Good counsel

Editorial Notebook • Lawyers as peacemakers instead of warriors.

By all historical accounts and conventional measures, Abraham Lincoln was a masterful — and brilliantly successful — lawyer. He attracted top clients and was hired to handle their toughest and most sensitive cases.

Fragments of his pleadings that have survived reveal a penetrating and strategic legal mind. His reputation among peers at the bar was unsurpassed. His practice afforded him a comfortable life in tasteful home as a leading citizen of Springfield, Ill.

Among the best known remnants of his law practice days is a manuscript chock full of solid ethical and practical advice to fellow attorneys.

The most famous excerpt, though, counsels lawyers to "discourage litigation."

"Persuade your neighbors to compromise whenever you can," Mr. Lincoln wrote. "Point out to them how the nominal winner is often a real loser — in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough."

The best lawyers always have known this to be true, especially as concerns the vast bulk of lawsuits, such as heart-rending family legal fights and most commercial disputes.

The courts, too, have been aggressive in promoting and in some cases mandating alternative forms of dispute resolution — both as a means of achieving justice and moving their dockets.

Some people see lawyers more as blunt instruments than peacemakers. But as a lawyer-turned-editorialist, I helped to judge a national student competition at Washington University Law School last weekend that offered a heartening look at how Lincoln’s ideas have become deeply and imaginatively ingrained into the lawyers’ professional education.

The law school was regional host of the American Bar Association’s “Representation in Mediation Competition.” Two-person teams drawn from law schools in six states were presented with the facts of a dispute and then asked to role-play through a formal, 75-minute session with a professional mediator.

The round I judged concerned a dispute between two dentists. The older one had taken a chance and invested a considerable sum in a new graduate’s practice. The younger dentist was doing well and wanted to renegotiate their deal.

The competition’s outcome didn’t depend on whether the parties reached agreement. The students were scored on the thoughtfulness of their planning and their ability to zero in on shared interests that could serve as a basis of a realistic compromise.

They were judged on the creative options and approaches they generated to advance settlement or to break an impasse, as well as their assessment of what had gone well, what opportunities were missed.

Karen Tokarz, who directs the Washington University Law School’s dispute resolution program, sees the competition as part of “a larger movement that is fostering a new professional role for lawyers — lawyers who are zealous and passionate but also focused on solving disputes more creatively, efficiently and fairly and in ways that preserve relationships as much as possible.”

The team from Hamline Law School of St. Paul, Minn., won the St. Louis regional honors and moves to the finals in San Francisco in April.

Competition organizers might consider seizing on the contest’s exquisite pedigree and start awarding to the national champions a Lincoln Prize.

— Eddie Roth