



# The Federal Jurist

Hon. Robert S. Habermann, Editor

Winter 2005

## Message from the Editor

By Hon. Robert S. Habermann

Like many tribunals, the Office of Hearings and Appeals of the Social Security Administration (OHA) has been implementing the use of video-teleconferencing (VTC) equipment in an attempt to adjudicate the burgeoning social security disability national backlog. Since travel-time can take approximately 20 percent of a judge's annual work-time, the use of VTC has been advertised as a means to promote an efficient use of a judge's time, and in the same way, be a cost-effective use of public funds. Many OHA hearing offices and their remote sites (places where judges regularly adjudicate cases away from the hearing office) have been technologically adapted so that VTC can be effectively used in adjudicating disability and Medicare claims. But with every adaptation to existing adjudicative procedures, new issues arise.

Shortly after the concept of VTC was first floated before the officers of the Association of Administrative Law Judges (AALJ), OHA management and the AALJ signed a Memorandum of Understanding (MOU) regarding the VTC process. Paragraph 13 of the ensuing MOU reads as follows:

Consistent with the proposed regulations, whether VTC is used in any case is within the discretion of the Administrative Law Judge, subject to the claimant exercising his/her right to opt out of a VTC appearance.

In February 2003, new regulations were promulgated at 20 C.F.R. # 404.936 (c). While § 404.936(a) still provides that the judges will set the time and place of the hearing, § 404.936(c) appears to significantly limit any discretion that the judge may have in determining whether an in-person hearing is held, as follows:

The administrative law judge **will** direct that the appearance of an individual will be conducted by video teleconferencing if (1) video teleconferencing

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## Message from the Chair

By Hon. Gail Randall

Greetings from Washington, D.C. Now that we have all survived the inauguration, hopefully business will get back to usual. The Judiciary Division has remained busy with no relief in sight.

I am pleased to report that, as of Dec. 13, we have 282 members in the division. On the wings of this success, Judge Richard Arkow has asked to resign as membership chair. He will continue as our division secretary. If you are interested in filling the position of membership chair, please contact me ASAP. I need to appoint a replacement by the end of March.

We will have a reception for newly appointed judges on Feb. 16, at the Court of Appeals for the Armed Forces. John Howell is the program chair for this event. We all look forward to this reception and the opportunity to meet new judges.

The division's Long-Range Planning Committee has met twice this fall to create such a plan to present to the division. The meetings have been very productive, and the committee would like to have several proposals for the division to consider later this winter. I express my heartfelt thanks to Judge Andy Efron for chairing this committee and taking on this much-needed task.

The International Judges Committee met recently to discuss the development of a program for the next visit of international judges to the FBA. Judge Dick O'Hair chairs this committee, and I am pleased by the productive discussions the members engaged in during this meeting. Although none are currently scheduled, we look forward to future visits from international judges.

On Jan. 13, the Judiciary Division hosted the annual Administrative Law Judges Summit. Judge Ed Silverstein, with the terrific assistance of Lindsay Clark, FBA manager of sections and divisions, organized and coordinated meeting preparations. Ed also moderated the meeting in his own excel-

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lent style. Bruce Moyer actively participated in making this event happen, and, during the day long meeting, helped to lead the discussions with thoughtful deliberation. I offer my sincere thanks to Ed, Lindsay, and Bruce for, once again, ensuring the summit was a professional and productive event.

The highlight of that meeting was the cordial discussion with OPM's General Counsel Mark Robbins. The good news is that OPM will reestablish the ALJ Stakeholders Meetings. Many participants of these meetings thought they were a valuable method of raising ALJ concerns to OPM. I will keep you advised of the results of any such meetings in the future. Robbins also said he would look into the issue of whether ALJs are entitled to the benefit of the enhanced leave provisions of the new Workforce Flexibility Act.

Next, as many of you may know, during the last legislative session, Congress failed to conclude work on the ALJ pay compression legislation, in part due to OPM's opposition because of the lack of an accountability system for ALJ's similar to the pay for performance initiatives being implemented within the executive branch. Although Robbins recognized that pay for performance is incompatible with judicial independence, he did not have an example of a system that would be acceptable to OPM. He indicated, however, that OPM would be quite interested in considering any system that the ALJ community might wish to propose. In candor, he did acknowledge that this stalemate may require a statutory solution, given the tension between the Administrative Procedure Act and judicial independence, and the administration's requirement of a pay-for-performance system. If you have any thoughts on this issue, please email them to me at [gailarandall@mindspring.com](mailto:gailarandall@mindspring.com). This remains an issue of concern for the forthcoming year.

