



The FBA Newsletter

Federal Bar Association, Dallas Chapter

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Winter 2015

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Upcoming FBA Events

January 20, 2016

Civil Practice Seminar with Keynote Speaker Judge Ken Starr (Registration Required)
"What Every Lawyer Should Know Before Entering Federal Court"

The Pavilion at the Belo Mansion, 2101 Ross Avenue, Dallas, TX 75201

MCLE Credit: 5 Hours (including 2 hours of ethics)

Register at: <http://www.fedbar.org/Chapters/Dallas-Chapter/Calendar/Dallas-Chapter-30th-Annual-Civil-Practice-Seminar.aspx>

President's Message



As 2015 draws to a close, I am excited to announce that our 30th Annual Civil Practice Seminar is coming together nicely. The topics this year will include Judicial Advocacy, In-House Practice, Civility & Ethics, Access to Justice, and Legal Writing. In addition to **Judge Ken Starr** as the Keynote Speaker, our panelists/presenters will include **Judge Sidney Fitzwater, Judge Royal Furgeson, Judge Irma Ramirez, Judge David Horan, Judge Scott Brister, Justice Douglas Lang, and Professor Fred Moss**, as well as in-house panelists from **AT&T, Ericsson, and ARGO Data Resource Corporation**. The Seminar is scheduled for

Wednesday, January 20, 2016, at the Pavilion at the Belo Mansion. The program will be instructive for both new lawyers and veteran practitioners.

One of the Chapter's goals for the 2015-2016 program year is to ensure that the value of an FBA membership exceeds the cost. To that end, the Seminar will be \$10 for active FBA members; \$60 for non-FBA Members in private practice; and \$25 for non-FBA Members in government practice. Refunds will be issued, upon request, to those who join the FBA on or before January 20, 2016.

We have been privileged to host a number of fantastic events in the past

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few months. In November, we co-sponsored both the "Starting Out Right" Bankruptcy Practice Seminar and a Swearing-In Ceremony for new attorneys who passed the June bar exam. Both events are featured in this edition of the newsletter. We have also hosted brown bag CLE lunches at the Federal Courthouse featuring **Justice Catharina Haynes, Judge Sam Lindsay, Magistrate Judge David Horan, and Magistrate Judge Irma Ramirez**. If you are interested in getting involved with the Executive Committee or have any questions or suggestions about our Chapter's upcoming events, please contact me at jason.bloom@haynesboone.com. We appreciate all of our FBA members and want to make certain that you are receiving value from your membership.

-Jason Bloom

Investiture Ceremony for the Honorable Mark X. Mullin

On October 23, 2015, an investiture ceremony was held for the Honorable Mark X. Mullin at the Eldon B. Mahon U.S. Courthouse. Judge Mullin was appointed by the United States Court of Appeals for the Fifth Circuit, effective September 18, 2015, to a seat vacated by the retirement of United States Bankruptcy Judge D. Michael Lynn. Judge Mullin will sit in the Fort Worth Division of the United States Bankruptcy Court of the Northern District of Texas.



Photo: FBA Vice President for the Fifth Circuit Marc Taubenfeld, the Honorable Mark X. Mullin, and Clerk of Court Karen Mitchell

FBA Annual Meeting

The Federal Bar Association's Annual Meeting and Convention was held in Salt Lake City this year. The convention featured CLE sessions with distinguished speakers, networking receptions, and other social events over a three-day span. Over 300 legal professionals attended this year's meeting, including Dallas Chapter President Jason Bloom (top right photo).



One of the many highlights from the convention was a reception hosted by the Utah Chapter of the FBA at the Natural History Museum in Salt Lake City. The photograph on the bottom right was taken at the museum reception (and does not feature any FBA members, past or present).



Next year's Annual Meeting and Convention is scheduled for September 15 – 17, 2016, in Cleveland, Ohio. Information about the conference is available on the FBA website (<http://www.fedbar.org>) under the CLE tab.

Bankruptcy Practice Seminar



On November 6, 2015, the Dallas FBA Chapter and the FBA Bankruptcy Section sponsored the "Starting Out Right" Bankruptcy Practice Seminar. The full-day seminar offered CLE to bankruptcy practitioners and included discussions helpful to young attorneys starting their careers. The seminar featured a morning session in the Honorable Harlin D. Hale's courtroom and lunch and afternoon sessions at the offices of Carrington, Coleman, Sloman & Blumenthal, LLP. Lunch included a panel discussion with Lisa Lambert, Rakhee Patel, and Corky Sherman, moderated by Marc Taubenfeld, focusing on the ten years since the passage of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

The seminar was both well-attended and well-received by the audience, which included forty lawyers new to bankruptcy practice. Many thanks to the FBA's Bankruptcy Section, the Young Lawyers Committee of the Bankruptcy Section of the State Bar of Texas, Judge Hale, Carrington Coleman, and the many others who helped make "Starting Out Right" a success.

Top: Judge Hale speaking at "Starting Out Right."

Right: Rakhee Patel, Corky Sherman, Lisa Lambert, and Marc Taubenfeld during the lunch panel.



