

Recently, a group of respected Nevada attorneys sat down at Cili Restaurant in Las Vegas to discuss challenges facing their industry, including growth, competition, professionalism and the election process. Connie Brennan, publisher of *Nevada Business Journal*, served as moderator for the event that, as part of the NBJ's

monthly Industry Focus series, brings industry leaders together to discuss issues pertinent to their professions. Following is a condensed version of the roundtable discussion

Employee Recruitment and Retention

Gardner Jolley: A huge problem that concerns me is the benefits for em-

ployees, especially health insurance. In the old days, we were able to keep good employees just by offering good health benefits. Today, our healthcare costs are more than our rent.

John Bailey: At our firm, we have realized that in order to retain quality people, we need to embrace the things that come along with that in terms of benefits. The one thing that you don't want is turnover. You invest a lot of time, money and effort into getting quality employees, and the last thing you want to do is lose anyone.

Harry Peetris: Maintaining benefits for employees, as well as the costs associated with providing benefits are important issues for all attorneys today.

Robert Kolesar: It's challenging, in my opinion, to find people for support staff rather than attorneys. It seems everybody is keeping their staff happy because it is very difficult to find staff in general with a certain type of talent.

Bryan Williams: One of the most challenging things for our small firm is maintaining qualified staff. It's difficult when you are competing with the larger firms who are coming into the market.

Tom Kummer: We're dealing with the rising entry-level attorney salaries and competition in the market place, as national firms keep coming to the Valley.

Jim Randall: It is a difficult market to find attorneys that are in the right price range that will work for our firm.

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Professionalism

Connie Brennan: UNLV Political Scientist David Damore was quoted in the *Las Vegas Review Journal* [in reference to the presidential debate] saying, "This is just my view, but Sen. John Edwards still comes across as a used car salesman. Maybe it's the trial lawyer in him coming through."

How concerned are you about professionalism in your industry?

Jolley: I represent businesses, so I'm glad there are trial lawyers around. Now, Edwards has been blasted for that. If I ever called a trial lawyer and needed an extension or something like that, I would have no problem getting it. Sure we fight sometimes, but we get along and try to be professional with each other. I really miss that professionalism and I don't think it's being practiced a lot. You hear about congressman and senators who don't want to run again because they can't take the fighting that occurs with the politicians anymore.

Richard Harris: Most plaintiff personal injury lawyers are entrepreneurial and rogue types to begin with. They actually like that or they wouldn't be a plaintiff's personal injury attorney. It is sort of a badge of honor. As a

plaintiff's attorney – a consumer attorney – you're used to taking the heat and hits from established big businesses. So it actually motivates us more than it discourages us from doing what we do. The greatest customer service lesson I ever learned in my career was from Oscar Goodman. One day he said to me, "Rick, my clients hug me through the bars." Now, picture that image – he's lost a case and his client's incarcerated, but he gets one last big hug for doing the best he could for that client. That comment has stayed with me my whole career. I don't care what other people say because I know what I do and I know that I make lives better for those that I represent.

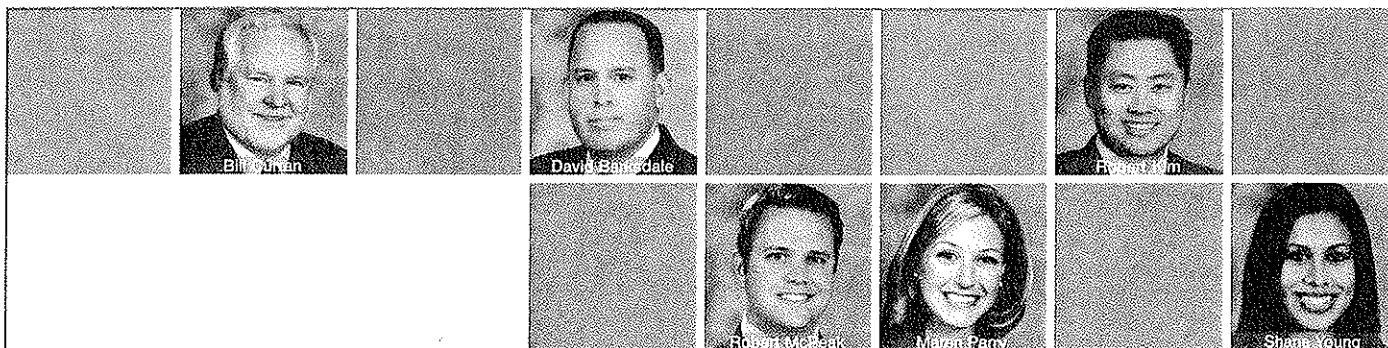
Tom Ryan: The level of civility has increased with the practice, and maybe that's a function of the relationships we have formed. I think the longer you practice and survive in the profession, you recognize that you have to deal