As for the ALJ examination, Robbins hopes that it will actually be held during the summer of 2005. OPM continues to work to bring the ALJ recruitment process in compliance with statutory and regulatory requirements. Until a new examination results in a new ALJ register, future new ALJ appointments will be made from the existing register.

The Administrative Law Judges Coordinating Council, which was initiated by the FBA Judiciary Division, is still quite active. Their next meeting is Feb. 3, at the FBA headquarters. The primary focus will be to prepare a coordinated agenda for the forthcoming legislative session. Judge Bill Cregar, chair-elect of the Judiciary Division, as well as Judge Edward Silverstein and Judge Ronnie Yoder, represent the FBA on this council.

Judge Dan Solomon has brought to our attention proposals being considered by sections within the ABA concerning Medicare tort and insurance issues. Hopefully, with his leadership, the Judiciary Division plans to consider what, if any, position or future action the division may wish to recommend on these timely topics.

That's all the news for now. As you can see, our winter will be a busy one. Please contact me, [gailarandall@mindspring.com](mailto:gailarandall@mindspring.com), if you would like to be a more active member of your Judiciary Division.

## An Introduction to Section 419 Fraud and Related Electronic Evidence

by E. Edelson

Federal judges are no strangers to e-mail spam. One famous type is the foundation of an industry known as 419 advance fee fraud. The number 419 refers to a section of the Nigerian criminal code, and this fraud is run largely out of Nigeria or by Nigerian expatriates, using letters, fax, and nowadays mostly e-mail. 419ers don't wind up in prison for violating spam laws. Instead, charges involve wire, postal, bank, credit card and visa fraud, embezzling, kiting checks, counterfeiting, fencing stolen goods, money laundering, identity theft, and conspiracy. Most of the evidence will be traditional — fake currency, phone taps, or video-tape. However, because this scam generally begins with e-mail, and because this type has something of a cult following, some background knowledge on the scam and how it uses e-mail may be useful to the jurist confronted with such a case.

The sender of a typical 419 e-mail claims to be a bureaucrat, banker, or son of a dictator and wants the victim to help skim public accounts or claim an inheritance, in return for a commission. There is no money to be stolen or claimed — except from the victim, as demurrage fees or to buy some certificate, or to clean defaced bills. The scammer wants the victim to send a money order. If the victim pays, the victim has been scammed. These letters are so bizarre and often so badly written that they are funny, but people from all walks of life keep falling for it. A scammer may ask for the victim's banking details, but this is a diversion. While it is possible to get at a bank account with enough information, the goal is not to drain the account, but rather to get the victim to send the money voluntarily. The following example is edited — scammers can be wordy.

### Sample scam letter:

From: MARIAM ABACHA stlady88@netscape.net>  
To: { possibly you! }  
Subject: YOUR ASSISTANCE NEEDED

Attn: Sir/madam,  
I hope this proposal will not come to you as a surprise... please kindly treat as urgent and confidential. Following the sudden death of my husband General Sani Abacha the late former head of State of Nigeria in June (1998), I have been thrown into a state of utter confusion, frustration and hopelessness by the present civilian administration ... I have deposited the sum of \$15 million dollars with a security firm abroad ... I

shall be grateful if you could receive this fund into your account for safekeeping ... Please honesty is the watchword in this transaction. I will require your telephone and fax numbers so that we can commence communication immediately and I will give you a more detailed picture of things. In case you do not accept, please do not let me out to the security ...

Yours faithfully,  
Mariam Abacha

Another type involves bad checks. Retailers are all too familiar with these, and they are also increasingly aimed at individuals selling high-priced items such as cars. A scammer responds to a for-sale ad by sending a check for a good bit more than the asking price. The excess is supposedly meant to cover shipping or other costs. The seller is asked to wire the difference back to the scammer right away, but the check eventually bounces.

