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5/5/93

MSBA in brief

MINNESOTA STATE BAR ASSOCIATION

July, 1993

Volume 9, No. 7

Highlights...

At its June session, the **Board of Governors approves a workers compensation certification proposal.** The plan goes next to the State Board of Legal Certification. Page 2.

The **MSBA joins with the HCBA in support of the recommendations of the Glass Ceiling Task Force.** Page 4.

The **Board of Governors examines bar application questions and elects new MSBA officers.** Page 3.

A newly formed MSBA **subcommittee will consider whether a new rule is needed to address attorney-client sexual relations.** Page 2.

TCF Bank agrees to waive service charges and fees on interest-bearing lawyer trust accounts, freeing up additional funds for future IOLTA grants. Page 3.

A September **public hearing will air comments on a proposed bankruptcy law certification program.** Page 2.



A family carnival on the shore of Gull Lake greeted MSBA members attending the annual convention this June in Brainerd.

Public Needs Weigh Heavily in Assembly's Deliberations

The room was packed with lawyers, of course, but the focus was clearly on the *public's* best interests.

In three separate actions, the MSBA General Assembly June 25 considered measures to protect consumers from the unauthorized practice of law, provide remedies for clients whose trust accounts have been mishandled by their attorneys, and examine lawyer regulation.

Highlights of the proceedings:

Where to Turn: Remedies for the Victims of Unauthorized Practice

Consumers injured by parties engaging in the unauthorized practice of law would have a specific cause of action, including reimbursement of attorneys fees, if the Legislature adopts a proposal prepared by the Consumer Protection Committee for Legal Services and approved by the General Assembly.

Committee member Jeffrey Johnson told the Assembly that the

group had heard reports from both attorneys and the public about people posing as licensed attorneys, as well as about individuals and organizations performing services that are legal in nature.

In its report, the committee concluded that both forms of unauthorized practice are occurring in the state to a significant degree, and that the public would continue to be harmed unless some action was taken.

It recommended a consumer protection approach, recognizing that many consumers, particularly in the area of family law, are turning to nonlawyers for legal services because they believe they cannot afford the services of a licensed attorney. In addition, committee members sought to avoid approaches that might be interpreted as a self-serving attempt by the profession to eliminate competi-

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Civil Discovery System Works Well in State, Survey Finds

The discovery system in Minnesota isn't quite broken, but it could use a little fixing up, according to a recent study by the Civil Litigation Section Discovery Task Force.

The study, approved by the General Assembly June 25, surveyed section members across the state to determine the extent of perceived discovery abuses and the problems they cause. Only 31 percent of those respondents said that discovery abuse was common, but nearly half said that it may be on the rise.

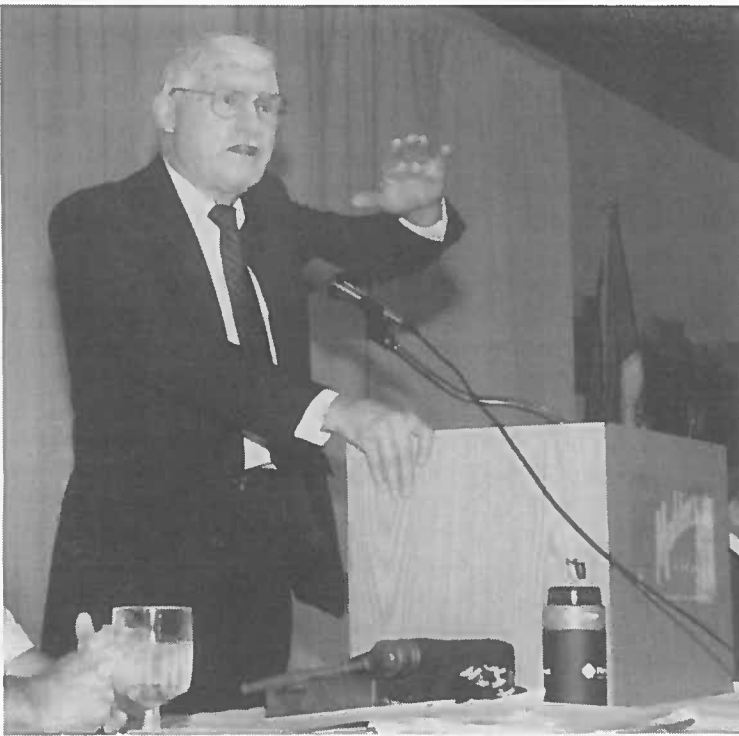
"The feeling is that, by and large, the civil discovery process works reasonably well," said Hon. Robert Carolan, who cochaired the task force with Minneapolis attorney George Soule. At the same time, he said, survey respondents suggested a trend of increasing discovery abuses.

Those abuses are seen most often in commercial and product liability cases with high financial stakes, according to the report. Some 75 percent of the respondents said parties with greater financial resources use excessive discovery demands to wear down their opponents. Overbroad interrogatories, objections, and requests for documents are just some of the tactics used to delay the process and run up excessive costs, according to the report.

