

November/December 2013

Volume 55, No. 6

www.nysba.org

Make the most out of Annual Meeting 2014 Check out the Preview Section in this issue!



SUPREME COURT'S SOUTER: SPEAK LOUDLY FOR CIVICS LESSONS

Page 6



HEALTH LAW SECTION PROFILE

PAGE 14

### **NEW YORK STATE BAR ASSOCIATION**

## State Bar News

## House of Delegates

Report calls for solutions to state's human trafficking problem

#### By Mark Mahoney and **Patricia Sears Doherty**

Citing the growing scourge of human trafficking in New York—particularly its impact on children and teenagers-the State Bar has issued a report calling for legislative and legal measures to curb the problem.

The report of the Special Committee on Human Trafficking was approved by the House of Delegates during its meeting on November 2.

"It is unconscionable that nearly 150 years after our country outlawed slavery, thousands of children and adults continue to be victims of human trafficking," said State Bar President David M. Schraver of Rochester (Nixon Peabody). "As attorneys, we have a collective obligation to assist the victims and end this horrendous practice."

During the meeting, Committee Co-Chairs Bernice K. Leber of New York City (Arent Fox LLP) and Sandra Rivera of Albany (Manatt, Phelps & Phillips LLP), and committee members John H. Gross of Hauppauge (Ingerman Smith LLP), Hon. Barry Kamins of Brooklyn (Administrative Judge for Criminal Matters, 2<sup>nd</sup> Judicial District) and Hon. Carol Robles-Roman of New York (Office Of The Mayor) detailed the report and its recommendations.



Growing concern—Members of the Special Committee on Human Trafficking show their concern during a delegate's comment after presentation of their report and recommendations. L to R: Hon. Barry Kamins, Hon. Carol Robles-Roman, Co-Chairs Bernice K. Leber and Sandra Rivera, and John H. Gross. [Photo by Mark Mahoney]

#### **Children and adults**

"While statistics show that half of those trafficked are adults, there is a growing concern and recognition that more than half the victims are children

who continue to be exploited after they reach the age of majority," said Leber, a former State Bar president.

Continued on page 6

#### Legal Education and the Future of the Profession Breaking the logiam of law school debt becoming Job #1

#### By Mark Mahoney

The national statistics are startling.

\$40,634: Average yearly tuition/fees at a private law school, up 440 percent from 1985-2012. \*

\$23,213: Average yearly tuition/fees at a public law school (resident), up, 1,057 percent from 1985-2012. \*

\$36,202: Average yearly tuition/fees at a public law school (non-resident), up 666 percent from 1985-2013.\*

\$122,158: Average law student debt upon graduation, 2011-12 (private) \$84,600: Average law student debt upon graduation, 2011-12 (public) \*

\$61,245: 2012 graduates, median salary, full-time lasting at least 1 year. \*

36 percent: 2012 graduates earning more than \$75,000 a year \*\*

39.5 percent: 2012 graduates earning \$55,000 or less per year. \*\*

58.3 percent: 2012 graduates in fulltime job requiring bar passage lasting at least 1 year. \*\*

(Sources: \* American Bar Association

\*\* National Association for Law Placement.)

Law school was once seen as a guaranteed path to a financially rewarding and stable career. But in recent years, the rising cost of law school tuition has created a generation of students graduating with overwhelming debt and dwindling employment prospects.

Not only is a law degree no longer a guarantee of a comfortable living, many graduates today find themselves working second jobs, seeking other careers to pay off their law school



Study hall—Antony Eminowicz of England. an LL.M. student, studies at Albany Law School's Schaffer Law Library on October 8. [Photo by Mark Mahoney]

loans and putting off major purchases like homes and cars

Continued on page 8

#### **LEGAL EDUCATION and the FUTURE OF THE PROFESSION**

#### Financing law school putting extra stress on new lawyers' search for employment

Continued from page 1

#### **Helping students with costs**

The average law school student today graduates with tens of thousands of dollars in debt, many with debts in six figures, and can expect to pay about \$125 per month for every \$10,000 borrowed.

That is enough to make any potential student think twice about borrowing a lot of money, and to create plenty of work for law school financial aid officers.

Andrea Wedler, director of financial aid at Albany Law School, said the school's tuition, fees and living expenses top \$61,000 a year. She said her office helps students as much as possible with finding money to pay for it all.