A 419 letter is often an invitation to steal (imaginary) funds, and some victims are simply greedy. However, many versions of the letter aim at charity (a tsunami version is already in circulation), or offer lotto winnings, or purport to issue a governmental RFP (request for proposals). Many people have been ruined and shamed. Foreigners lured to meet scammers have been kidnapped or killed, and victims have killed scammers (and sometimes innocent bystanders) as well.

Advance fee fraud is neither new nor uniquely Nigerian. The French *lettre de Jerusalem* of the 1840s came from supposed confidants of dead aristocrats. Aimed at those nostalgic for the old regime, it asked for help to retrieve hidden wealth, with the same end. Nigeria is its current epicenter and Nigerians themselves are victims. Peoples' houses are sold while they are away. Letters arrive supposedly from relatives, saying a large check is on its way via a local colleague, and asking that a chunk of thank-you cash be brought to the rendezvous. Nigerians overseas are telephoned by hospital staff, demanding money to treat a sick relative (who is neither sick nor in the hospital). Scammers also recruit foreigners, sometimes victims themselves who hope to recoup by roping in others.

The scam has led to threats of sanctions, but Nigeria has other serious problems. There are complicated social forces at work. The scam is a huge source of revenue and apparently a widespread hobby. Some scammers are very successful, and not subtle about their wealth, but no one person seems to be in charge. How they operate is fairly well

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**419 Fraud** continued from page 3

known. Teams, sometimes ad hoc, and often run along ethnic lines, coalesce around anyone who gets a bite from a prospective victim. Chores include e-mailing, faking certificates, telephoning, arranging office facilities, and meeting victims at the airport. Profits may be funneled into front businesses or drug trafficking.

**Technical responses**

These e-mails have well-known boilerplate elements and could be blocked near the source. The issues are where to place the filters, how to overcome objections, and who pays. It would, of course, force scammers abroad into other crimes, but the more ambitious scammers are migrating anyway. It is certainly feasible. Some of the best filtering software is free, and the current traffic out of Nigeria probably does not exceed the combined e-mail traffic of the law firms in a large American city. Dial-up is too expensive for ordinary people, who mostly use cyber-cafes or kiosks. Almost all connectivity is by satellite, so satellite providers may be best placed to act, along with the major West African Internet Service Providers (ISPs) they serve. The Nigerian government itself has proposed to provide filtering software. However the Nigerian Internet industry is basically unregulated internally. This situation is evolving, but right now there is no real oversight of domain name registration, ISPs are not required to save logs (more explanation below), and police have been accused of extorting money from cyber-cafes to ignore scams. The nation has even had issues over administrative control of its domain name (.ng).

**Legal responses in Nigeria**

Much exposure to this subject can make one cynical, but it would be unfair not to acknowledge existing efforts. The Advance Fee Fraud decree of 1995 imposes long, mandatory prison sentences for fraud and counterfeiting, and permits trial in absentia, optionally by military courts. The head of the young Economic and Financial Crimes Commission (EFCC) is making waves by going after high-profile suspects, including senators and bank directors, but while there have been many arrests, there are yet no convictions. Government and bank Web sites post warnings, which have not stopped foreign victims from suing them. One example is that of *Tolliver vs. Federal Republic of Nigeria* (and co-defendants), Case No. 1:01-CV-290, U.S. Dist. (W. D. Mich. 2003)<sup>1</sup>. An American engineering company did some consulting for self-styled Nigerian officials, in return for a promised fee of \$25 million. Meanwhile the company was required to deposit \$500,000. The officials vanished. The plaintiff's suit for fraud and breach of contract was denied for lack of proof that the fraudsters had been government officials. The contracts were shown to be

fakes, signatures forged, and so on. There have been a number of such cases, with plaintiffs asserting fraud, or invoking the RICO statutes; defendants claiming sovereign immunity; plaintiffs countering with the commercial activity exception to The Foreign Sovereign Immunities Act; and plaintiffs failing to prove they are really going after the right people.

The EFCC has proposed legislation to compel ISPs and mobile phone providers to register and to authenticate customers' identities. The national police Web site solicits complaints (the e-mail queue is always full). NiTel, the national telephone company, has disconnected lines used for fraud and at one point some years back the public was actually denied overseas calling — this would be futile now, not to mention resented by the citizenry, as the growth in mobile use is outpacing that of landlines. The inter-agency, Cybercrime Working Group, is charged with developing recommendations for a body of telecommunications law which would address a range of crime, such as theft of intellectual property and abuse of infrastructure. The goal is not just to fight spam, but to promote national growth and prosperity.

