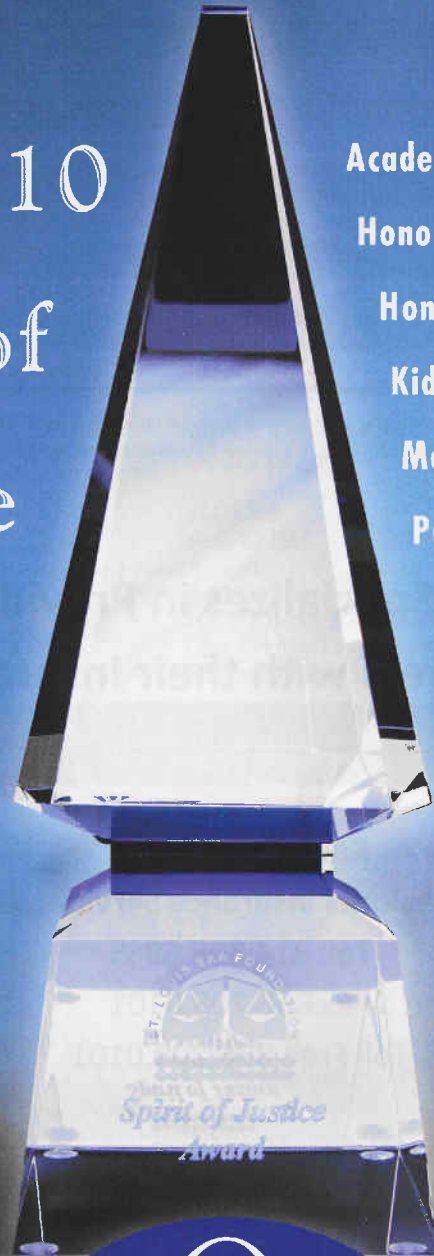


# St. Louis Lawyer

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## The 2010 Spirit of Justice Awards



**Academy of Law**

**Honorable Jimmie Edwards**

**Honorable Andrew Jackson Higgins**

**Kids Voting**

**Mary DeLach Leonard**

**Police Athletic League**

**Edward Roth**

**Donald M. Suggs, DDS**



The Official Publication of The Bar Association of Metropolitan St. Louis

# Everybody is a layperson



by Thomas G. Glick

In the second millennium, when people first took up advocacy for others as a profession, the professional advocates were priests because literacy and education were at a premium. Priests could read, write, and learn rules in the same way lawyers do today. Moreover, at that time, law was ecclesiastical. Thus, priests were the obvious choice as advocates when disputes that had to be resolved arose.

The Church-dominated history of that time is also the foundation for much of our language today. For example, the word "laity", which was and still is used to distinguish people that are not ordained ministers from those that are, is the etymological root of the word "layperson", the term lawyers use to describe non-lawyers. Since doctors and many other professions use the term in a sim-

ilar manner, we can view everybody as a layperson in one or more areas.

The relative nature of this term and, in particular, its use by attorneys reminds me of a theory my sister, Debi Brenningstall, and I have discussed. Debi is an intelligent, business-savvy person. She has been a licensed Certified Public Accountant and has earned a Masters degree in Business Administration. Yet, from our perspective as lawyers, she is a layperson.

Her theory is that, unlike those priests of yore, lawyers are not some set of elites anointed and privy to secret knowledge. Instead, pretty much all we know about the law is a matter of public record and anyone with enough intelligence and enough time and energy could learn to be a decent lawyer. I think her theory is essentially correct. Similarly,

with the level of intelligence necessary to acquire a J.D. degree and with enough time and energy to learn, I think most attorneys could learn to practice any profession. In fact, lawyers frequently have to learn a great deal about our clients' professions. I do not think that a lawyer could do a very good job of drafting a contract to provide computer support services without learning a significant amount about providing computer support services. Likewise, I know many lawyers that prosecute and defend medical malpractice cases that have learned a great deal

about medicine without having ever attended medical school. While I have not had to learn much about medicine or computer support, my own practice, in which I prosecute, defend, and assist fiduciaries in probate and trust cases, I have been forced to learn way more than I ever thought I would about accounting and banking.

Even beyond representation, lawyers in private practice eventually discover that besides knowing how to advise clients on the law, they also have to know quite a bit about sales and customer service in order to get and keep clients. We also have to have some grasp of the fundamentals of business management, personnel management, accounting, taxation, computers, and a large number of other fields of expertise. None of us, of course, have the time or energy to become an expert in every field. Fortunately, our ability to hire or otherwise acquire the services of trained experts permits us to limit our knowledge to only the most basic issue spotting in these fields. Even within our own profession, none of us is an expert in every practice area. Instead of memorizing all of The Law, we rely on our ability to "issue spot" (which doctors call "diagnosing") followed, in many cases, by research to verify, if not discover, the subsequent course of legal action.

