

YLD Perspective

GLEN MCMURRY

More??!! Recruiting and Expecting More of Younger Lawyers

If you have not enjoyed Charles Dickens' *Oliver Twist* or at least viewed the 1968 musical adaptation ("Oliver!"), which won the Academy Award for Best Picture, there is a pivotal passage/scene that bespeaks the situation in which many Federal Bar Association chapters find themselves: asking for more. Oliver, an impoverished child working for scraps of food at a British workhouse, requested additional gruel by saying, "Please, sir, I want some more." In the case of the FBA, we are eagerly seeking young attorneys to fill our chapters. But it is not as simple as asking for more (actually, it was not really that simple for Oliver either). Instead, chapters are struggling with incentives, recruitment strategies, and marketing in a fierce attempt to attract more members.



In his book, *Bowling Alone: The Collapse and Revival of American Community* (published 2000), Harvard University Professor Robert D. Putnam recognized that Americans' participation in community organizations (including bar associations) was on the decline. As early as 1994, the late Chief Justice William H. Rehnquist observed, "As law firms focus on the proverbial bottom line, with predictable pressure on associates to increase billable hours, little time remains for public service."¹ To our credit, the legal community has recognized this problem and has taken steps to address young lawyers' participation. However, the country's recent economic struggles have arguably matched these efforts, leaving some chapters facing disengagement and decreasing membership.

So what do we do? How do we overcome disengagement, competition with other bar associations, and simple economics? Attorneys more intelligent than I repeatedly reference that bar membership must be worth more than the magazine or flyer you receive every month for being a member. This is true. We must bring our current and prospective members value or, more accurately, we must educate them on the value that comes from membership in the FBA. We must also continue our efforts to explore and create new incentives (financial, scholarly, and social) for our members. Then, we must work to maintain the interest and participation of our newly recruited members.

Early Education

For many of us, the Federal Bar Association was not the first bar association we joined nor is it the only bar association in which we are members. In fact, many

of us (especially younger lawyers) became members of a voluntary local or state bar association within one year of graduating from law school. Why is this? In my case, I became a member of my local and state bar associations because these bar associations maintained a presence in my law school. The leadership and members of the local bar associations sponsored or at least attended multiple law school functions during the academic year.

For a mere \$30, law students can join the FBA as associate members and begin to learn the important role the FBA plays and the value it brings. Early education on the many benefits of membership can and will make a young attorney's membership in our organization and your chapter a natural progression in their life from student to professional. A healthy law school outreach committee or sponsored law school chapter will also provide a natural progression of involved chapter leaders. Be present and express an interest in your local law school. Your FBA chapter will be rewarded for its efforts.

Incentives

As Chief Justice Rehnquist noted in his address to the North Carolina Bar Association in 1994, law firms were focusing on the bottom line. This is as true a statement now as it was then. Yet, this focus on the bottom line is not exclusive to law firms. According to the Bureau of Labor Statistics' Occupational Outlook Handbook for 2010–2011, nearly 26 percent of all attorneys are considered self-employed.² Our legal institutions are not the only ones paying attention to their finances. Accordingly, bar associations such as our own must also justify their existence to members.

The incentives mentioned above are financial, scholarly, and social. In addition to programs that give FBA members group buying power,³ one example of a financial and scholarly incentive of membership is the modestly priced continuing legal education programs. These programs are not only an incredible recruitment tool, but, when consistently provided, work to quell concerns about paying increasing membership dues. Our FBA chapters boast the membership of thousands of knowledgeable attorneys and judges willing to devote their time at little to no expense to our chapters and to share their legal expertise. Given this fact, continuing legal education programs can be organized and executed at little cost to our chapters and can be used as one of our most effective marketing tools.

As enlightening as a four-hour seminar on *Iqbal* and *Trombly* can be, not enough can be said for simple social activities. Baseball games, happy hours, balls, and formal events give us something to look forward to and increase both our camaraderie and productivity. For some younger lawyers, these networking activities are also the first opportunity to actually meet members of the chapter in person.