The bottom line however is that, to my knowledge, no foreign 419 victim has ever been made whole through the Nigerian legal process, or in the United States by going after Nigerian institutions.

**Legal responses outside Nigeria**

There have been numerous arrests, convictions and deportations in the United Kingdom, Ireland, Hong Kong, Australia, Pakistan, and elsewhere. Some cases have been fairly dramatic:

- 52 Nigerians were arrested in Amsterdam; one jumped out a high window trying to escape. (Charges were dropped against all but one and most were deported.)
- A scammer detained in an Irish cyber cafe tried to swallow a USB flash drive.
- In 2002, Nigerians were arrested in Johannesburg for running a fake bank Web site. Victims paid fees to view their balances.

Space does not permit a thorough review, but there has been a lot of activity, with West African-focused fraud units in a number of police forces, and customs and postal inspectors cooperating internationally to good effect, for instance to pinpoint shipments of counterfeit checks.

**Legal responses in the United States**

419ers are most likely to meet American justice if they commit crimes on American soil. These may be other financial crimes rather than advance fee fraud. As one example, in 2004, after an alert bank employee in Ohio

triggered an investigation, two Nigerians pled guilty to multiple identity thefts. One had worked in a bank and may have used its facilities to alter customers' listed mailing addresses and to order duplicate ATM cards. These fraudsters collected Social Security, credit card, and bank account numbers of over 100 people. Computer forensics turned up evidence of online applications for multiple credit cards under multiple names. After cleaning out their elderly victims' finances, the scammers invested the proceeds in cars, clothes, and gadgets. The *Financial Times* has reported on similar efforts by fraudsters to get on staff in British banks.<sup>2</sup>

James Buchanan, assistant district attorney and Alex Grant, trial attorney (Southern District of Texas), lucidly describe investigations leading to videotaped stings and to subsequent convictions<sup>3</sup>, and theirs is probably the best prosecutorial introduction to the whole subject. There have been other successes and failures on this front. Cooperation with potential victims seems to be an important element in success, although not a guarantee of it. At least from the point of view of civilians who have spoken on the subject, prosecutors do not seem interested in no loss cases.

On the private side, bank investigators have been able to recover funds from professional counterparts in other banks where loot was deposited. Banks may also have the resources and will to go after fake bank Web sites. These pose a threat to online banking, although not as much as phishing. Phishing e-mails warn you that your credit card or bank account may have been compromised, and urge you to visit a decoy Web site and enter account information. The purpose is to use your information for fraudulent purchases or to withdraw from your account. Do not click on hyperlinks in e-mails whatever their apparent nature. Potential victims could be letting themselves in for a download of spyware if nothing else.

The purpose of 419 sites, however, is to provide the illusion of a real bank, by displaying an imaginary balance, leading inexorably to the victim sending the desired money order. They use borrowed graphics, log-in pages and fake Verisign logos. Verisign is a company providing independent authentication for the identity of a site, in the form of a certificate viewable within a Web browser. The design and code behind such sites used to be clumsy, but have improved a lot. One of the less convincing examples was [www.netherlottocorp.com](http://www.netherlottocorp.com), which, until taken down by the Dutch Ministry of Justice, sported a picture of Netherlottocorp's computer room. It was a picture of NASA mission control from the 1960s.

### Alternative responses

This unintentionally comedic aspect of scammers leads nicely into a short consideration of other ways to get back at them — none of which I encourage members of the judi-

ciary to pursue! One can of course try to have a scammer's account cancelled by his ISP, but scammers keep multiple accounts. There are other forms of resistance. One is wasting a scammer's time. Pranksters on a number of continents pretend interest in a scam proposal, and string out the correspondence, perhaps using a persona such as Napoleon Bonaparte or Bart Simpson. This can go on for months. The exchanges, known as scam-baiting, are then posted on Web sites. Some antiscammers go further, to hijack scammers' e-mail accounts and warn off potential victims, or hijack or bring down fake bank Web sites. I would only point out that some antiscammers are skilled, eager to do some good, and can be (and have been) a help to law enforcement.

