

# INTRODUCTION

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**William R. Bay and Hon. Paul C. Wilson  
Task Force Co-Chairs**

The legal profession has a long and proud history and, whatever changes the future brings, the future of our profession is as bright as we make it. The core principles of this profession as expressed in our oaths, the Code of Professional Responsibility, and elsewhere are as strong and relevant today as ever. We seek to serve society through our commitment to the rule of law, the protection of civil and constitutional rights, and the peaceful resolution of disputes among individuals and between individuals and their governments. The law exists to preserve and protect liberty, and the legal profession exists to bring the promise of the law into reality.

As the society we serve changes, however, the legal profession must consciously reassess whether the rules, procedures, traditions and habits that have been developed over so many years continue to serve these core principles efficiently and effectively. These practices all

impose some cost on courts, attorneys, or their clients. When each practice was created, a conscious decision was made that its benefits outweighed its costs. But, with society changing at an ever-increasing pace, we must routinize the process of reassessment to ensure that the benefits of the practices borne down to us by law and tradition continue to outweigh their costs in an increasingly complex world. The purpose of this Task Force, and its Report below, is to stimulate that process.

In September 2014, at the joint meeting of the Missouri Judicial Conference and the Missouri Bar, then Chief Justice Mary Russell invited the Board of Governors of The Missouri Bar to join the Supreme Court in creating a task force dedicated to examining issues facing the future of the legal profession in Missouri. Task force members were appointed in early 2015 and organized into subcommittees focusing on the future of the

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profession from four discrete perspectives: (1) legal education and entry into the profession; (2) leaving or limiting the practice of law; (3) the impact of technology on Missouri's lawyers and courts and; and (4) increasing accessibility of legal services and the sustainability of law practice.

Missouri lawyers and judges are not the first to study these issues, nor is this Report the last and final word on the future of our profession. By definition, the future remains before us and the changes it will bring remain to be seen. But, whatever perils there may be in attempting to forecast the future, it is safe to assume that – like the rest of society – the pace of change in the legal profession will continue to accelerate and the scope of change during the careers of those now entering the profession likely will exceed the changes seen by any of the generations in whose footsteps they now follow.

From its inception in Missouri and long before, the practice of law predominantly has been a local endeavor. Attorneys were educated locally, licensed locally, and advised local clients about local laws and legal issues. Lawyers were licensed generalists. They were expected to know all facets of the law of their jurisdiction, but little or nothing about the law of other states or countries. A career in the law was expected to be a life-long enterprise. After education and licensure, the career began with a long period in which a young lawyer would gather skills and responsibility under the tutelage of more experienced

colleagues. This was followed by a middle period of productivity and expertise, which was followed in turn by a period of mentorship and oversight with decreasing direct responsibility for client matters. Retirement was rare and usually involved the transitioning of matters to partners or others and the surrender of one's license to practice. And, once removed from practice in this way, a lawyer seldom had the need or desire to return.

Technological “advances” are not new to the legal profession. One by one, innovations such as carbon paper, photocopiers, and word processors changed the way lawyers practiced law. Even though new technologies changed the logistics of practice, technology itself had little or no impact on the role of the legal profession or, more importantly, on the way the profession was viewed by society as a whole.

Finally, for much of our past, the profession has believed that legal services were reasonably accessible to those who needed them. Many of those who could not afford the services they needed were provided for with public assistance in the form of public defenders and legal aid services. The overwhelming majority of lawyers were able to sustain a practice – large or small as each saw fit – which covered their costs, provided an income, and allowed the lawyer to provide services at a reduced fee or without fee where the client's needs and resources dictated.

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Today, even though the core principles of our noble profession remain the same, the traditional description of the legal profession set forth above has changed – or soon will change – beyond recognition. What will replace it? To find the answer, we must study the society around us because the law and the legal profession do not, have not, and never will exist apart from the society we serve.

The world is becoming smaller. As society becomes increasingly national and transnational, the practice of law will follow. The world is becoming more mobile. As the workforce becomes more transient and specialized, so, too, will lawyers. The world is becoming more efficient. As society demands faster and cheaper answers to broader and more complex questions, the law and lawyers must respond in kind.

But society's demand for efficiency exacts a toll. The resulting profits accede only to those at the highest end of the scale, and society's safety nets protect only those at the very lowest. But the legal profession, if it is to remain true to its unchanging principles, cannot serve only those at the far ends of the spectrum and ignore the growing majority of unserved and underserved in the middle. Law which serves only some, serves none. Historically, individual practitioners have been able to fill the void in part by providing services for reduced or no fees, but they cannot continue to fill an ever-widening gap while the number of paying clients and the margins on those services

are dwindling. The law and the practice of law must remain sustainable if we are to continue to play the role society needs us to play. And sustainability is not solely a function of economics. The legal profession always has exacted an emotional toll on its practitioners in the form of stress and its many manifestations. Traditionally, this has been offset by the nobility of this calling and our pride in our profession. In the future, however, the practice of law will not be sustainable if we allow the intangible costs of practicing law to exceed the intangible benefits of this high calling.

The Report which follows contains an Executive Summary of the observations and recommendations of each of the four subcommittees, and the full reports (and exhibits) from each subcommittee. The issues or trends spotted in each report are not intended to be exhaustive, and the recommendations arising out of those observations are not intended to be perfect solutions to known and pending problems. Such was never the charge to this Task Force. Instead, as each subcommittee's work shows, the purpose of this Task Force is to examine current and reasonably anticipated trends and identify areas of law or practice which may need to be re-examined in light of those changes.

This Report is being presented to the Supreme Court and the Board of Governors, but the views expressed herein are not – and should not be

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taken as – the views of either. Instead, the discussion and recommendations of each subcommittee are the work of that subcommittee alone. It is hoped that the Court and the Board will use this Report to guide the work of their committees as they examine and re-examine the rules and policies that govern this great profession.

If this Task Force and its Report are to have a lasting impact, however, it will not be the result of any single trend spotted or recommendation made. A single, one-time look at the future of this profession – no matter how prescient – cannot realistically be expected to bring about significant change in what we do or how we do it. However, if the work of this Task Force succeeds in

sparking within the judiciary and the bar a culture of conscious reassessment, an on-going effort to see and prepare for the waves before they hit the shore, then we will better be able to keep the legal profession in harmony with (if not actually out in front of) the ever-increasing pace of change in which society now finds itself.

Accordingly, the recommendations of each subcommittee are important for the discussions those recommendations are intended to provoke. It is the discussions themselves, and this culture of conscious reassessment, which will best ensure the future of Missouri's legal profession and maximize the service we provide to society.



**Hon. Paul C. Wilson**



**William R. Bay**

**Task Force Co-Chairs**