with people, continue to have relationships, and that contributes to the degree of professionalism that you may not have as you are climbing your way up the ladder.

Kolesar: Most of us probably have had good fortunes to work with older attorneys who they learn from. Now, the young attorneys want \$100,000 a year and it doesn't give you the opportunity to properly prepare and mentor them.

John O'Reilly: Well, I think we need to continuously be raising the bar. With the growth of the community and as the number of lawyers increases, it makes the trade more challenging.

Jeffrey Silver: Life is a long road. The newer generation doesn't appreciate how long that road really is. You have to earn your reputation every day. Even after years of earning your reputation, you can lose it all in one moment. It really takes constant vigilance to protect



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your good name and it's of utmost importance. The pursuit of financial wealth that some of the younger attorneys have is a recipe for disaster. Sometimes you will sacrifice your good name for an instantaneous result.

Bill Curran: Thirty years ago, we all knew each other, grew together and now, we trust each other. We knew that we were going to deal with each other. A lot of us recall the good work and it frequently went out of

town because we didn't have the level of sophistication and experience here that we have now.

Jolley: It's unbelievable what I see these days. As a past president of the Nevada Bar, I was asked what I thought could be done to improve the Bar, and told them that I think the judges used to enforce the rules more in court. We really have to get our judges to make it more civil in court. I see things where the judge

ought to dress down the attorney for making comments. How many times have we been in court when we see an attorney make a statement they clearly didn't have any basis for and attacks are made in court that are unnecessary.

Bailey: There's a difference, unfortunately, between how the federal bench treats unprofessional behavior and incivility as opposed to the state bench. I think most litigation attorneys recognize the level of tolerance with the Federal Court judges is a lot less than the State Court judges. I know the Federal Court judges have made an effort to get out and publicly talk about their unwillingness to stand for any kind of unprofessional conduct.

**Process of Electing Judges
Should they be elected or appointed?**

Jolley: My preference is to have judges

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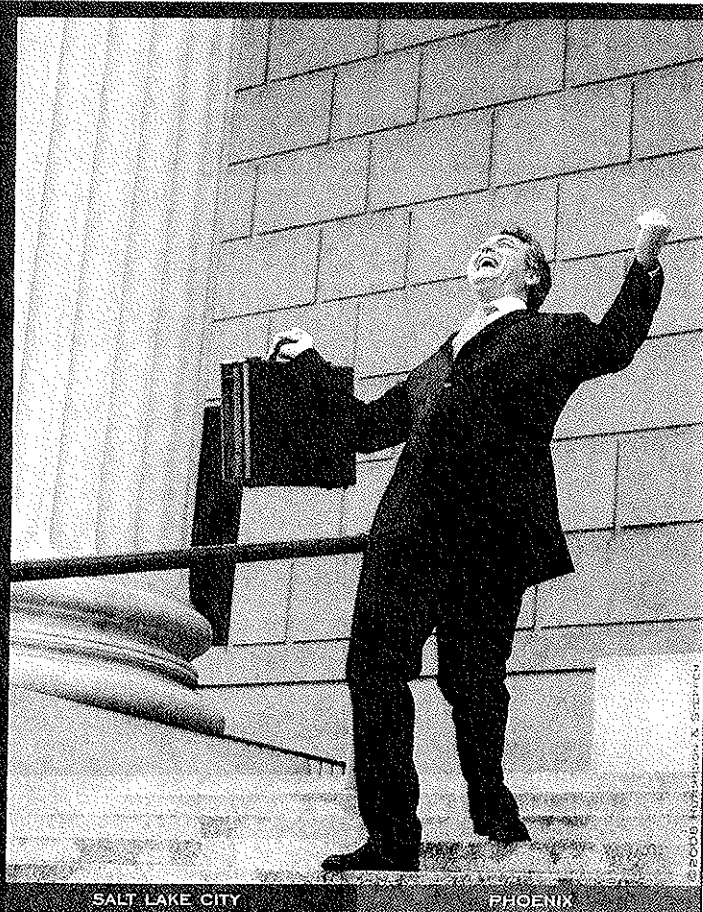
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appointed. However, a good judge that I know mentioned to me, I would have never gotten appointed because of the selection committees. I think it might already be a problem. There's a lot of politicking that goes on and that disturbs me. But we would be better off as a bar to have appointed judges rather than elected judges.

