

May 1, 2019

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Re: American College of Trial Lawyers Task Force on Mentoring

Dear Regents Peterson & Day:

I read the Special Edition Bulletin dated April 8, 2019 with great interest and, after exchanging ideas with a number of my colleagues at Shook, Hardy & Bacon L.L.P. ("Shook"), I am sharing my perspective regarding the local programs and activities that address the issue of maintaining excellence in trial advocacy in the face of "the vanishing trial." I have assembled materials and provided links exemplary of programs that respond to the need to provide learning opportunities for young lawyers.

The legal community in the Greater Kansas City Metropolitan area places a high priority on the development and education of young attorneys who desire to develop their skills as trial attorneys. There are three law schools proximate, and a fourth law school within a two hour drive. Each school has programs in professionalism and advocacy skills for law students and for the practicing bar. In addition, state and local bar associations offer continuing education programs to the practicing bar designed to improve advocacy skills. This compendium is designed to provide a snapshot of the education and training resources available in this legal community.

A. Missouri Bar

The Missouri Bar was created in 1944 by order of the Missouri Supreme Court. Its mission is to improve the legal profession, the administration of justice and the law on behalf of the public. As a mandatory bar association, it is intricately involved in providing educational experiences and programs that enable its members to satisfy their annual minimum continuing legal education requirements. Each year, the

Missouri Bar offers conferences, institutes, live and on-demand seminars and webinars, substantive area desk books and guidebooks, and ethics programs all designed to improve the competency and skills of the profession. In addition to its full array of continuing legal education offerings, the association offers the Missouri Bar Leadership Academy. In its essence, the Bar Leadership Academy is about mentoring young lawyers as they grow in the profession.

The Leadership Academy's mission is to recruit, train, and retain Missouri attorneys who have been admitted for ten years or less for leadership positions in the Missouri Bar. The academy seeks diversity in gender, race, area of practice, and region within the state. The academy anticipates that bringing in attorneys from underrepresented areas will broaden and strengthen the Missouri Bar.

Members of each year's Leadership Academy class participate in the Missouri Bar Annual meeting, Board of Governors meetings, committee meetings, and workshops specifically designed for the Leadership Academy. For one year, the members work closely with bar leaders to learn more about the Missouri Bar, cultivate leadership skills, and develop a public service project. Members take full responsibility for completing their public service project before the end of the class year. At the end of the year, members commit to serve the Missouri Bar in an active capacity for two years.

Sources: <http://mobaracle.mobar.org/store/provider/provider09.php>

B. Kansas City Metropolitan Bar Association (KCMBA)

The KCMBA is a local, voluntary bar association that offers a slate of CLE programs available to the practicing bar, regardless of membership status. In addition to its array of substantive programs, KCMBA also collaborates with the Circuit Court of Jackson County, Missouri and the United States District Court for the Western District of Missouri in offering the Ross T. Roberts Trial Academy.

Named in memory of one of Kansas City's most distinguished federal judges, the Ross T. Roberts Trial Academy (formerly Inn of Court) is designed to teach new lawyers trial advocacy skills and to foster professionalism, ethics and collegiality. Participation gives attorneys the opportunity to practice trial techniques and to receive training and guidance from experienced litigators and judges. The annual program is comprised of three components: (1) a CLE luncheon series; (2) training sessions; and (3) performance sessions. The CLE luncheons are held monthly at the federal courthouse and focus on practical skills such as depositions, pre-trial motion practice, jury instructions and ethics. Members of the state and federal judiciary lead the training sessions that cover the major components of a trial.

With fewer and fewer courtroom opportunities, young lawyers face the challenge of how to hone and maintain their trial skills. The Ross T. Roberts Trial Academy addresses this need with educational and practical opportunities for recent law graduates as well as attorneys just embarking on a litigation practice or trying to refresh their skills.