Swearing-In Ceremony

On November 17, 2015, the FBA and the Dallas Association of Young Lawyers co-sponsored a Swearing-In Ceremony at the Belo Mansion for attorneys who passed the July bar exam. Judge David Godbey of the United States District Court, Northern District of Texas, Justice David Schenck of the Fifth District Court of Appeals of Texas, and Judge Mary Murphy of the First Administrative Region conducted the ceremony. Judge Godbey, Justice Schenck, and Judge Murphy all spoke about the practice of law before administering the oath of office to the new attorneys. The ceremony was followed by a reception to honor the new attorneys on their admission to the State Bar of Texas.



Left: Justice Schenck, Judge Murphy, and Judge Godbey administering the oath.

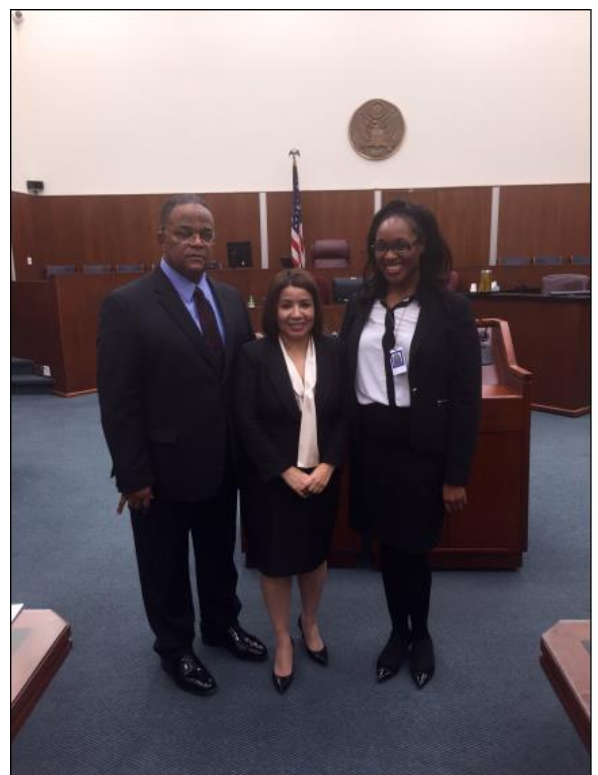


Right: Attorneys at the reception after the ceremony.

Young Lawyers Brown Bag Luncheon

On December 9, 2015, the FBA sponsored a brown bag luncheon for young lawyers featuring the Honorable Sam A. Lindsay and the Honorable Irma C. Ramirez. The event, which was held in Judge Lindsay's courtroom, offered CLE credit and a discussion of topics relevant to young attorneys.

Photo: Judge Lindsay, Judge Ramirez, and Sheria Smith after the luncheon.



Federal Rules Update

The Federal Rules of Civil Procedure were amended effective December 1, 2015. The amendments impact Civil Rules 1, 4, 16, 26, 30, 31, 33, 34, 37, 55, and 84.

Among the most significant amendments are the changes to Rule 26 and the general provisions governing discovery. Amended Rule 26(b)(1) narrows the scope of discovery by deleting language that suggested information was discoverable simply because it was “relevant to the subject matter involved in the action” or “appear[ed] reasonably calculated to lead to the discovery of admissible evidence.” Now, information is discoverable if it is relevant to any party’s claim or defense and “proportional” to the needs of the case considering a variety of enumerated factors borrowed from Rule 26(b)(2)(C)(iii). Amended Rule 26(c)(1)(B) explicitly recognizes the trial court’s inherent power to allocate costs associated with discovery as a means of encouraging courts to consider cost-shifting as an alternative to denying a discovery request or imposing an undue burden on a responding party. Amended Rule 26(d)(2) allows a party to deliver Rule 34 requests for production of documents in advance of the Rule 26(f) conference. The early requests are treated as having been served at the first Rule 26(f) conference, and the time to respond is calculated from the date of service.

The 2015 amendments also include a completely revised Rule 37(e), which provides a new framework for addressing the preservation and loss of ESI. The new rule authorizes corrective methods and sanctions if ESI that should have been preserved is lost or destroyed because a party failed to take reasonable steps to preserve it. Upon a finding that the party deprived of ESI suffered prejudice from the loss of information, amended Rule 37(e)(1) authorizes the court to order corrective measures “no greater than necessary to cure the prejudice.” Under amended Rule 37(e)(2), a court may impose severe sanctions only upon finding that the party that failed to preserve ESI did so with the intent to deprive another party of the use of the ESI in the litigation. Where the court finds the party acted with the intent to deprive, it may give an adverse inference instruction to the jury, dismiss the action, or enter a default judgment. The new rule rejects court decisions that authorized giving an adverse inference instruction on a finding of only negligence, or even gross negligence.

A number of the remaining amendments address a range of issues designed to encourage cooperation and active judicial management in order to get cases moving more quickly, shorten litigation, and reduce costs. For example, amended Rule 4(m) shortens the time for serving the summons and complaint from 120 days to 90 days. Similarly, amended Rule 16 shortens the time for a court to issue a scheduling order to the earlier of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared.

For a complete list of the changes, please visit the United States Courts website at:
<http://www.uscourts.gov/rules-policies/current-rules-practice-procedure>.

By Rebecca Rutherford, Judicial Law Clerk to the Honorable Barbara M. G. Lynn (N.D. Tex.)

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