Albany Law School, like many others, gives out merit scholarships based on Law School Admission Test (LSAT) scores and undergraduate grade-point average. Awarding financial assistance based on merit also helps colleges attract better students.

But the majority of the funding for students who can't pay the freight comes from loans, Wedler said. She encourages students to borrow as little as possible. If they do have to borrow, she said, she urges them to avoid borrowing the full amount of the cost and to avoid private lenders.

"We're trying to steer students away from the private loans," she said. Although their rates are competitive, they don't have the flexibility that these (federal) loans do. It's completely up to the lender whether or not they want to do anything to help if you get into trouble with your repayment. And a lot of them don't."

Columbia Law School in New York City-where annual tuition, fees, room/board and living expenses approach \$83,000 a year-offers a Surgeon General-type warning on its website to students thinking about taking out loans: "We urge you to be as prudent as you can be in the amount of debt you assume; how much you borrow now may affect your future choices in career and lifestyle."

Many law schools offer their own grants, loans, work study and financial aid packages, as well as advise students on where they can obtain low-interest or early-forgiveness loans and many provide exit-counseling upon graduation.

At New York University School of Law, for instance, the website advertises the school's Loan Repayment Assistance Program and notes that the school has integrated it with the federal government's Public Service Loan Forgiveness Program (PSLF) and the

Direct Loan Program's Income-Based Repayment option.

The Benjamin N. Cardozo School of Law in New York City-with annual full-time tuition, fees and room/board of about \$76,000—offers debt management assistance on its website. The site includes information on preparing a personal budget that lists all the expenses a student will face (including a "cost of attending" section with spehave a portion of their law school loans forgiven after a certain number of payments are made.

The Income-Based Repayment Plan, which also became available in 2009, allows income-eligible graduates to reduce their monthly loan payments based on changes to their income and family size. The Pay as You Earn Plan, initiated in December 2012, works in much the same way as the Income-

"We urge you to be as prudent as you can be in the amount of debt you assume; how much you borrow now may affect your future choices in career and lifestyle."

-Columbia University Law School website

cific information about tuition and fees); default prevention to help students manage their loans; a listing of repayment options; and links to other helpful sites, such as debt repayment calculators, scholarships and government loan programs.

On top of the debts they are generating in law school, students are compounding their problems by bringing in debt from their undergraduate educations.

According to statistics compiled by the American Federation of Teachers (AFT), overall college tuition across the country rose 42 percent from 2000 to 2012. During the 2010-11 academic year alone, in-state tuition and fees at public four-year colleges rose 8.3 percent; out-of-state tuition and fees rose 5.7 percent; and in-state tuition and fees at public two-year colleges rose 8.7 percent, according to the AFT.

Debt is outpacing even the steep tuition increases. From 2000 to 2013. outstanding student debt in the U.S. increased 500 percent-from \$200 billion to \$1.2 trillion. And the average change in student debt per household rose 34 percent between 2001 and 2010, from \$17,562 to \$26,682.

Wedler said students have begun taking matters into their own hands by shopping around for scholarship deals, sometimes pitting schools against one another for their business by negotiating financial aid packages.

#### **Help from Uncle Sam**

The U.S. Department of Education offers several low-interest loans and programs for law students, many of which were initiated in the past few

The Public Service Loan Forgiveness Program (PSLF) mentioned above, established in 2009, allows graduates who go into public service careers to

Based Repayment Plan, but offers more options for repayment.

Under the William D. Ford Federal Direct Loan Program, the largest federal loan program, students may obtain direct unsubsidized loans from the Education Department of up to \$20,500 per year. They also may obtain Direct PLUS loans, available to students who need more than the maximum unsubsidized loan amounts.

The Perkins Loan Program, another federal program, offers eligible students up to \$8,000 a year, depending on financial need, the amount of other aid a student receives and how much money each school has available to

And the Federal Work Study program allows students to work parttime to help offset their education expenses. It encourages students to do their work in public service or areas related to a particular course of study.

#### Recognizing the problem

It would be impossible to address student expense and debt without recognizing the root of the problem and the potential solutions. The legal community has recently focused attention on those root causes.

State Bar President David M. Schraver has made the arduous task of exploring possible solutions to the problems with legal education the cornerstone of his administration.

He charged the association's existing Committee on Legal Education and Admission to the Bar with studying the problem, made legal education a component of his Presidential Summit at the Annual Meeting in January and pledged to bring together key figures in the legal education community to help find solutions.

