

SPECIAL SECTION

Boston and New England

A Bar Association With An Illustrious History

The Editor interviews John J. (Jack) Regan, President of the Boston Bar Association and a partner in the firm, Wilmer Hale LLP.

Editor: As an attorney with an active practice and a who's who of *Fortune* 500 clients, how have you always made bar association activities a major priority?

Regan: I've always tried to balance my practice with pro bono work, bar association activities, and community service, which is part of my firm's oxygen. This takes discipline on my part, but I think it's well worth the effort.

Editor: Massachusetts courts have been perennially underfunded. What efforts have been undertaken during your term to stimulate the legislature to allocate more resources?

Regan: We've constructed a timeline of advocacy activities that goes throughout the entire budget year. Initially, I sat down with the Chief Justice of the Supreme Judicial Court to understand from her perspective the history of funding (and underfunding) of the courts, what services and courts have been most impacted, and how the BBA could be useful. From there I met with the other eight chief justices of the specialty courts, including the Chief Justice for Administration and Management of the Trial Court who oversees these specialty courts.

A major concern is the significant increase in pro se litigants. This pattern is particularly pronounced in courts like the Family Court where there are domestic relations issues that need attention, in the Housing Court where there are tenant/landlord issues, in the Land Court

where there are foreclosure issues, and in the Juvenile Court where there are behaviorally-challenged children who need individualized educational plans. We also hear from our District Courts that minor criminal matters increase during severe economic downturns.

At the BBA, we've also reached out to our seven Sections that deal with the courts and asked their members to report back to us on what they are seeing in terms of the effect of under-resourced courts on their clients and practices. Combining those reports with the findings gleaned from my visits with the chief judges, we have developed data and stories demonstrating the impact of funding cuts, which we present to the Governor's counsel to advocate for reasonable funding for the courts, prior to submission of the Governor's budget.

We will soon submit to the Massachusetts Legislature a research report setting forth our findings and positions on the court budget. I spend more of my time on court budget issues than any other public policy matter.

Later in the budget process, the BBA will involve general counsel from major companies in Massachusetts, by asking them to write letters stating the business case for reasonable funding for the courts. The BBA is co-sponsoring a symposium at Suffolk University Law School on April 26, in partnership with the New England Legal Foundation and the Rappaport Center at Suffolk, to discuss the courts' budget from the perspective of the business community. In May or June, it all comes together as the Legislature's budgetary process moves to a conclusion.

Editor: I understand your legislative agenda is tightly integrated. Can you elaborate?

Regan: Our job is to be an advocate for vulnerable constituencies that use the courts' services – such as the elderly, children, veterans, victims of crime, and the poor – and the lawyers who handle their cases. So in addition to advocating for the Massachusetts state court budget – and making clear the impact of reduced staffing levels in the courts – we advocate as well for the budgets for legal services, which support lawyers for the disadvantaged, public defenders and private lawyers who defend indigents accused of crimes, and the District Attorneys. All four of those groups require different arguments to support their cases for reasonable funding.

Editor: Tell us about your work on the diversity and inclusion front.

Regan: As you know, we are very committed to advancing diversity and inclusion. One of my predecessors set up a



John J. (Jack) Regan

Diversity Task Force whose work led to the creation of the BBA's Diversity and Inclusion Section. During the last year, the presidents of six affinity bar associations – the Massachusetts Black Lawyers Association, the Massachusetts Black Women Lawyers Association, the Asian Lawyers Association, the South Asian Bar Association, the Massachusetts Association of Hispanic Attorneys, and the Massachusetts Lesbian and Gay Bar Association – began serving as steering committee members of the BBA's Diversity and Inclusion Section, to help set the BBA's course in this area. This arrangement has led to closer relationships between the BBA and these other bar associations, and some very successful professional networking events. Discussions are now underway for the sharing of resources between the organizations and cross-participation in various activities such as substantive programming.

Through the Diversity and Inclusion Section, we also offer a mentoring program. Approximately 45 lawyers are being actively mentored by seasoned lawyers from all practices, public and private.

Editor: Have you undertaken any special programs to assist lawyers in light of the economic downturn and a changing professional landscape?

Regan: I'm glad you asked. We have an umbrella program called Lawyers in

Transition that covers three groups. First, young lawyers coming out of law school who can't find jobs, and young lawyers who found jobs but have lost them. Through a series of programs we try to provide exposure to skills that young lawyers would learn were they in actual practice. We have also made pro bono opportunities available to them, and exposed these younger lawyers to more senior lawyers who have acted as mentors for them.

Secondly, we have re-energized the Senior Lawyers Section – developing a series of programs to deal with their very different issues of transition, which often involve winding down and taking on more nonprofit and pro bono work while still practicing.

