

## President's Message

FERN C. BOMCHILL

### We Work for the FBA, and the FBA Works for Us

**A**S I HAVE often mentioned when addressing FBA member gatherings, during my first years as an FBA member, I did not fully appreciate the two “arms” of the association or the national structure. The FBA brand and communications have vastly improved,

but as our membership grows, we can use a refresher course.

The FBA operates on a local level through 87 chapters across the country. With few exceptions, every FBA member is a member of a chapter and has the opportunities and benefits of local programming and other chapter activities. The FBA also has 24 sections and divisions (sections are centered on substantive specialties, and divisions are based on common demographics or professional positions), which offer opportunities to meet, learn, socialize, and work with other FBA members who are similarly situated professionally. The association's national structure is the tie that binds. It provides chapter and section and division support and oversight and consists of national officers and the Board of Directors (the FBA's governing body), vice presidents for each geographical judicial circuit (whose mandate is to assist and support the chapters in their circuits), the Section and Division Council (the chairs of each section and division), the National Council (a representative body of leaders and members from throughout the association), and, very importantly, the FBA's executive director and national staff, who run the organization on a day-to-day basis and are always available to members by telephone or e-mail.

I recognize that many members are content with the benefits of chapter and/or section and division membership and are not looking for leadership within the association or other FBA opportunities or experiences. We are pleased to be serving your needs. (I believe that our growing membership is evidence of your satisfaction.) However, as you may know, there are national events for those who may consider expanding their FBA involvement, such as national conferences (on tax law, immigration law and Indian law, for example) and the Annual Meeting and Convention held in different cities in which the FBA has a chapter. In addition to business meetings, this annual event, usually held in the fall, is filled with phenomenal CLE programs and receptions and tours at art galleries and museums and concludes with an installation banquet and dinner.

Many of you may not be aware of another annual event—the FBA Midyear Meeting, which is held yearly each spring in Washington, D.C. At this business meeting, FBA leaders assess the health of the FBA and plan toward enhancing the value of the organization for our members. I came away from this year's Midyear Meeting with a reminder of what opportunities FBA membership and leadership provide.

We worked hard for more than four days. Your officers met for two days with the executive director to ensure seamless transitions with leadership and staff changes. We held a Board of Directors meeting (remember, all members are invited to attend the board's quarterly meetings) and at the semiannual meeting of the National Council, we reported on the actions of the Board, our committees and our affiliates and on the state of the association. (The state of the FBA is good!) There were meetings of the Sections and Divisions Council and the vice presidents of the circuits. I visited each of these meetings and was struck by the strong and active participation. Ideas were flowing. Similarly, there was record-breaking attendance at the chapter representatives' meeting with the vice presidents of the circuits; the exchange of information energized the participants as well as the observers. At each coffee break and before or after meetings, I renewed and made FBA acquaintances and walked away with new friends.

The evening activities were special. It is a yearly tradition that at the same time as the Midyear Meeting, the FBA's Younger Lawyers Division (YLD) hosts a moot court competition for student teams from law schools throughout the country. The 2012 years competition had 32 teams, and the finals were held before a fictional U.S. Supreme Court at the U.S. Court of Appeals for the Armed Forces. (This was my one opportunity to wear a black robe, step through a curtain and interrupt oral arguments.) The teams, as well as the YLD volunteers, put in tremendous efforts.



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ored with different arguments or passages and are unwilling to edit them. As author William Faulkner reportedly warned, “In writing, you must kill your darlings.” In other words, be objective about your writing and willing to delete unneeded sections even if you like them. An author may be invested in something that he or she has written but that objectively does not advance the ball. If the extremely clever constitutional law argument is not going to convince the court to extend discovery by two weeks, remove the argument. Weeding out weak arguments is crucial to creating a strong written document. As Truman Capote asserted, “I believe more in the scissors than I do in the pencil.” And Justice Brandeis recognized that “There is no great writing, only great rewriting.”

### Clarity

The novelist Nathaniel Hawthorne once said, “Easy reading is damn hard writing.”

It is important to present legal points clearly and simply. If a contract is unclear, it can lead to problems down the road. If no one understands in-house counsel’s advice, it is unlikely to be followed. And, in litigation, judges are on the watch for obfuscation. If a presentation is convoluted, it looks like the attorney is trying to hide something.

Clarity can be accomplished by using simple language, making points straightforward, and avoiding convoluted acronyms and abbreviations. Hippocrates once said, “The chief virtue that language can have is clearness, and nothing detracts from it so much as the use of unfamiliar words.” George Orwell counseled, “Good prose should be transparent—like a window pane.”

It is also important to present complicated arguments or issues simply. An unclear point is the same as a point that has not been made at all. Attorneys often spend so much time getting to know and understand their arguments or positions that they forget that their reader may not have the same background information. Federal Circuit Judge Schall counseled, “I think from my standpoint, at the risk of sounding like a broken record, to me one of the most important things is clarity, clarity, clarity. I sat earlier this year on a case and one of the members of the panel said this might as well be German ... .”

It is imperative for attorneys to recognize that their readers often do not have the same level of understanding of the law, technology, or subject matter and to provide the appropriate background. It is often helpful to have a third party who is unfamiliar with the case or issue to read the legal document. If that reader can understand the writing without knowing the background, then the target audience should be able to understand it as well.

Pursuing the age-old writing goals of accuracy, brevity, and clarity should allow an attorney to write a strong legal document, even if it’s unlikely to make the attorney the star of any legal dramas on television. **TFL**

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I and the other “justices” were impressed with the poise of the finalists as they delivered their arguments and addressed our questions. After due deliberation (while the participants and the attendees nibbled on food and sipped wine), we announced the winners. It was the closest decision in moot court competition history.

I also had the opportunity to speak at the induction of Hon. Clarence Thomas as an Honorary Life Fellow of the Foundation of the Federal Bar Association. Justice Thomas is the seventh Supreme Court justice to join this august group (which is open to all FBA members). During the program, which was hosted by the FBA’s Eleventh Circuit and the D.C. Chapter, Justice Thomas (after three days of arguments on the health care bill) shared some personal stories and spoke eloquently to the 100-plus members of the FBA about, among other things, the importance of respectful disclosure despite strong disagreement between those who have differing views. The audience, whose

viewpoints and philosophies ranged from the left to the right, were riveted by his address.

Justice Thomas also took the time to speak personally with each person in the room. I have been fortunate this year to attend two other receptions at the Supreme Court. At those events, Justices Kagan and Ginsburg, like Justice Thomas at his induction, were open, warm and genuinely interested in the FBA members with whom they spoke. Whether you have been practicing for one year or 40 years, and whether you personally agree with a specific decision or a justice’s writings, spending time at the U.S. Supreme Court with a Supreme Court justice is a moving experience. I am fortunate that I will be back at the Court this spring to participate in another great YLD program: the annual Supreme Court Admissions Ceremony.

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*Kevin C. Bomchill*