### E-mail evidence

Although a scam case may involve traditional forms of evidence, e-mail and computer files may also figure. Care has always been needed in handling and presenting evidence, electronic evidence is still relatively new. Defense lawyers may challenge it, or its chain of custody, or the general practices of its presenters. The High-Technology Crime Investigation Association (HTCIA) can offer training in computer forensics and incident handling ([www.htcia.org](http://www.htcia.org) — members are mostly in law enforcement); SANS ([www.sans.org](http://www.sans.org)); and a number of colleges. A judge need not be an subject matter expert, but it helps to know what an e-mail header is.

Spam complaints addressed to, or only to, the apparent source often miss their mark. A scammer may write as [son\\_of\\_past\\_president@hotmail.com](mailto:son_of_past_president@hotmail.com), but was the e-mail physically sent from Lagos? or London? This is where headers come in. A header includes but is more than the To and From fields in an e-mail. It may not display automatically, but is always there. Computers, including mail servers, are identified by numbers called Internet protocol (IP) addresses, through which they can be located on a network. Protocols specify how an e-mail should list the apparent address of each mail server through which it passes on its journey. Each e-mail server adds to the header, and so an e-mail may be traceable to its physical origin. Internet registries such as RIPE for Africa and Europe ([www.ripe.net](http://www.ripe.net)) and ARIN for the United States ([www.arin.net](http://www.arin.net)) list the internet service providers to whom IP addresses are currently allocated.

Timestamps on e-mails may not be reliable, but e-mail headers do contain individual message identification. ISPs generally keep backups of their e-mail spools for some time, and these and other logs can be obtained, by subpoena if necessary. Now, headers can be spoofed — altered to disguise their origin. Pornography spammers do this all the time. Furthermore, improperly configured e-mail servers can be exploited to relay external e-mails. Such servers

**419 Fraud** *continued from page 5*

may wind up on real-time, black hole lists, used by many network administrators to block communications from dubious sources wholesale. So far, though, the headers of most 419 scam e-mails seem believable. In 2003, I looked at 1,000 of them<sup>4</sup>. Two-thirds of the emails were traceable to Nigerian ISPs or their satellite providers.

Regarding the integrity of electronic evidence, you may hear the term hash. This refers to an algorithm, or formula (notably the MD5 hash), for carrying out an arbitrary transformation on a file. It does not affect the file but produces a separate string of garbled characters — an encrypted string. In principle, no other file so transformed would produce the same string, even if altered by only one character. Furthermore, the hash is considered one-way for practical purposes — the resulting string can not be decrypted. Thus, a hash provides a way to show that an investigator is working from a true copy of an original. At the national HTCIA meeting in 2004, it was reported that the MD5 hash could be compromised — that is, under some circumstances, two files fed through an MD5 hash could produce the same garbled string. Legal challenges to MD5 fingerprinted evidence have not yet emerged.

**Conclusion**

The best defense against the 419 scam may be a healthy degree of cynicism. Perhaps warnings should be issued to

anyone who signs up for e-mail, buys a computer, opens a bank account, applies for a loan, gets a credit card, enters college, starts a new job, goes on unemployment, retires, applies for a passport, attends religious services, or takes out a classified ad. This article is meant to provide some social and technical context for certain types of criminal cases. If such cases are not likely to come your way, I hope you will at least delete 419 e-mails — or post them by the water-cooler to enlighten others.

*E. Edelson is a computer systems engineer at Lawrence Berkeley National Laboratory, a research contractor to the U.S. Department of Energy.*

**Endnotes**

<sup>1</sup>*Tolliver v. Federal Republic of Nigeria*, [www.michbar.org/opinions/district/2003/060603/19241.html](http://www.michbar.org/opinions/district/2003/060603/19241.html).

<sup>2</sup>T. Catan and M. Peel, *Financial Times*, March 3, 2003, p. 11.

<sup>3</sup>J. Buchanan and A. J. Grant, *Investigating and Prosecuting Nigerian Fraud*, U.S. ATTORNEYS' BULLETIN, Nov. 2001 (Vol. 49, No. 6), [www.usdoj.gov:80/usao/eousa/foia\\_reading\\_room/usab4906.pdf](http://www.usdoj.gov:80/usao/eousa/foia_reading_room/usab4906.pdf)

<sup>4</sup>E. Edelson, *The 419 Scam: information warfare on the scam front and a proposal for filtering*, COMPUTERS & SECURITY (2003).