"First, we need to understand the factors that are driving the increase in cost," Schraver said in a recent interview. "Secondly, which of those can we hope to affect to reduce or control? Some of it has to do with the economics of law schools; some has to do with politics."

Law school costs also have escalated, particularly in the past decade, because of higher salaries for law professors, a greater demand for law degrees, and the syphoning off of law school tuition to support other programs at schools, said legal experts, including former St. John's University law professor Brian Z. Tamanaha, author of 2012's "Failing Law Schools."

The State Bar's Task Force on the Future of the Legal Profession issued a report in February 2011 that addressed many of the factors, including the hiring practices of law firms that focus on "elite" over "practice-ready graduates;" the need for greater transparency in employment data provided by law schools; and the growing reliance on the U.S. News & World Report "Best Law School" rankings that place great emphasis on cost-driving factors such as student-faculty radio, expenditures per student, LSAT scores and library resources.

#### **Hopeful signs?**

As noted above, in the last few years the federal government has established creative new loan programs to address the lower salaries, higher debt loads and dim job prospects faced by law school graduates

In the last year, the State Bar and the American Bar Association (ABA) have committed significant attention and resources to the problem. And the legal community in general appears ready to tackle the issues and find solutions.

The ABA's Task Force on the Future of Legal Education in September issued a draft report outlining the problem and proposing changes to the law school model that in another era might have gone unheeded.

Tamanaha painted a pessimistic picture of the future of legal education and student debt in his book.

But in an October interview. Tamanaha said he was seeing signs for optimism - due largely to a recent sense of awareness of the problems from the legal community

"There was a lot of denial out there. There's not denial anymore," he said from his office at Washington University School of Law in St. Louis. "Lawyer awareness is important. They simply weren't aware of the magnitude in the rise in tuition and the rise in debt. They just weren't aware how much it costs now."

Continued on page 27

SBN\_NovDec2013\_CYAN.indd 8 11/19/2013 10:48:42 AM

## State Bar exploring possible solutions by shining a light on legal ed debt problems

Continued from page 8

Tamanaha said the demand for reform is being driven by law school applicants. And that, he said, could soon help drive down law school costs, tuition and debt.

"If you're coming out of law school with \$150,000 in debt, you're in a tough spot," he said.

Until recently, it appeared the confluence of high law school costs would be a never-ending cycle. But there may be real signs of hope on the horizon for a turnaround.

Public law school tuition for non-res-

ident students in 2011 and 2012 dropped 5 percent and 8 percent, respectively. And tuition increases at private schools have slowed their steep annual increases.

In addition, job prospects appear to be turning around in a few select areas, with 1.3 percent more graduates finding long-term, full-time employment from 2011 to 2012 and slightly more job openings for 2012 graduates in government and at private law firms. •

Mahoney is NYSBA's associate director of media services.



Winning volunteer—Past President Stephen P. Younger, center, recently was presented with the Dedication to Justice Award from the Brooklyn Volunteer Lawyers Project at its anniversary gala. At left is Andrea Bonina, past president of the Brooklyn Bar Association and mistress of ceremonies. At right is Michael Cardozo, New York City corporation counsel, who presented the award. [Photo by John Nissenbaum]

# This is where lawyers go for protection.

## As a national leader in legal insurance, USI Affinity is proud to carry the endorsement of the New York State Bar Association.

Sometimes even attorneys need a little counsel of their own. That's why they turn to USI Affinity, the company that has been advising attorneys on insurance for 75 years. We know more about the kind of protection attorneys need and can offer a variety of insurance options for firms of any size.

#### We go beyond professional liability to offer a complete range of insurance solutions covering all of your needs.

USI Affinity's extensive experience and strong relationships with the country's most respected insurance companies give us the ability to design customized coverage at competitive prices.

#### Coverage includes:

- Lawyers' Professional Liability
- Business Insurance
- Medical & Dental
- Life & Disability
- Personal & Financial

## Call 1.855.USI.0100 PIN 406 now for your FREE quote.

Or go to www.mybarinsurance.com

Call today for more information on the insurance products available to New York State Bar Association members, including professional membership credit and risk management credit.



The New York State Bar Association Insurance Program

Advised and administered by



SBN\_NovDec2013\_CYAN.indd 27 11/19/2013 10:49:23 AM