Source: https://kcmba.org/web/Education/Ross_T_Roberts_Trial_Academy/web/KCMBASite/Website/Website/Education/Bar_Leadership_Academy.aspx

The KCMBA also offers its own Bar Leadership Academy that is geared toward the development of volunteer leadership within the Association. Representative examples of KCMBA CLE and professionalism programs include:

- ▶ Annual Bench Bar & Boardroom Conference
- ▶ Lawyer Ethics & Data Security
- ▶ Retaliation Litigation in the Employment Context
- ▶ Avoiding Ethical Traps, Bar Complaints & Legal Malpractice

Source: http://kcmba.org/web/About_Us/Professionalism/web/KCMBASite/Website/About_Us/Website/Website/Education/CLE_Events.aspx

C. Missouri Organization of Defense Lawyers (MODL)

MODL is an organization that caters specifically to the civil defense bar. Its premier annual program is the John L. Oliver, Jr. Trial Academy, which is designed for young lawyers who have been in practice from one to five years. Offered in collaboration with the University of Missouri School of Law, this multi-day program provides a simulated civil trial experience under the supervision of experienced defense counsel.

Source: <http://modllaw.com/>

D. Court Sponsored Programs

Neither the Missouri state courts of general jurisdiction nor the United States District Court for the Western District of Missouri has formal programs that encourage or facilitate participation by newer advocates in court proceedings. The impetus for participation comes from the power of individual judges to persuade senior lawyers to allow their younger colleagues opportunities to make formal presentations in on-crucial pre-trial proceedings, such as hearings on dispositive motions.

One such judge's effort was reported in an article that appeared in the *Above the Law* (8/24/17) that featured Senior United States District Court Judge, Judge Jack Weinstein (ED-NY), who strongly encourages law firms appearing to purposefully assign significant roles to women, to younger lawyers and to lawyers of color. At least one other judge in that judicial district follows a similar procedure. Nevertheless, Judge Weinstein represents one person's opinion and approach to the issue of diversifying the legal profession and offering opportunities to improve advocacy skills.

Source: <https://abovethelaw.com/2017/08/hero-federal-judge-takes-steps-to-increase-meaningful-experience-for-diverse-lawyers>

E. Area Law Schools

All of the area law schools have established programs, initiatives, symposia and conferences on various aspects of the practice of law, that have the goal of educating law students and providing continuing legal education to the practicing bar. The schools' programming is often presented in collaboration with state and local bar associations. By way of illustration, I will mention several such programs offered by area law schools.

1. University of Missouri-Columbia School of Law

MU Center for Intellectual Property & Entrepreneurship

MU Center for the Study of Dispute Resolution

John L. Oliver, Jr. Trial Lawyers (in cooperation with the Missouri Organization of Defense Counsel)

Source: <http://law.missouri.edu/faculty/symposia>; <http://law.missouri.edu/about/centers>

2. Washburn University School of Law

Business & Transactional Law Center

Center for Excellence in Advocacy

International & Comparative Law Center

Robert J. Dole Center for Law & Government

Source: <http://washburnlaw.edu/students/centers/index.html>

3. University of Missouri at Kansas City School of Law

Hon. Arthur B. Federman Bankruptcy Trial Skills Academy
 Programs & Advanced Professional Study
 UMKC Solo & Small Firm Incubator
 Master of Laws in Trial Practice
 Anatomy of a Civil Trial

Source: <https://law.umkc.edu/professional-development/program-schedule-of-events>

4. SHB Center for Excellence in Advocacy – Kansas University (KU) Law

Shook takes great pride in its efforts to support the development of young lawyers who aspire to become effective trial advocates. Recognizing the need for advocacy skills training in the face of the vanishing trial, our firm took steps to create the Shook Hardy & Bacon Center for Excellence in Advocacy at KU School of Law. The Center was established in 2008 and is guided by three goals:

- ▶ Offer unique skills training to KU law students.
- ▶ Present programming for KU Law Alumni and regional bar.
- ▶ Provide new scholarly opportunities for KU Law faculty through a Fellowship program.

The Center hosts events in the Greater Kansas City Metropolitan area that include KU Law alumni and the practicing bar. Of the events offered each year, the Advocacy Speaker Services merits particular note as it features leading advocates and jurists who present on timely and relevant topics.

