

President's Message

WILLIAM N. LAFORGE

Membership Perspectives: Through Your Eyes

AS I HAVE moved through what has seemed like a swift year in office, I have often stopped to think how others, especially our members, see the Federal Bar Association and their role in it. It is a point of fascination for me to consider how our members and volunteer leaders perceive our mission and whether we are hitting our targets. And I wonder, as well, how nonmembers see the association and what we attempt to do.

Through the Eyes of Our Members

Throughout the year at meetings and conferences, FBA members have shared with me many of their thoughts about the association, its programs, and its direction. Admittedly, most of these members are involved with the organization in chapter, circuit, section, committee, or national leadership roles, but many are also rank-and-file members. A lot of the comments and perspectives focus on internal association matters such as governance and programs, but many also take a longer view of where the association is heading and what value it holds for its members.

For the average FBA member, involvement with the association's programs and activities is typically at the chapter level and, even then, somewhat episodic. Without question, the FBA provides a unique experience for its membership through chapter programming and governance, which can be specifically tailored to match local needs and interests. In fact, a large percentage of the association's activities is generated by chapters and centers around them. But I detect among the FBA's membership a desire for more programs, member services, and value for their bar dollar, and I feel very strongly that the association owes each member a set of benefits that will ensure that each one is satisfied and remains a member.

At the final meeting of the FBA Board of Directors for fiscal year 2007 in Atlanta next month, the topic of the "issue forum"—the "think tank" portion of the board's agenda—will focus on chapter activity, with an eye toward program expansion and integration. The board will discuss several aspects of chapter programming and emerging ideas that have the potential to produce some beneficial policy changes. The discussion will, at minimum, reaffirm the chapter concept as a key central delivery system for the association's programs and activities for its members. The board and the headquarters staff are constantly

exploring ways to empower chapters further to serve the interests of all members.

Many members also derive benefit from their affiliation with sections and divisions, which are the subject of a major internal review at the moment, and it is quite likely that they will undergo some changes over the next year or so. The various practice fields that are represented by our sections and the categories of membership represented by our divisions provide value and meaning to our members, and the association's goal is to ratchet up the quality of the programming. I have heard loud cries among our membership for improvements to our sections and divisions, and I can assure you that the national leadership is working on just that.

Whether it's *The Federal Lawyer*, a section-sponsored CLE program, a speaker for a chapter's luncheon, or the mere opportunity to network with other lawyers, the association's program delivery structure provides something of value—a professional benefit—for each FBA member. And program activities—such as the work of the FBA Foundation, the Building Corporation, and the Government Relations Committee, to give just a few examples—all benefit each FBA member every day. At the annual meeting in Atlanta in September, the association will have the benefit of a report from the Task Force on the Future, and it is already clear that many excellent ideas and recommendations for modernization and change will come from that review.

Through the Eyes of FBA Volunteers

The association is fortunate to have an extensive array of volunteers, who provide leadership at the national level as well as in the circuits, chapters, sections, divisions, and committees. Over the course of



MESSAGE continued on page 6

COLUMN *continued from page 6*

a member of the FBA Editorial Board. He is the head of the firm's E-Discovery Task Force and co-author of the leading treatise on electronic discovery, Electronic Discovery: Law and Practice (Aspen Publishing).

Endnotes

¹202 F.R.D. 31, 33–35 (D.D.C. 2001).

²205 F.R.D. 421 (S.D.N.Y. 2002), *aff'd*, 2002 WL 975713 (S.D.N.Y. 2002).

³217 F.R.D. 309 (S.D.N.Y. 2003).

⁴*Zubulake v. UBS Warburg LLC*, 216 F.R.D. 280, 290 (S.D.N.Y. 2003).

⁵No. 4:02-CV-702-Y, 2004 U.S. Dist. LEXIS 12957 (N.D. Tex. July 12, 2004).

⁶*Id.* at *4.

⁷Rule 26(b)(2)(C) provides that the court may limit discovery when “the burden or expense of the proposed discovery outweighs the needs of the case, the amount in controversy, the parties’ resources, the importance of issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.” It should be noted that Rule 26(b)(2)(C) is not a new rule, but was part of the federal rules even before the December 2006 amendments as Rule 26(b)(2) (iii). The preamended rules also contained a provision that allowed a producing party to seek an order from the court to protect a party from discovery that would result in “undue burden or expense” or to limit the scope of discovery to specified terms and conditions. *See* Fed. R. Civ. P. 26(c).

⁸2007 WL 530096 (D.D.C. Feb. 21, 2007).

⁹*Id.* at *4 (emphasis in original).

¹⁰*Id.* (emphasis in original).

¹¹*Id.*

¹²2007 WL 496716 (E.D. Mo. Feb. 13, 2007).

¹³2007 U.S. Dist. LEXIS 23926 (S.D.N.Y. Mar. 30,

2007).

¹⁴*Id.* at *6.

¹⁵No. 04-1245-MLB-DWB, 2006 WL 3913444 (D. Kan. Nov. 15, 2006).

¹⁶*See Treppel v. Biovail Corp.*, 233 F.R.D. 363, 373 (S.D.N.Y. 2006) (“If the demanding party seeks the preservation of information that is likely to be of only marginal relevance but is costly to retain, then rather than deny a preservation order altogether, a court may condition it upon the requesting party assuming responsibility for part or all of the expense.”).