Bailey: That issue arises from two principles. One is politics and the other is qualifications. We have a situation where we elect judges and there are always concerns about whether a judge is too political or not qualified to hold that office – those are the principal problems we need to eliminate. Now, whether we do it through an appointment process, I don't know.

Ryan: There is a cause and effect relationship in the federal bench being more likely to come down on attorneys for a lack of civility. They don't have the pressures that maybe you have on the state side. I have seen the appointed system in Missouri and in Arizona. When I came to the Valley, it was eye opening. The publicity problems associated with it are epidemic versus what we see in Arizona. Revoking the independence of the judiciary and the importance of that concept to an entire population is a difficult chore.

Silver: The voters look at us as being an elite group and if we appoint our own without having some kind of input from the average man it looks incestuous to the public. However, because these are nonpartisan positions, most cases do not call for large campaign contributions to be made and they don't have the finances to get the message out.

Curran: It's not quite as simple as most people think. Anybody who thinks that the merit selection process is the only factor of merit has a pretty unsophisticated view of things. The appointment process is not something without politics. There are many factors that affect




the way the game is played. One of the problems with the merit election is it really doesn't work to get rid of a judge, unless they have done something very politically unpopular. We have seen judges in retention elections who have made decisions in high profile drunk driving cases where lobbies of mothers against drunk drivers have ganged up on

them, and didn't even realize they were in an election until they lost. This isn't the perfect system.

Kummer: I certainly understand that the appointment process isn't perfect, but any pitfalls would be substantially less than those in an elected judiciary.

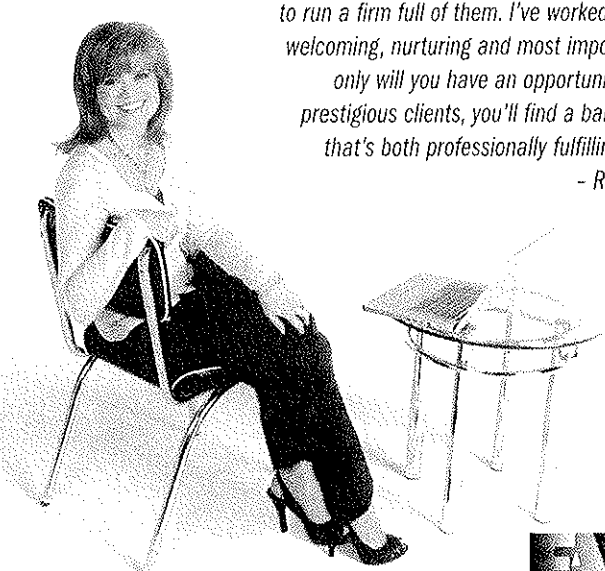
Pectris: Unfortunately, the way our system works, judges have to raise the funds and try to retain their positions. The money has to come from those professionals in the community who support them. It's not necessarily the most perfect system, but you have to weigh the risks of eliminating that system and being able to have control in the judiciary, allowing the public weigh in on that decision.

Williams: The money raising is really repugnant, and it needs to go away. But I'm not so sure that the selection process is in reality going to be much different on what's going on right now. 

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