial credit will be given for sections passed during one sitting, so examinees may concentrate their study efforts on individual subject areas. This is similar to how the CPA exam currently functions, and the CPAs have always been smarter than the attorneys.

Since the exam will be longer and tougher, but with partial credit given for sections passed, only the most exceptional examinees will pass the entire exam in one sitting. Typically, two or more sittings will be required. The Essay exam will be eliminated because it allows the grader to subjectively assess the Applicant's attitude and beliefs based on how and what they write. In its' place, will be an objective examination on State law.

Law student registration will be eliminated. It's never worked and was just designed to allow the State Bars to begin controlling the potential lawyer at an earlier stage. Probationary admissions will be eliminated. You're either in or your out. No one wants to be represented by a half-attorney whose law license is hanging on a thread. Application fees to the Bar will be substantially reduced from their current exorbitant levels since lower costs will be incurred as a result of the curtailed character review

process. Lawyer assistance programs currently utilized by the State Bars to learn the vulnerabilities of their attorney members, will be eliminated. State Bars are licensing, not mental-help agencies.

Most importantly, licensed attorneys and Judges will be held to a higher standard of moral character and ethics in comparison with the Nonattorney Bar Applicant, rather than the beneficiaries of a lower standard as is currently the case. By equalizing the character review process between the initial application, and annual renewals of licensed attorneys, and then also subjecting licensed attorneys to the ethical rules of conduct, such is an inevitable result. The focus on disciplining licensed attorneys and Judges who engage in misconduct will be on the manner in which they represented their clients.

Considerations of how their representation affected financial interests of the State Bar will be ignored. Disciplinary committees will avoid using ambiguous, vague and subjective phrases such as “prejudicial to the administration of justice” during the disciplinary process, since they are just a transparent way of disciplining an attorney they don’t like, even though the attorney did nothing wrong.

The focus will be on ensuring the litigants receive brave, competent and zealous representation. The detrimental effect of such on the economic interests of other attorneys or the State Bar will be a negligible consideration. The State Bar will be relegated to functioning primarily as a licensing and disciplinary agency, rather than a political organization. Correlated with this plan, UPL prohibitions will then serve a vital and greatly needed protection to the general public. As such they will be supported and respected by the general public, as well as myself.

The result of the foregoing will be that the Courts will have the general public's unwavering respect and trust. Their decisions in all other areas will be virtually unquestioned. That’s the way I see it. And if I succeed, then that's the way it's going to be.