## *Become a Member of the Supreme Court Bar*

### *May 31, 2005*

*Take advantage of a unique opportunity to join the bar of the United States Supreme Court, with the help of the FBA.*

The Younger Lawyers Division is hosting its annual Supreme Court Admissions Ceremony at the Court. As in years past, we will be inviting the Justices to join us for a breakfast reception after the ceremony. Although the Younger Lawyers Division sponsors this event, FBA members of all ages are welcome to participate.

Application materials and more information are available at the YLD Web site at [www.fba-yld.org](http://www.fba-yld.org) and from Lindsay Clark at FBA Headquarters (lclark@fedbar.org or (202) 785-1614). Completed applications are due by Friday, April 8, 2005.

Space is limited, so act now!

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technology is available to conduct the appearance, (2) use of video teleconferencing to conduct the appearance would be **more efficient** than conducting the appearance in person, and (3) the administrative law judge does **not** determine that there is a circumstance **in the particular case** preventing use of video teleconferencing to conduct the appearance (emphasis and numbering added)...

The initial issue to be resolved concerns how to define the intent or purpose of the third phrase; *i.e.*, how does the judge exercise this discretion? Must the judge document and justify the exercise of this discretion, and if so, how is this done; what factors must be established by the judge; and is the judge's exercise of discretion reviewable by management? In OHA's implementing guidance (known as the HALLEX), management has enumerated five examples where a judge could exercise discretion to hold an in-person hearing. Bullet five reads as follows: The existing evidence indicates that in-person observation of the claimant is required to evaluate the claim properly. Is this exercise of discretion reviewable by management?

In the VTC process, it appears that discretion also may be exercised by management. Because a judge's request for travel orders (so as to conduct in-person hearings) must be routed through management for approval and payment, it appears that management may exercise discretion in determining whether to approve the use of in-person travel trips should it choose to do so. Issues may arise later regarding whether (and if so, how) a judge may challenge management's denial of a judge's determination that an in-person hearing is required, and whether a judge may decline management's directive to hold an in-person hearing where the judge determines that a VTC hearing is warranted.

A second issue involves the problem of how to interpret the phrase more efficient as found in the second phrase of the regulation as set out above. Does the regulatory language suggest that only cost factors may be considered in resolving the more efficient issue? Or may the judge consider factors such as case-life management (the length of time in which the case remains on the judge's docket); case-load management (the number of cases sitting on the judge's individual docket); and/or other more esoteric process-management concerns that impact upon the bench, the bar, the claimants, and the public such as concepts of fundamental fairness, due process, and the important credibility issues. Furthermore, other issues may arise such as:

1. who has the authority to resolve whether a VTC hearing would be more efficient?
2. may the conclusion be challenged? and
- 3) if so, by whom and how?

The phrase more efficient has already raised some implementation concerns. In a letter dated Dec. 16, 2004, the associate commissioner of OHA wrote that (assuming that the other two conditions delineated in the regulation are met) SSA intends that a judge

**will** schedule the use of VTC to conduct hearings in **all** instances in which VTC technology is available and **would be an efficient means** for conducting appearance(s). (Emphasis added.)

Has the standard been changed from more efficient to simply an efficient means? Given SSA's massive financial commitment to this technology, I suspect that SSA intends to use VTC hearings whenever possible.

A third issue arising in the VTC arena concerns the issue regarding how to determine from which physical facility the VTC hearing should originate — *i.e.* whether the hearing should originate from the hearing office or from a remote site. At this writing, VTC equipment is becoming increasingly more available at the often underused remote sites, and the use of VTC equipment in a hearing office may be hard to reserve due to heavy usage by judges and claimants. The issue, therefore, is whether a judge may be required by management to travel to a remote site (the hearing office nearest to where the claimant resides) to hear cases if it is more efficient to do so. The problem may be better illustrated with an example. Assume that the hearing office is situated in Roanoke, Va., the remote site is situated in Bluefield, W.Va., the distant site is in Brooklyn, N.Y., and all three criteria to select the use of a VTC hearing have been met. The issue then is whether the Roanoke judge may be required by management to travel to Bluefield to hold the Brooklyn hearing if it is determined that efficiency (the second phrase factors) favors its use over either a VTC hearing originating in Roanoke or an in-person hearing held in Brooklyn.