Third, we have a group that is in between – lawyers in the prime of their careers who are frozen in place or without jobs, but who would normally be moving between the public and private sectors. We have presented these lawyers with others, from various areas of the profession, to talk about what it's like working for the Massachusetts Attorney General's Office or the U.S. Attorney's Office, or being in-house counsel, so this group can at least think about how they can make connections to change jobs and what awaits them when they do so.

Editor: Have you seen a greater participation on the part of lawyers in vol-

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The Above Partner With Corporate Counsel By Providing Us With Financial And Editorial Support.

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Corporate Counsel Organization Highlights

Letter From The Chair Of The Boston Bar Association

To The Readers Of *The Metropolitan Corporate Counsel*:

Recently the Boston Bar Association released a new report, *Getting It Right: Improving the Accuracy and Reliability of the Criminal Justice System in Massachusetts*. The BBA Task Force that produced this report was appointed by the BBA's immediate past president, Kathy Weinman, and co-chaired by David E. Meier of Todd & Weld and Martin F. Murphy of Foley Hoag, and consisted of twenty individuals representing the broadest possible group of professionals from the criminal justice system. The Task Force was made up of senior law enforcement officials, a former chief justice of the Massachusetts State Appeals Court, a senior scientist from the Massachusetts State Police Crime Laboratory, a senior attorney from the Massachusetts Executive Office of Public Safety and Security, leaders in the New England Innocence Project, chief counsel for the state's public defender agency, state prosecutors, and criminal defense attorneys, many of whom are former federal and state prosecutors themselves.

The Task Force worked for over fourteen months on the central premise that for every defendant wrongly convicted, a criminal goes free and society remains at risk, while the individual who has escaped the consequences of his/her actions is free to commit crimes against other victims.

Getting it Right makes three recommendations, including two proposals for new legislation. The first recommendation focuses on the creation of evidence collection protocols and training in best practices for evidence collection. These procedures have already been instituted by many police departments, including the Boston Police Department.

The first piece of legislation would provide post-conviction access to and testing of forensic evidence and biological material for defendants who claim factual innocence. Currently, Massachusetts is one of only four states that does not have such a post-conviction forensic evidence statute.

The second piece of legislation would expand the membership of Massachusetts' Forensic Sciences Advisory Board (FSAB) to include three laboratory scientists, as well as three members of the bar with experience in criminal practice and forensic science issues. Right now there are no scientists on the board. The addition of scientists and members of the bar would provide a range of perspectives from those professionals who depend upon the state's forensic science system.

The Boston Bar Association looks forward to working with the Massachusetts Legislature to implement the recommendations of the Task Force. *Getting It Right* and the legislation it proposes exemplify what can be accomplished by a metropolitan bar association blessed with talented lawyers willing to expend their time, talent and political capital to help their community.

Best Regards,
Jack Regan

Boston Bar

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Volunteerism to help people hurt by the recession?

Regan: Let me give you a few examples. The Bankruptcy Section of the BBA meets periodically with the bankruptcy judges. Out of those meetings has come one of our newest pro bono initiatives – a collaboration of the BBA with the Volunteer Lawyers Project, a nationally recognized public interest agency that assists low income people needing legal help. The VLP, working with the BBA, has created a program to provide representation for Chapter 7 debtors. As we speak, we have more than 100 public-spirited lawyers who have volunteered to handle such cases – which involve a liquidation that provides the debtor with a fresh start – and are engaged in a training session led by two bankruptcy judges and experienced bankruptcy counsel.

In addition, the BBA has developed two significant programs in other courts affected by the pro se crisis. In the Housing Court, through a ten-year-old program called "Lawyer for a Day," the BBA has mobilized transactional real estate lawyers to act as facilitators for processing the pro se litigants who are

appearing in that court in great numbers. For instance, I was told by one of the judges in the Housing Court that on a day when they did summary process eviction cases, 189 of the tenants in 203 cases had no lawyers. Our lawyers meet with these litigants to facilitate the management of their cases by identifying the issues, completing necessary forms, and often resolving the matter by way of conciliation.

In the Family Court, we have a program whereby lawyers engage in limited representation. That is, instead of representing a client from start to finish, a lawyer will undertake to represent a client only on a particular matter of importance, which, if it gets decided one way or the other, can often be determinative of the outcome of the case. An example would be if someone has lost a job and needs to have an increase in child support or alimony, or, if they are the paying party, they need to bring to the court's attention their need for relief in paying court-ordered child support or alimony because of their loss of income. Having a lawyer who deals with just this piece of a person's distress can make a big difference. But, as a collateral benefit, it provides a resource to the Family Court that needs help amid decreased staffing from diminished funding and the additional management challenge that

pro se litigants present.

