

President's Message

by Hon. Elizabeth Kronk Warner
(Guest Columnist)



Reflecting on the Importance of Diversity to the Profession and FBA

This month, Federal Bar Association President Matthew

Moreland asked me to share a few thoughts on the importance of diversity to the legal profession and to the FBA specifically. As a Native American woman, ex officio member of the FBA Board of Directors, and editor of this edition of *The Federal Lawyer*, I could not be more delighted to elaborate on why diversity is crucial to a robust and thriving legal profession. The past several decades have established the increasing importance of diversity. We see examples of this daily in the news. From the racial tensions between police and citizens in Ferguson, Missouri, and New York City to the legal battle between the Alabama Supreme Court and federal courts over the supremacy clause and the validity or invalidity of gay marriage. A diverse legal profession is particularly important, and there are numerous reasons why.

First, because of technological changes, lawyers oftentimes find themselves maneuvering in an international marketplace, which requires them to adapt to different cultures—even speak foreign languages. Diversity within a practice group enlarges the capacity of that group to effectively rise to these and other challenges presented by the modern global marketplace. Moreover, changes within the United States itself necessitate a diverse legal profession. America as a whole is more diverse today than it was just 30 years ago. According to recent census results, within three decades there will not be a single racial or ethnic group that will constitute a majority of children under the age of 18. Similarly, as detailed by Jacob McMillian in his article “After ‘I Do’” in this edition, the needs of the American LGBTQ+ community are more and more prominent in the profession and in our society. As a result of the changing international marketplace and demographics of the United States, clients are now demanding that their legal representatives are as varied as they. Hispanic National Bar Association President Cynthia Mares in her article “Is Anybody Listening? Does Anybody Care?: Lack of Diversity in the Legal Profession,” also in this edition of *The Federal Lawyer*, provides one such example of a business, MetLife, demanding diversity of its service providers, including its lawyers. Clients require exceptional services, which, in this modern era, means that their lawyers must have strong interpersonal skills and second (and even third) language fluency. Such services are best provided by diverse practice groups. These practice groups also benefit because variety within the practice group promotes an effective leadership support team for junior lawyers and staff within the group. Research shows that an ineffective support system for junior lawyers is one of

the most significant factors leading to attrition.

Further, issues of diversity are intimately connected with the law, as demonstrated by this edition of *The Federal Lawyer*. For example, in their article “How the ADA was Passed,” Hon. Donovan W. Frank and Lisa L. Beane discuss how the needs of people with disabilities led to enactment of the American with Disabilities Act. Similarly, in her article, “Diversely Native,” Professor Bethany Berger explains how race and federal Indian law are intimately connected. Further, in his article, “Beneath the Surface: Why Diversity and Inclusion Matters for Lawyers of Color and What Lawyers Can Do to Address Implicit Bias in the Legal Profession,” National Asian Pacific American Bar Association President George Chen explains how implicit bias has the potential to impact the development of law.

Because of this intimate relationship between diversity and the law, lawyers have a responsibility to serve as guardians. Terrence M. Murphy, executive director of the Chicago Bar Association, summed it up well when he explained:

Lawyers serve society as guardians of the rights and liberties of all people regardless of race, color, or creed. The legal profession cannot preserve this responsibility and privilege without reflecting the many faces of society at all levels of service. Diversity resonates throughout the law and must be a constant measure of the legal profession's ability to fulfill this awesome responsibility and privilege.

To its credit, the FBA has been mindful of the importance of diversity, and the association and its members have taken affirmative steps to promote diversity within the FBA and beyond. For example, the FBA constitution was recently amended to include a purpose statement emphasizing that the FBA exists “[t]o promote diversity throughout the legal profession and the Federal Bar Association.” Further, an average of 40 percent of FBA chapter president-elects and section and division leaders who have attended the FBA leadership training program over the last several years have been people of color. The association has had nine women national presidents; the first, Marguerite Rault, served in 1943–44. The first African-American woman president, Juanita Sales-Lee, served in 2008–09. In 1980–81, the FBA had its first African-American national president,

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sional liability and time commitment”). See also Daniel Ovanezian and Benjamin A. Kimes, *Uncle Sam Wants You! A Call to Pro Bono Service for Patent Practitioners*, NEW MATTER, 39:3 (discussing the California Inventors Assistance Program (CIAP), the regional patent pro bono program for California, for whom the California Lawyers for the Arts provides statewide administration, including basic malpractice insurance for corporations that participate in CIAP).