A fourth VTC adjudication issue involves a determination of whether to physically place the medical and vocational experts in the hearing room housing the judge or in the hearing room housing the claimant, and who decides this issue. Apparently, counsel for the claimants prefer the use of local experts and the judge often prefers the use of familiar experts. Who decides this issue?

Over the next several years, these issues and others will arise and will be eventually resolved. VTC will soon become OHA's most common method of adjudication. It will be interesting to see how this process plays out, and whether OHA statistical benchmarks (such as the hearing to scheduled ratio, the use of follow-up hearings, the percentage of favorable decisions, the average number of days that a case remains on a docket, the numbers of dispositions, and the percentage of requests for review to the Appeals Council) arising from VTC hearings differ significantly from in-person adjudications.

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## Federal Bar Association Membership Application *Raising the Bar to New Heights*

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**First Admission to Bar in U.S. (required, unless applying for law student or foreign associate status)**

Court \_\_\_\_\_ State \_\_\_\_\_ Bar Date \_\_\_\_\_

**Please supply both your business and home addresses below.**

**My preferred mailing address is**  Business  Home

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( ) ( )

Phone \_\_\_\_\_ Fax \_\_\_\_\_

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#### Home Address

Address \_\_\_\_\_ Apt. # \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

( ) ( )

Phone \_\_\_\_\_ Fax \_\_\_\_\_

### Practice Type (based on primary employment)

#### Private Sector

- Private Practice  
 Corporate/In-House

#### Public Sector

- Government  Judiciary  
 Military  Non-profit  
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### 2. FBA ANNUAL DUES

#### 2A. ACTIVE MEMBERSHIP Please choose one.

	Private Sector	Public Sector
<input type="radio"/> <b>Member</b> <i>Admitted to practice 0-5 years</i>	\$75	\$60
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<input type="radio"/> <b>Member</b> <i>Admitted to practice 11 years or more</i>	\$150	\$115
<input type="radio"/> <b>Retired</b> <i>(fully retired from the practice of law)</i>	\$75	\$75

#### 2B. SUSTAINING MEMBERSHIP

- Become a sustaining member today!**  
*This optional category is in addition to regular dues. It is used to support CLE programs & publications.*
- |  |      |      |
|--|------|------|
|  | \$60 | \$60 |
|--|------|------|

#### 2C. ASSOCIATE MEMBERSHIP

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*Admitted to practice law outside the U.S.* \$150 \$150
- Law Student Associate**  
*Currently enrolled in law school* \$25 \$25

**Dues Total** ..... \$ \_\_\_\_\_  
 Please enter amount in line 4A of the Dues Worksheet.

### 3. LOCAL CHAPTER AFFILIATION, SECTIONS & DIVISIONS

*For a complete listing of chapters, sections and divisions, visit [www.fedbar.org](http://www.fedbar.org). Write in chapter, section(s) or division(s), and dues if applicable.*

**Judiciary Division** .....\$10

**Dues Total** ..... \$ \_\_\_\_\_  
 Please enter amount in line 4B of the Dues Worksheet.

### 4. DUES WORKSHEET

FBA Dues .....4A \$ \_\_\_\_\_

Local Chapter, Section or Division Dues ..4B \$ \_\_\_\_\_

**Total Amount Enclosed (Add 4A, 4B).....\$ \_\_\_\_\_**

### 5. PAYMENT INFORMATION

#### Payment Options

- Check payable to Federal Bar Association  
 Please charge my dues to

- VISA  MasterCard  
 American Express  Diners Club

Card No. \_\_\_\_\_ Exp. Date \_\_\_\_\_

X \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

*The undersigned hereby applies for membership in the Federal Bar Association and agrees to conform to its Constitution and Bylaws and to the rules and regulations prescribed by its National Council.*

X \_\_\_\_\_

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

**\*Note** Contributions and dues to the FBA may be deductible by members under provisions of the IRS Code, such as an ordinary and necessary business expense, except 2.3% which is used for congressional lobbying and is not deductible. Your FBA dues include \$14 for a yearly subscription to the FBA's professional magazine.

**Please complete and return to:**  
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# The Federal Jurist

*The Judiciary Division  
 Federal Bar Association  
 2215 M Street, NW  
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