Source: <https://law.KU.edu/shbcenter>

F. Missouri Coalition for the Right to Counsel (MO Coalition)

In 2017, the MO Coalition for the Right to Counsel was created as a collaborative effort with the Missouri State Public Defender System (MSPD). It coordinates and arranges training for attorneys interested in volunteering to receive case assignments from MSPD. This in turn provides valuable first chair experience for the volunteer attorneys and helps relieve the crushing burden of criminal cases. Shook is proud to support the MO Coalition. Shook Partner, Charles Eblen, who is the Chair of our Pro Bono Committee serves on the Board of the MO Coalition. To date, more than 240 volunteer attorneys have received the mandatory training on

the fundamentals of criminal law and procedure and have volunteered for an actual case assignment.

Source: <https://publicdefender.mo.gov/private-counsel-opportunities/mo-coalition>

G. SHB Mentoring Efforts

In January of 2002, a Mentoring Task Force was formed as a subcommittee of Shook's Professional Development Committee. It was then that Shook launched its formal mentoring program whereby first year associates were matched with mid-level or senior associates of the firm. The Task Force later expanded the firm's mentoring program by developing a second phase which matches third through fifth year associates with more senior associates/partners and sixth through seventh year associates with partners.

The matching of mentors and mentees is a careful and thoughtful process. Pairs are matched based upon commonalities with one another such as working in the same division or section. When possible, similar personalities or traits of the pairs are taken into consideration. Generally, mentees are not matched with mentors for whom they work. During the year the Mentoring Task Force solicits feedback in the way of surveys to mentors and mentees to determine whether the pairings are working.

The mentor/mentee relationship for both programs is designed to provide the mentee with someone more senior to turn to for guidance on firm practices and career guidance. A mentor is to be a primary resource for information and advice. Mentees are asked to communicate with their mentor as often as needed. In addition, mentors and mentees go to lunch or get together for other activities periodically, and several group mentor/mentee functions are held yearly. Both mentees and mentors are provided with materials and attend an orientation session to acquaint them with this program.

SHOOK SPECIFIC TRAINING EFFORTS

Shook is a litigation firm that actually tries cases. As we celebrate our 130th year, we are proud of the litigation success that we have amassed and of our reputation as a trusted adviser to our clients. We have been able to maintain high competence in litigation because of our unique approach to case management and skill development. Our Professional Development Committee (PDC) is charged with the task of providing and administrating our in-house CLE programming. Our aim and goal is to offer formal trial skills programs and practice group based presentations. For example, in 2017, our PDC offered 41 events constituting more than 90 hours of CLE credits. Our substantive programs are also exported on occasion to our colleagues in our clients' legal departments as part of the value added to our

services. I will make special mention of our Basic Trial Practice and Advanced Trial Practice Programs that are offered to the majority of our associates. Successful completion of both programs is a requirement as associates progress toward partnership consideration. Both programs are done in-house and rely on Shook partners – active and retired – who act as program faculty. In addition to our CLE programs, we are intentional about including our younger lawyers in our trial teams.

In addition, Shook has found that encouraging pro bono services provides younger lawyers with in-court experiences. The commitment to pro bono service extends to all lawyers in the firm. The firm has adopted a policy that counts the first 50 hours of pro bono service toward an attorney's annual billable hours expectation. Shook annually provides approximately 30,000 hours of pro bono service across the firm. Shook lawyers have provided representation to unaccompanied minors in immigration proceedings, parents facing termination of their parental rights, and individuals seeking public benefits, or appealing the suspension or denial of public benefits.

In my own career here at Shook, I have been surrounded by master practitioners who believed it was their responsibility to teach me how to practice law at a high level. The lessons learned from them has been key to any success that I have enjoyed. I have made a consistent effort to pass those same lessons to the junior attorneys that work with me. Shook still believes in the importance of mentoring relationships and the vital role they play as we transfer skill, knowledge, competence and expertise from one generation of Shook lawyers to the next.

I appreciate the opportunity to share my thoughts on this topic. If you desire further detailed information about the in-house programs that we offer here at Shook, you should feel free to contact Shook partners Judge Jon R. Gray (ret.) and Jon Strongman who are the co-chairs of our PDC.

Very truly yours,



Robert T. Adams, Partner

cc: Judge Jon R. Gray (ret.)
Jon Strongman