

The Importance of Diversity and Inclusion; An Update: Civics and Service to Others; Peter McCabe's Magistrate Judge White Paper; and Renewing our Commitment to Professionalism

by Hon. Michael J. Newman



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The Importance of Diversity and Inclusion

This month's issue of *The Federal Lawyer* celebrates diversity. The Federal Bar Association (FBA) has a long history of supporting diversity and inclusion—in our association membership and leadership, and in the legal community as a whole. Our diversity statement—written by Judge Elizabeth Kronk Warner and me, and approved by our board of directors—is reflective of these important goals:

The FBA supports the full and equal access to, and participation by, all individuals in the Association, the legal profession, and the justice system regardless of race, gender, ethnicity, national origin, religion, age, sexual orientation, gender identity, disability, or any other unique attribute. The FBA recognizes that achieving diversity in the legal profession requires the Association's continued effort and commitment. The FBA is committed to diversity throughout the Association.

I am proud that our association leadership reflects our society as a whole, and I am a strong supporter of diversity and inclusion. On a personal level, I have been involved in a large number of diversity and inclusion efforts in Cincinnati and Dayton, Ohio, over many years, including the Summer Work Experience in Law program for minority students seeking a legal career, the Law & Leadership Institute for inner city youth, the Cincinnati Bar Association/Black Lawyers Association of Cincinnati Roundtable, and the Federal Court Minority Clerkship Program in Dayton, which Judge Walter Rice and I helped to establish. I frequently

mentor diverse law students and those seeking to enter college, law school, and the legal profession, and I strongly encourage my fellow FBA members to do the same.

National Community Outreach Project and Civics

Each month, in the President's Message, we focus on one or more chapters throughout the country to participated in the FBA's April National Community Outreach Project (NCOP) and our year-round national civics program—pursuant to which we are encouraging federal judges to meet with middle and high school students, in classrooms and courtrooms, to explain how the federal courts work and what judges do every day. This month, we focus on three chapters in Florida: Orlando, Palm Beach, and Tampa Bay. Their reports follow.

Orlando Chapter

The NCOP event for the Orlando Chapter was called "Schoolhouse to Courthouse" and was a partnership between the Orlando Chapter and Boone High School, located in Orlando. Boone is a law magnet high school, and we reached out to the pre-law advisory of the program for student participation. Seventy-seven high school students from Boone's law magnet program participated in the NCOP event. They observed a federal criminal sentencing in a live case and then asked the sitting district judge questions. The students also received courthouse tours and attended panel discussions on the federal jury selection process and career paths for various attorney careers, including civil litigation, federal prosecution, and federal defense.



Judge Michael J. Newman with University of Dayton Law School summer 2016 extern student Ebony Davenport. Davenport was the first law student to extern in Judge Newman's chambers as part of the Dayton Federal Court Minority Clerkship Program.

The students were very engaged throughout the process and learned about the manner in which the federal court system operates both generally and within the Middle District of Florida. They also learned about key steps to becoming an attorney, including LSAT preparation, law school selection, and bar preparation.

NCOP was successful due to active student participation and the opportunities that our federal court provided for them to “look behind the curtain,” so to speak. From informal conversations with the students, we knew that eventually becoming a judge was an aspiration. So we are proud that the NCOP demonstrated that there is no standard path to becoming a federal judge.

Palm Beach Chapter

Judges Kenneth A. Marra and Robin L. Rosenberg of the U.S. District Court for the Southern District of Florida in West Palm Beach sponsored a program entitled “Meet the Federal Court: A Day with High School Students.” Approximately 50 high school students from two different local schools spent a half day at the federal courthouse in West Palm Beach. The diverse participants included students from a private school and students from a pre-law magnet program at a local Title I charter school.

Several FBA members, law clerks, assistant U.S. Attorneys, assistant federal public defenders, members of the Marshals Service, and all eight of the federal judges in the courthouse participated. The students learned about the federal court system and the Southern District of Florida from three federal judges over breakfast. Next, they observed court proceedings, including a sentencing, a grand jury return, and criminal hearings on the duty calendar. The students also heard informative presentations from representatives of the U.S. Attorney's Office, Federal Public Defender's Office, and U.S. Marshals Service, concluding with a much anticipated tour of the holding cell. Finally, they enjoyed lunch while engaging in a question-and-answer session with the district judges and magistrate judges.

The students had the rare opportunity to interact directly with federal judges, tour a federal courthouse, and gain a better understanding of the federal court system. The students were well prepared and asked impressive and insightful questions. The project and the resulting feedback exceeded all expectations and all of the participants really appreciated the opportunity to interact with the students and asked to be invited again.

Tampa Bay Chapter

The Tampa Bay Chapter hosted 25 high school students from the Tampa Bay area in the inaugural implementation of the FBA's NCOP. The group—which included students active in legal studies or programs from Middleton High School, Bell Creek Academy, and Durant High School—had the opportunity to interact with judges from the bankruptcy court and District Court through the observation of a bankruptcy proceeding, a presentation about a pre-sentence report, and attendance at a criminal sentencing. These events were followed by a lunch and question-and-answer session with local members of the judiciary and practitioners from criminal sentencing. The chapter would like to sincerely thank U.S. District Judge Elizabeth A. Kovachevich, U.S. Bankruptcy Judges Catherine Peek McEwen and Michael G. Williamson, and U.S. Magistrate Judge Anthony Porcelli for their assistance in making this event a great success. Additionally, the chapter is grateful for the participation of Jeffrey Brown, Kelley Howard-Allen, and U.S. Probation Officer Christine Hatten. Finally, the chapter extends its appreciation to members Jordan Maglich, Anitra Raiford, Latasha Scott, and Brian Guthrie for coordinating the event.