Until recently lawyers were like the priests of yore. We had a monopoly on access to legal knowledge. People without a legal education had no realistic hope of finding their way to the correct statute, case, or legal form. Not only did they lack substantial knowledge of the methods of legal research, non-lawyers also had were very few places to access statutes, cases, digests, legal forms, and practitioners' guides. Those days are gone. The internet has provided most people in our country with free access to all of those legal writings in formats that are accessible to many people lacking in substantial legal knowledge.

Don't despair. The practice of law requires more than knowing how to find cases, statutes,

*continued on page 5*

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and forms. In truth, it requires much more. For starters, it requires finding the CORRECT case, statute or form. We have all encountered pro se laypeople that, despite having access to the law, made very basic mistakes while pursuing legal action. For example, I met one person who attempted to prove that his landlord was acting unconstitutionally in evicting him from a privately owned residence. Another person I know found a form for a deed and attempted to use it as a will. Based on our level of expertise, it is easy for us to see that a layperson has gotten in way over their head without even knowing it. The retelling of such "war stories" is an element of the camaraderie that is important every time members of the Bar Association of Metropolitan St. Louis gather socially and every time I write this monthly column.

The retelling of these stories is mostly for entertainment or the bravado of the story teller. The intended audience does not usually take them as cautionary tales. Perhaps, they should. The road to becoming and remaining a lawyer is neither short nor easy. As a result, lawyers, as a general rule, have relatively high intelligences and substantial self-confidence. So, it goes against our nature to think of these stories as cautionary tales in overconfidence. But, that is precisely what they are.

Within the practice of law, most of us are pretty good at identifying what we know and what we do not know. Those of us that specialize in an area or areas of the law recognize immediately when questions arise that are outside our practice area.

We join bar associations or law firms so that we know other lawyers who can provide us assistance or to whom we can refer clients. The ability to be realistic about one's knowledge is not unique to specialists of course. General practitioners also know what areas of law to avoid and when a case



*The Bar Association of Metropolitan St. Louis recently won the Richard B. Teitelman Distinguished Service Award. Shown here are Zoe Lyle, Executive Director; Jim Guest, Volunteer Lawyer Program Director; and Tom Glick, BAMSL President.*

has become too complex to handle alone, even in areas in which they are well versed.

I think the concept to which I am alluding can be described as "humility." And I hope not to sound preachy because I am as guilty as anyone of failures of humility. I might even be seen as worse than most, as I have the temerity to imagine that something about my legal education and experience qualifies me to run a professional association with several thousand members and a budget in the millions of dollars.

Those priests of yore and their ancient and modern counterparts in most other religions teach that humility is a virtue. Regardless of whether you are a follower of one of those religions or a different religion or no religion at all, you have undoubtedly gathered pretty good, if anecdotal, evidence that knowing your limitations is at least as important as knowing your strengths. Every land owner, car owner, or computer owner has attempted a repair themselves to save money only to end up paying more to have a true expert fix not only the initial problem, but also the botched repair job.

This ability to recognize our own weakness and the need to rely on other individuals and even groups is the basic compulsion behind packs and

herds. In humans specifically, we recognize this as the basis for the formation of society as a whole and subgroups thereof. We have learned that we are more effective if we cooperate with one another as families, countries, unions, and (you had to see this coming) bar associations. BAMSL only works if our members take advantage of the association in this way. I think it is great that we offer the opportunity for a handful of members to teach continuing legal education classes. However, the substantial purpose of those classes is not to benefit the teachers, but the students. Even before continuing education was mandatory for all of us, this association was providing these benefits, along with the opportunity to learn from each other in more casual, collegial settings. Further, we not only teach each other about substantive areas of the law, but also practical lessons, such as professionalism; law practice management; managing work-life balance; how to practice law in a firm, in a partnership, or in a solo

setting; how to practice in a specific area of law, and how to practice law as a member of a particular race, gender, or virtually any other group. And what we cannot teach to each other or what we do not wish to learn we also provide the even more important benefit of access to a network of people that know what we admit that we separately do not. ■

*To comment on this article, please use the discussions tab on The Bar Associations of Metropolitan St. Louis Group on Facebook or email them to [tglick@dmfirm.com](mailto:tglick@dmfirm.com). To access Facebook, please click on the Facebook Icon at the bottom of the page at [www.bamsl.org](http://www.bamsl.org).*

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