¹⁶See Jennifer McDowell, Ashley Essick, and Daniel Ovanezian, *An Update On USPTO's Patent Pro Bono Initiative*, Feb. 2, 2015, available at www.law360.com/articles/616894/an-update-on-uspto-s-patent-pro-bono-initiative (last accessed Feb. 24, 2015).

¹⁷See www.legalcorps.org. Since it opened its doors, the Minnesota patent pro bono program has helped at least 15 Minnesota inventors secure patents, and many more Minnesota inventors have received assistance through the program with the drafting and filing of patent applications that are currently pending before the USPTO. Jennifer McDowell and Amy Salmela, *Tri-State Patent Pro Bono Program To Launch in New York, New Jersey, and Connecticut*, ABA Center for Pro Bono Exchange, Feb. 10, 2015, available at centerforprobono.wordpress.com/ (last accessed Feb. 23, 2015). ABA regional patent pro bono programs like Minnesota's LegalCORPS demonstrate the tangible benefit legal practitioners can have on their local community through pro bono efforts focused on patent protection and innovation.

¹⁸Data provided by Bob Pimm, executive director of the California Inventors Assistance Program.

¹⁹Grant Corboy, a former contracts manager with Lockheed Martin and a registered patent attorney, remarked that “volunteering to provide pro bono patent prosecution services was not an option prior to the AIA.”

²⁰See www.uspto.gov/learning-and-resources/ip-policy/public-information-about-practitioners/law-school-clinic-1#heading-2.

²¹See www.legalcorps.org/inventors/inventors-iowa-north-dakota-south-dakota-wisconsin (last accessed Feb. 23, 2015).

²²See Section Focus, *A Cooperative Clinic/Corporate Patent Pro Bono Project*, ABA LANDSLIDE, at 7, September/October 2014.

²³*Id.*

²⁴“In an era where we need all the innovation we can get, and where every new innovation is cause for celebration regardless of its source, the USPTO's Patent Pro Bono Program shines light on the good that can come from partnerships between the private and public sector in service of the little guy with a big idea.” David J. Kappos, *What's good for U.S. Business? Protect the little guys with big ideas*, FORTUNE, Jan. 13, 2015, available at <http://fortune.com/2015/01/13/whats-good-for-u-s-business-protect-the-little-guys-with-big-ideas/> (last accessed Feb. 23, 2015).

²⁵*Id.*

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Dr. J. Clay Smith Jr. In 2001–02, the FBA elected its first Hispanic national president, Russell A. Del Toro of Puerto Rico. In 2009–10, the FBA was led by its first American Indian national president, Lawrence Baca. In general, the FBA has maintained a strong presence in Indian country, as the FBA Indian Law Section has hundreds of members, and its Annual Indian Law Conference draws 500 to 600 attendees every year. This national gathering is the foremost-recognized conference on Indian law in the country.

The FBA's commitment to diversity has been particularly prominent in recent years. In 2014, for instance, the FBA launched the Women in the Law Conference as a premier national event. Also, the recent national conventions have featured panel presentations on topics from same-sex marriage to race and the law. This very edition of *The Federal Lawyer* itself, focusing on diversity and the law, is a testament to FBA's firm commitment to promoting diversity and

inclusivity within the legal profession.

But more can be done. If you are interested in promoting diversity, I encourage you to become involved in the association. There are so many ways to help—such as through your local chapter, a section or division, or by submitting an article to *The Federal Lawyer*. If you are passionate about a particular topic, I urge you to submit a convention panel proposal for the 2016 convention. By virtue of its national scope and local connections, there is room for everyone in the FBA. By building a more diverse FBA, we will ensure the success of the association and the legal profession far into the future. At the same time, we serve our profession, our communities, and our nation. ☺



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