We encourage all FBA chapters to undertake similar efforts in their local community. To make this easy for chapters and for judges, the FBA worked with the Administrative Office of the U.S. Courts to create a website of civics materials. Importantly, these materials are grouped by how much time a judge has to spend with students—as little as 15 minutes and as long as three hours. These materials can be found at www.fedbar.org/civics. I encourage you to take a few minutes and review them.

Updated Magistrate Judge White Paper

In 2014, Peter McCabe authored a white paper for the FBA entitled, “A Guide to the Federal Magistrate Judge System.” This white paper has proven quite influential in federal courts circles, and a great debt is owed not only to Peter (who spent many months writing the white paper) but also to U.S. District Judge Gustavo Gelpi (himself a former U.S. Magistrate Judge) who, as FBA president, originated the idea of the white paper. Judge Gelpi appointed me to chair the FBA's national Magistrate Judge Task Force in 2013-14, and it was my honor to become acquainted with Peter and to write the introduction to his white paper.

In that introduction, I wrote in part: “Mr. McCabe, who retired from government service in 2013, worked for the Administrative Office of the U.S. Courts for 44 years, and was the first-appointed chief of the AO's Magistrate Judges Division. Many consider Mr. McCabe one of the primary architects of the magistrate judge system in the federal courts. His knowledge of the working role of magistrate judges, and their history, is likely unsurpassed in the United States.”

At my request, and at the request of Judge Gelpi, Peter kindly and graciously agreed to update his white paper. Given the Supreme Court's recent *Wellness* decision,¹ clarifying how implied consent can work in the magistrate judge setting, this newer version of the white paper deserves your attention and is well worth reading. You can find it on (and download it from) the home page of the FBA's website, www.fedbar.org. For everyone in your offices or law firms who wish to know more about U.S. magistrate judges, this should be required reading.

On behalf of the FBA, thank you Peter. We are grateful.

Renewing our Commitment to Professionalism

For the past several years, I have had the honor of administering an oath to the first-year entering class at the University of Dayton School of Law, a Catholic/Marianist law school in Dayton, Ohio. These oaths are administered twice a year—in the spring, when the two-year accelerated class begins its studies; and in the fall, when the three-year class begins. These oaths, called the “Oath of Professionalism,” are written by the students themselves—in small groups, and at the conclusion of their orientation week—and are selected by the dean. Of the five to 10 oaths the students prepare, one oath is chosen that best exemplifies the importance of professionalism and the important lesson that professionalism begins on the first day of law school, not years later when students sit for the bar exam. I was so impressed with this fall’s oath²—which I administered to the entering class of 1Ls—that I sought permission to reprint it here:

I am a future lawyer.

My legal career begins at The University of Dayton School of Law but evolves throughout the duration of my lifetime.

It will be my duty to represent my clients with empathy and dignity, always striving for the justice to which they are entitled by law.

I promise to uphold the values of honesty and integrity by maintaining strong moral principles and good judgment, always remembering that I represent the University of Dayton School of Law, my peers, and the community that I serve.

I am committed to upholding the Constitution of the United States of America and the practice of law.

In the spirit of the Marianist tradition of focusing on the whole person, I take full responsibility and accountability for my legal education to learn all aspects of the law, and lead within my community by serving the common good.

I dedicate myself to achieving full competency in the practice of the law in order to represent my clients, the public, the profession and myself in a manner consistent with the pursuit of justice.

I recognize the power that I possess by attaining a fluency in the language of the law and I will use this power to bring a positive change to society.

I will strive to put the interests of my community and my clients ahead of any self-serving interest or ideology.

I attest that I will conduct myself to the highest ethical standards in order to reach the level of excellence which the practice of law demands.

I am a future lawyer.

I found this oath moving and inspirational. I hope you agree with me that, as lawyers and judges, we need to constantly remind our-

selves why we went to law school in the first place and that access to justice, and service to those in need, is important.

Civics and SOLACE Update

Finally, I take this opportunity to thank each of the 18,000-plus members of the FBA for all you do each day to help others. Our membership ranks, both professional and law student, are growing on a daily basis. I am also honored to report that our “Civics and Service to Others” initiative is proving to be quite successful: we are helping to educate elementary school, middle school, and high school students via our civics work; running civics essay contests for middle school and high school students; recognizing and honoring civics teachers across the country for their good work; and helping those in need via the SOLACE program.

I encourage every chapter to appoint a civics liaison and also a SOLACE liaison, and to let Jane Zaretskie (jzaretskie@fedbar.org) know whom you have appointed. If you have questions about the civics initiative involving judges, the civics essay contests for middle and high school students, the FBA’s civics teacher recognition program, or the SOLACE program, feel free to reach out as follows:

National Civics Coordinator for all civics efforts involving judges, Joan Brady: joan_p_brady@ohsd.uscourts.gov

Civics Essay Contest Chair and Chair of the Civics Teacher Recognition Program, Maria Vathis: maria.vathis@bryancave.com

National SOLACE Coordinator, Steve Justice: justice@dunganattorney.com

I take this opportunity to thank Joan, Maria, and Steve for all of their hard work.

It is my honor to lead the FBA in these important efforts. Thank you for the opportunity to serve.

Endnotes

¹ *Wellness Int’l Network Ltd. v. Sharif*, _U.S._, 135 S. Ct. 1932 (2015).

² This oath was written by University of Dayton School of Law students Michael Zamora, Tony Ayubi, George Legner, Heather Faith Welch, Tyler Dunham, Kaitlyn Meeks, Rachel Herbert, Matthew Smallwood and, Jenna Casey.

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.

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