Maintaining Interest and Participation

What happens after you have signed up a new recruit? How do you keep the person engaged and willing to renew membership? Committee, division, and section membership is an important tool toward this end. Our varying committees, divisions, and sections (both on the local and national level) give us an outlet in which we can contribute, learn, and participate in our areas of interest. A start-up kit⁴ is available to chapters without a Younger Lawyer Committee. This packet of information provides younger lawyer members and recruits a framework for focusing their efforts and interests for the good of the chapter.

Each chapter wants to be an active and relevant organization in its community, and it is our membership that makes this possible. For example, I am the chapter president of one of the FBA's smaller chapters. Even though chapters like my own face challenges in growing our membership, we remain relevant and have promise to be more so.

The suggestions offered on recruitment, both in general and in regard to younger lawyers, may not be a perfect fit for your chapter, but I hope they provide a good starting point for your discussions regarding the health of your membership. Ultimately, we all want the same thing: a growing chapter consisting of active and contributing members ... *more*. **TFL**

Glen McMurry is an associate attorney at the law firm of Bieser, Greer & Landis, LLP in Dayton, Ohio. His primary areas of practice are business and civil litigation. McMurry is the current president of the FBA's Dayton Chapter and is member of the FBA Younger Lawyer Division's National Board of Directors.

Endnotes

¹Chief Justice William H. Rehnquist, Remarks at the Dedication of the North Carolina Bar Association Center, Oct. 21, 1994 (unpublished).

²Bureau of Labor Statistics, OCCUPATIONAL OUTLOOK HANDBOOK, 2010–2011 ed., "Lawyers," available at www.bls.gov/oco/ocos053.htm.

³www.fedbar.org/Membership/Member-Services.aspx.

⁴www.fedbar.org/Resources/Chapter%20Resources/Younger-Lawyers-Committee-Start-up.aspx?FT=.pdf.

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munication) at a premium rate, because this service was not "like" ordinary telephone service.

As dissenting Commissioner Robert McDowell noted, tiering is probably permissible under § 202. Just as first-class and priority mail are different, standard packet transport and priority transport are not "like" services. Broadband providers typically make their "best efforts" to route packets but do not guarantee delivery of standard Internet traffic. Priority transport could serve as a quality-of-service guarantee: priority packets could be guaranteed delivery at a certain speed, because they would not be impeded by congestion. This guarantee is different in kind from "best efforts" delivery and worth a premium to companies whose products are harmed by delays in delivering packets. Because priority and "best efforts" transport are not functionally equivalent, broadband providers could offer both without violating § 202.

Benefits of a More Nuanced Approach

Tiering offers two significant benefits. First, it permits more intelligent Internet traffic management. Because bandwidth is a scarce resource in congested areas, tiering can use pricing to determine how best to allocate that scarce resource, just as markets allocate

other scarce resources in society. Priority would go to those whose services most need prompt delivery, as indicated by their willingness to pay. Second, tiering provides the possibility of greater competition among broadband providers. In most markets, customers have only two choices for broadband service, partly because of the high cost of deploying a network. But a new entrant that has a business model that is not explicitly net-neutral could raise capital by selling priority delivery to certain content providers. Customers could then choose whether a broadband provider that is net-neutral or one that is not net-neutral would better suit their needs.

Even though "discrimination" is a loaded term, § 202 of the Communications Act has long recognized that in telecommunications many forms of differential treatment can be beneficial. As its net neutrality policy develops, the Federal Communications Commission should embrace that more nuanced framework and grant broadband providers at least as much flexibility as common carriage law affords other telecommunications companies. **TFL**

Daniel Lyons is an assistant professor of law at Boston College Law School, where he specializes in telecommunications and administrative law. © 2011 Daniel Lyons. All rights reserved.