



John Maier, left, who chairs the Intellectual Property Law Section, and Dave Horne, NCBA governmental affairs director, wait their turn to speak at the recent School for Newly Elected Legislators. Joe Ferrell, right, of the Institute of Government, looks on.

NCBA Proposals Go To Legislature

Proposals dealing with mediated settlement conferences, equitable distribution and health care power of attorney will be among those presented to the North Carolina legislature by the N.C. Bar Association.

In January the NCBA Board of Governors considered more than 25 legislative proposals developed by the Association's sections and committees on these and many other topics and approved initiatives in these areas.

"The sections and committees of the Association have been very active in developing an aggressive legislative agenda for the 1991 General Assembly," said President George Mast. "We are excited about our proposed changes in the law and look forward to a productive and challenging legislative session."

"In addition to the legislative initiatives brought forward this year by our sections and committees the past positions of the Association continue to be high priority on our Association's legislative agenda," said Nick Fountain, who chairs the Association's Legislative Advisory Committee.

These positions include judicial selection reform and revision of the Administrative Procedures Act, funding for legal services and adequate funding for our courts.

"Once again the Association has come forward with many proposals to improve the law in North Carolina," said Sen. George Daniel, chair of the Association's Legislation and Law Reform Committee. "As a legislator and

attorney I greatly appreciate the work of the Association in addressing issues of concern to our citizens."

The North Carolina General Assembly convened Jan. 30 facing some difficult issues, including a proposed budget shortfall nearing \$400 million as well as a potentially greater shortfall for the 1991-92 fiscal year.

Since 1991 is a redistricting year this adds another political dimension to the legislative process, said B. Davis Horne, NCBA governmental affairs director.

"We are beginning to build coalitions and develop support for our proposals in the legislative arena and hope to have a successful year with the assistance of our Association members," he said.

Among some of the proposals the Board approved are as follows:

- Uniform Fraudulent Transfer Act.
- Revision to State Law to Allow the Creation and Perfection of Security Interest in Rents and Profits.
- Court-Ordered Mediated Settlement Conference in Superior Court Actions.
- Numerous changes in Estates Law, including expanding powers of trustees to combine or split trusts and make discretionary distributions.
- Numerous Family Law changes in the divorce, alimony and equitable distribution areas.
- A comprehensive health care durable power of attorney provision in the Health Law section to address the issues in the recent *Cruzan* case.
- Changes in the Real Property Law area to revise the foreclosure statutes. ■

After The Clerkship: Was It Worth It?

By J. Rich Leonard

Law clerks who leave North Carolina fare much better than those who choose to stay, according to a recent survey of all lawyers completing clerkships with state and federal judges during the past five years.

Of the former clerks who left North Carolina to enter private practice, 97 percent received additional compensation and time credited toward partnership based on their clerkships.

Of those remaining in North Carolina, 50 percent received no credit of any nature, entering the private job market on the same terms as law students just graduating.

"While interviewing in North Carolina after my clerkship, I was told by several firms that I would not receive salary or progression credit for my clerkship time," said a former clerk to one of North Carolina's circuit judges.

"Interestingly, the major national firms with which I interviewed all gave full salary and progression credit."

Another former clerk said that the upshot of this is that the state loses much of its homegrown talent each year to Washington, Atlanta and New York. "The bar and the law schools ought to be concerned," he said.

After sharing this information with the members of the Bench, Bar and Law School Liaison Committee, the deans of the law schools in particular were indeed disturbed by the results of the study.

The survey came at the request of the North Carolina State-Federal Judicial Council, a group of judges representing all of the North Carolina federal and state courts at each level.

A decade ago, law clerks were paid substantially more than beginning associates with private firms. This pat-

tern has undergone a dramatic reversal, with judges only able to offer salaries that are \$20,000-\$30,000 less than the current starting salaries for new lawyers at major North Carolina firms.

Additionally, the increasing cost of a legal education and the declining availability of financial assistance means that many new lawyers begin their careers with educational debts of more than \$40,000.

Added to these factors is the perception that North Carolina firms ignore clerkships in setting salary and partnership tracks, further diminishing the interest in clerkships.

As one former clerk said, "As I look at my present position, compared to that of some of my classmates, I often regret that I spent two years as a clerk when I could have spent that time at a firm learning about the business of practicing law and acquiring some financial security for my future."

Another interesting finding of the study is that federal law clerk fare better than former state law clerks. About 62 percent of the former federal law clerks who stayed in North Carolina received some credit for clerking. Of the former state appellate clerks, that figure dropped to 33 percent.

Although its worth may not be reflected in monetary compensation, former clerks say the experience was valuable.

"It cannot be measured in dollars and cents," one former clerk said. "The experience and contacts far surpass those lawyers with twice my tenure as a practicing attorney."

(Leonard is the clerk of the Eastern District of North Carolina in Raleigh.)

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