Lastly, I would mention that opportunities aren't always planned for – sometimes they walk in the door. In our case, it was a lieutenant colonel from the Judge Advocates General Corps of the Massachusetts Army National Guard who walked into the BBA's offices, and told us that soldiers and marines in Afghanistan and Iraq were distracted from their missions because of legal problems affecting their families back home – problems in many instances exacerbated by the economy. We have put together a diverse group of 25 people, broken into subcommittees to better understand specific issues. We are now working to mobilize lawyers with certain skill sets to assist active duty, reserve, National Guard, veterans, and their families. (See page 48 of the February 2010 issue of *The Metropolitan Corporate Counsel* for further discussion.) As a U.S. Navy veteran, I understand the importance of this work.

Editor: We're running your letter in this issue about the BBA's report, "Getting It Right: Improving the Accuracy and Reliability of the Criminal Justice System." What more can you tell us about that?

Regan: My predecessor, Kathy Weinman of Dwyer & Collora, convened a task force to study wrongful convictions, and determine how best to prevent them. Kathy recruited two terrific co-chairs, David E. Meier of Todd & Weld LLP and Martin F. Murphy of Foley Hoag, who in turn recruited a balanced group of criminal law professionals representing every perspective on questions relating to the apprehension and investigation of those accused of criminal activity, and their movement through the criminal justice system. (See page 48 in this issue.) From start to finish the study took 18 months. While the term of the BBA President is 12 months, Kathy kindly stayed involved, which was a major reason for the success of the task force. The task force's report has been widely distributed and well-received in the law enforcement, criminal defense, and judicial communities.

Editor: If you could complete just one initiative during your term, what would it be?

Regan: I've tried to move away from the idea of major initiatives lasting only one presidential term because that can be disruptive, in the sense that the whole organization has to lurch every 12 months in the direction that a particular president might want to take. About a year and a half ago the BBA, led by Paul Dacier, General Counsel of EMC, and Christine Netski from Sugarman, Rogers, Barshack & Cohen P.C., committed itself to a strategic planning process. Through that process, we identified what the BBA (not just the president) needs to accomplish in the areas of the BBA's internal organization, its presence in the community, and its role as a major voice in public policy, particularly with regard to questions affecting the administration of justice. Most of my work this year involves executing the strategic plan.

In working closely with my two successors, I have tried to encourage all of

us as officers to think about the execution of the strategic plan as a three-year continuum. As the "Getting it Right" report and the military legal services task force show, initiatives are often so big and so complex that they rarely get done in 12 months. Longer term thinking leads to more cohesive programs for the BBA, which is a very complex and dynamic organization. It also provides the staff with greater predictability about what we are all trying to accomplish together.

Editor: There has always been a strong desire to provide pro bono services to the underserved in Boston, going back to the days of John Adams when he defended British occupiers of the city. What underlies this predisposition on the part of Boston's lawyers to assist the less fortunate?

Regan: It is part of the culture in Boston for there to be a strong pro bono and civil engagement tradition in the legal community. Over time, there have been notable cases in which lawyers have handled pro bono matters that have excited young lawyers, who have been attracted to lawyers or firms that have done that kind of work. For instance, at a recent Law Day Dinner, the BBA asked all the lawyers representing Guantanamo detainees to come up to the stage so they and their firms could be recognized. Several dozen lawyers stepped forward.

Also, lawyers who think about it understand that having a balance in their practices is an important part of being able to feel professionally satisfied over the long term. The Boston Bar Association has been known for offering innovative and effective pro bono services, so I don't think it's an accident that when the United States Army had a significant issue with their soldiers in the field, that they came to the BBA for help for the soldiers' families in Massachusetts who needed legal assistance. The Army knew that the BBA had the ability to mobilize the city's bar across the many disciplines of law needed to address this problem.

I would add that the BBA has been deeply involved with the Boston public schools for many years on a variety of fronts, including sending lawyers into classrooms to teach about principles of justice and democracy. Out of this relationship came a summer jobs program, which was started in 1993 by now Chief Judge Sandra Lynch of the Court of Appeals for the First Circuit. Dozens of inner city high school students have worked in law firms and learned to operate in a professional environment. This project also enhances diversity in the legal profession – you need to interest people in their early years in legal career goals, such as being a secretary in a law firm, a courtroom clerk, a probation officer, a lawyer, or a judge. This legacy and opportunity for engagement is why our keynote speaker for this year's Law Day dinner is Dr. Carol Johnson, the Superintendent of the Boston public schools.

So while John Adams certainly started things, with his successful defense of the British soldiers at the Boston Massacre trial, we are his fortunate heirs of a pro bono and community service heritage that has taken a firm hold among the legal profession in our city.

Please email the interviewee at john.regan@wilmerhale.com with questions about this interview.