Editorial Policy

The Federal Lawyer is the magazine of the Federal Bar Association. It serves the needs of the association and its members, as well as those of the legal profession as a whole and the public.

The Federal Lawyer is edited by members of its editorial board, who are all members of the Federal Bar Association. Editorial and publication decisions are based on the board’s judgment.

The views expressed in *The Federal Lawyer* are those of the authors and do not necessarily reflect the views of the association or of the editorial board. Articles and letters to the editor in response are welcome.

MESSAGE *continued from page 3*

the past year, I have heard many of them speak out for strengthening the FBA’s core programs and enhancing new services for members. At every level of governance, I have witnessed a commitment to making the association more meaningful to its membership and more attractive as a bar option, especially for younger lawyers in the years to come.

I have also heard a fair amount of frustration over matters involving recruitment and retention of members. Both the FBA Membership Committee and the Task Force on the Future are focusing on these concerns in their deliberations and work, but it is also incumbent on our chapters, sections, and divisions to foster an atmosphere that is conducive to attracting and retaining new members, especially younger lawyers, as well as a substantive set of programs that have meaning and relevance to members.

Those of us who are currently volunteer leaders also need to devote more attention to identifying and recruiting those who will replace us and guide the association in the future. The best legacy we can leave is a cadre of involved, capable lawyers who care about the FBA and who will continue to build its future. A core principle of the FBA is the opportunity to serve in a voluntary leadership role at any one of many levels of governance. The association and its leadership at every level must continue to cultivate volunteers to serve the FBA, where one can be immersed in a leadership role—and rise on the leadership ladder—more quickly than they can in almost any other bar association.

Through the Eyes of Nonmembers

It is particularly interesting to me to see how others

view the FBA. Even though the FBA is a specialty bar association that serves the federal lawyer and focuses on federal jurisprudence, the association also provides unique opportunities, programs, and networking not available through any other bar association. Some nonmembers recognize the uniqueness of the FBA, but many do not. Comments that I have picked up over the last year from nonmembers range from "congratulations on the FBA's role in government relations," "what a great moot court program," "you sponsor some great CLE programs," and "the FBA has a great relationship with federal judges" to "I didn't know the FBA was so involved with federal issues," "I remember when the FBA was like a trade union," "your chapters are a unique part of the organization," and "what do you do and who are your members?"

Any volunteer association, especially a bar association as unique as the FBA, must have a clear sense of its identity and mission and must also evaluate those key characteristics from time to time. The FBA has been engaged in multiple organizational evaluations and program reviews this year, and the national leadership looks forward to assessing the outcomes of this introspection and implementing some changes that will put the FBA on a successful track for years to come. Two wonderful opportunities to plan that successful future include the Board of Directors meeting held in San Francisco this summer and the FBA Annual Meeting and Convention to be held in Atlanta in September.

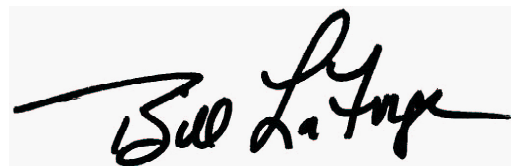
At the recent board meeting, discussion focused on moving the association ahead, and the board continued to take on difficult issues in a very direct manner. No one is side-stepping the need for self-evaluation, responsible change, and prudent progress as we make the association more responsive and valuable to our membership. From my seat as board chair, I like the way the directors, to a person, dwell on the organization and look with great depth and consideration at issues that address the needs and interests of the association's members. It is obvious to me that each director cares passionately about the FBA.

In previous columns I wrote that, despite this being the inaugural year of our board concept, the new governance structure seems to be heading in the right direction full steam ahead. That remains my assessment to date. The makeup of the board is so representative of our membership, so inclusive in its deliberations, so far-reaching in its grasp and considered perspectives that it is, in my opinion, the very best system we could have put in place for the association. The current structure modernizes and streamlines our processes and approaches, and it provides for a full vetting of any and all issues that might affect the association. I invite anyone interested to come see the board in action at the convention in Atlanta, where we will meet on Wednesday, Sept. 5, just before the Annual Meeting and CLE programs commence.

The upcoming Annual Meeting and Convention

will once again provide FBA members and leadership with the opportunity for professional networking as well as a national forum for discussing major issues, planning for the association's future, and participating in a wide array of CLE programming. In addition to the Board of Directors meeting, the FBA's National Council will meet, and many of the association's constituent groups will convene as well. I heartily invite all FBA members to come to Atlanta to see firsthand what your association is doing to meet the challenges of the future.

These are some perspectives I have gleaned this year from those inside and outside the ranks of the FBA. I would be interested in yours as well, regardless of your status or role in or out of the FBA. Please feel free to write and share your perspectives with me in care of president@fedbar.org. **TFL**



OVER 30 YEARS OF EXCELLENCE



LEGISLATIVE
INTENT
SERVICE, INC.

CITED IN OVER 55 PUBLISHED OPINIONS

Customized Federal Legislative Research

- Tailored research of federal statutes and regulations
- Analysis of complex and voluminous congressional history
- For attorneys by attorneys, providing on-call assistance
- Quick turnaround
- CD or electronic delivery

1.800.666.1917

www.legintent.com

"The most efficient expenditure of your research dollars"