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Publications Specialist:

Christina Alberts (christinaa@nvbar.org)

GRAPHIC DESIGN

Georgina Corbalan

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Message from the President

Frank Flaherty, Esq., State Bar of Nevada President



(STILL) ON THE ROAD FROM CUBA

In my last column, I discussed leading a delegation of Nevada lawyers to Cuba earlier this fall. Perhaps excepting a brief discussion of the recent history of the Cuban economy, I devoted the bulk of my column to some of the challenges of getting to (and sometimes from) Cuba, along with a myriad of other details that I would classify as “physical.” This month I will share some other insights we gained in our interaction with the Cuban bar or, more precisely, the National Association of Cuban Jurists (UCNJ).

If there is one word to describe the Cuban bar, I think it would be “organized,” but perhaps that is merely a reflection of Cuban society writ large. The 35-year-old UCNJ is comprised of 16,000 professionals. Not all of those professionals are necessarily attorneys. For example, the economist who made a presentation to our delegation was also a member of the UCNJ. The UCNJ is governed by a national council and a 13-member executive board. The UCNJ is divided into numerous specialization groups such as labor law, family law, “notarios” and agrarian law. Similar to our bar sections, these specialization groups organize national and international events and engage in the training of lawyers.

There are three routes to becoming a lawyer in Cuba; each takes five years to complete. Based on competitive exams administered after high school graduation, the University of Havana admits approximately 700 students per year into its law program. There are a few smaller programs around the country, but they are comprised of significantly fewer students. These students are essentially the equivalent of full-time, or “day” law students, who would graduate from law school in three years in the U.S. In Cuba, the attorney’s undergraduate and legal educations are collapsed into a single, five-year program. For the first few years, the emphasis is on exposing students to the practical application of the law for at least a few hours every day, typically in the form of an internship. It is only after this exposure to the practical side of the law that day students delve into the academic substance of the law.

The second route is through a “night” program, which also includes Saturdays. As in the U.S., the night program is often populated by those already working or engaged in a non-law career. I must digress briefly here to tell you about our delegation’s smart, delightful guide/interpreter, Rita, who speaks excellent English, despite being handicapped by a pronounced New York accent.

Rita and her family returned to Cuba after the revolution, when she was approximately 14 years old – maybe they were just fleeing New York? In case you are thinking it would be tough to make new friends at that age, especially as a Yankee in a freshly-minted communist country, Rita explained that she soon became very popular because she possessed a “contraband”

Beatles album (note that several members of our delegation posed for photos beside a statue of the now officially tolerated John Lennon in a popular Havana park). To return from this digression, Rita is a product of the night program, and we were impressed as she recalled, not fondly, the challenges of working full-time, raising a family and attending law school, especially during the fourth and fifth years of the process, when all students must engage in research projects.

The third route to becoming an attorney in Cuba is through a distance-learning program. It is essentially the same as the “night” program, but is for students who live in remote areas of the country. We were informed that all three programs have the same curriculum; however, it appears that the day students enjoy significant advantages over the night and distance-learning students. Aside from the state picking up the full tab for tuition, books, meals and housing, graduates of the day program are also guaranteed government jobs as attorneys, for at least three years. The day students compete for jobs as prosecutors or deputy counsel for the multitude of Cuban ministries, based on their law school grades.

Cuban lawyers not working for the government may join a Cuban law firm, or, as they are called in Cuba, “law co-ops.” The co-op is not a state enterprise and owns its own capital and assets, but fees must be approved by the Ministry of Justice. The co-op provides the infrastructure of the practice and payment of nonlawyer staff salaries. Co-op lawyers do not receive salaries, but are paid by their collective clients, through the co-op, which retains a portion of the collected fees for payment of overhead, by way of a year-end profit split. The profits are split among the entire staff, not just the attorneys – a practice that would run afoul of Nevada’s Rules of Professional Conduct. Also, a portion of the profits is set aside to upgrade the co-op, not just in terms of equipment, but also in terms of additional study for its attorneys.

An attorney in a co-op would not want to be on the wrong side of the co-op’s “director.” The director’s considerable authority includes: determining the appropriate hourly rate of a co-op attorney; determining the appropriate retainer (the co-op lawyers we met with indicated that they sometime have trouble collecting fees. Imagine that. Oh, and they are often blamed when things go wrong); directing the flow of referrals to individual attorneys; and, perhaps most ominously, “adjusting” a collected fee at year’s end, based on the director’s overall assessment of the quality of work performed by the lawyer.

Our group had many questions, which were answered without reservation. We were advised that there were no “rich” lawyers in Cuba, and that a typical Cuban lawyer occupies the same economic strata as a Cuban engineer. In a co-op practice, there is a tiered fee structure. For example, the total fee in U.S. dollars for a Cuban worker who retains an attorney for a routine dispute might be less than \$2, but foreigners or Cubans living abroad can expect to pay about \$150 per hour. The most highly compensated lawyers in Cuba are government lawyers – judges and prosecutors – followed by law professors. There is no gender disparity, numeric or economic, and the current Minister of Justice and Vice President of the Cuban Supreme Court are both women.

Our very last question for the co-op lawyers was about work-life balance. In response to this question, we received the sad news that it is very difficult for Cuban lawyers to take time away from the office. I guess some things are universal. ■