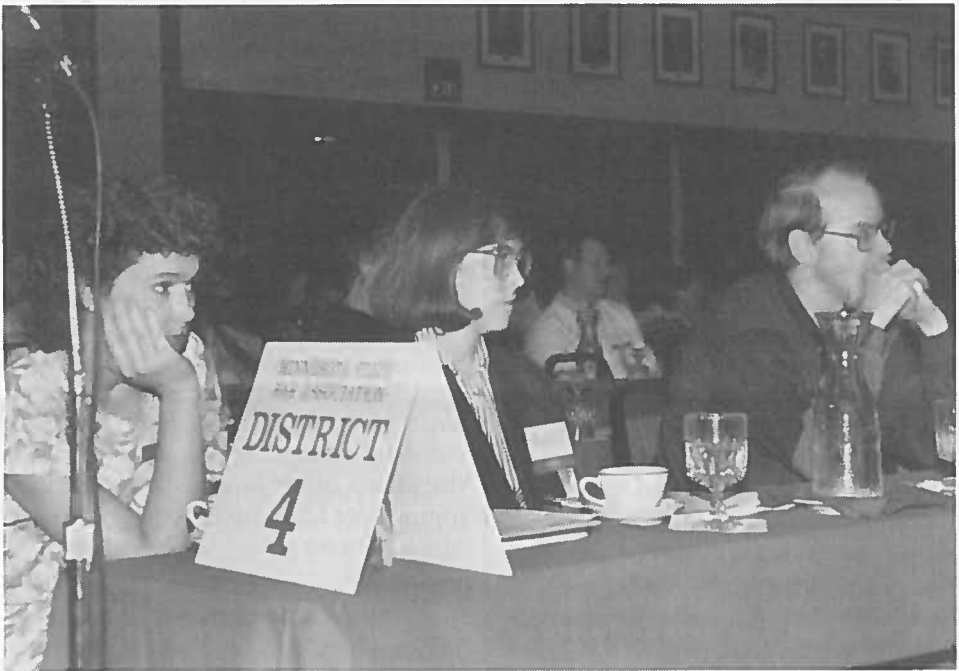
When these abuses are allowed to go unchecked, they can block a speedy resolution and contribute to a sense that the system is not working. Even if the discovery process is effective, "it's important that this be not only the reality, but also the perception," Carolan said. Both lawyers and their clients need to believe that discovery is working effectively, he said.

The task force rejected a massive overhaul of the discovery process, opting instead for a series of 10 rec-

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Minnesota Supreme Court Justice Sandy Keith (top, left) delivers his annual State of the Judiciary address before delegates at the MSBA General Assembly June 25 in Brainerd (below).



MSBA Joins HCBA in Endorsing 'Glass Ceiling' Recommendations

In some ways it was easier to be a person of color in the heat of the 1960s civil rights movement, St. Paul attorney Jarvis Jones told the MSBA General Assembly June 25 in Brainerd.

Discrimination may have been more blatant 30 years ago, he said, but that also meant that it was easier to identify and confront. Today a new generation of minority attorneys have a foot in the door at leading law firms, but many of them believe that far more subtle forms of bias prevent them from rising to the top, according to a report approved by the Assembly.

That report, released last month by the HCBA's Glass Ceiling Task Force, describes the barriers perceived by many women attorneys and people of color, and recommends specific actions for employ-

ers to break down the "glass ceiling" that separates the ranks within organizations. The action by the General Assembly commits the MSBA to implement several of those recommendations.

"We can be defensive, but it's time to take hold of the problem and move forward with it," 1992-93 HCBA President Wood Foster told the Assembly. Many employers have recruited minority attorneys, but a simple tally of the numbers shows how few of them are advancing, he said.

"It's a lot more complex, and a lot more subtle, than just 'good guy/bad guy,'" said Jones, who cochaired the task force with U.S. Bankruptcy Court Judge Nancy C. Dreher.

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"That's part of the reason many legal employers don't understand."

Women attorneys also face hurdles if they are perceived as too committed to their families, Jones said. Some female lawyers told the task force that they are viewed as not being as aggressive as men—but if they come on too strong in

*"People are tired
of waiting."*

the courtroom or the meeting room, they may be pegged as overly aggressive.

Many women and lawyers of color leave their positions not because they are unhappy with the law, but because they see little opportunity for advancement or promotion, Jones said. High turnover rates can fuel the belief that these attorneys were not committed to their positions at the time they were hired, he said.

Dreher urged the Assembly to approve the report and its recommendations. "People are tired of waiting," she said, noting that other studies had produced tables of statistics, but little action.

The resolution passed by the General Assembly calls on the MSBA to join with the HCBA in implementing the following:

- Review MSBA governance, finance, and personnel, and adopt related recommendations.

- Assist in the adoption of the report and its recommendations with particular attention to district bars, affiliated organizations, and other law-related Minnesota organizations.
- Develop MSBA programs and activities which will assist the MSBA membership and legal employers statewide in hiring, retaining, and promoting women lawyers and lawyers of color.

In concert with the third recommendation, the resolution calls for a coordinated effort with the HCBA to establish goals and timetables for legal employers for the hiring, retention, and advancement of lawyers of color; publish statistics on the hiring, promotion, and advancement of women lawyers and lawyers of color; develop management diversity roundtables, mentoring programs, and the systems for collection and dissemination of resource materials; recruit speakers and authors for MSBA programs and publications; and continue to support programs such as the Minnesota Minority Corporate Counsel Program and the Minnesota Minority Recruitment Conference.

**Coming
in the August
issue of *Bench & Bar*
The State of the Judiciary
NAFTA: Pathway to
Hemispheric Growth
Law Firm Newsletters
Dictionary of Legal
Quotations**