

The Right Answer

The Newsletter of the Federal Career Service Division of the Federal Bar Association

A Word from the National President

Robert J. DeSousa

Friends, I have been an FBA member for over 20 years, and I have been a member of the Federal Career Service Division for just as long. This division is a bedrock of our bar association, and no matter what else I have been involved with over the years, I am always thankful that I have stayed connected to it.

In that spirit, I want to tell you about two major task forces that I have appointed to help support the division and its members. First, the Military Outreach Task Force, which is headed by Past National President Jim Richardson and Colonel Mitch Neurock, endeavors to raise membership in our division among judge advocates, who have a natural home in the FCSD. Second, President-Elect Hon. Gus Gelpi, is leading a task force to increase membership among assistant U.S. attorneys and federal public defenders, as a first step toward their survey of groups that may have formed small specialty bar associations but who ought to join

the FBA. Both federal prosecutors and federal defenders are members of our division and have a valued place in it.

I am pleased that both task forces are well on their way to success, and I am delighted that the FCSD is a strong nexus for so many of our FBA members. I look forward to receiving each copy of *The Right Answer*. ■



Robert J. DeSousa is the 2012-13 national president of the Federal Bar Association.

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CLE Requirements for Federal Law Clerks: Are you in Compliance?

by Paula Mitchell

The only jurisdictions in the United States that currently do not have mandatory continuing legal education (CLE) requirements for attorneys are Connecticut, the District of Columbia, Maryland, Massachusetts, and South Dakota. All other states have strict CLE requirements, some of which can be tough to navigate, especially for young lawyers.

Many law clerks operate under the mistaken impression that their state bar CLE requirements are waived while they are working for the federal judiciary. While federal law clerks are exempt from CLE requirements in many states, it is not the case in every state. In Montana and North Dakota, for example, judges are exempt but their law clerks are not.

In California, attorneys working for the federal judiciary full-time are exempt from CLE requirements, but they still must report to the state bar during every compliance period and indicate whether they worked as an attorney for the federal courts for the entire compliance period. If they did not, they are expected to satisfy a prorated requirement based on the number of months during the compliance period that they were not exempted. *See, e.g.,* The State Bar of California's MCLE Requirements, located at <http://mcle.calbar.ca.gov/Attorneys/Requirements.aspx>.

Additionally, law clerks admitted to multiple jurisdictions may want to find out which states accept so-called "comity certificates" of compliance, which can be used to fulfill requirements in more than one jurisdiction. *See, e.g.,* The Washington State Bar Association's Attorney MCLE Reporting and Certification Requirements and Information, located at <http://www.wsba.org/Licensing-and-Lawyer-Conduct/MCLE/Members/Credit-Compliance-Certification>.

Since CLE requirements vary from state to state, it is a good idea to find out what your CLE obligations are before your deadline passes and you find yourself subjected to fines or other penalties. An excellent resource and user-friendly starting point is the ABA's MCLE Requirements website, which has a state-by-state summary of compliance requirements, with links to state bar associations in all fifty states. The website is located at http://www.americanbar.org/publications/cle/mandatory_cle.html. ■

Paula Mitchell is a career judicial law clerk for Senior Judge Arthur L. Alarcón on the Ninth Circuit Court of Appeals and an Adjunct Professor of Law at Loyola Law School in Los Angeles, where she teaches Habeas Corpus and Prisoner Civil Rights Litigation.

FEDERAL BAR ASSOCIATION

2013 ANNUAL MEETING AND CONVENTION



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Update on Sequestration

by Bruce Moyer

As we know by now, sequestration was not averted, though a government shutdown was. As of March 1, federal courts and domestic agencies like the Department of Justice faced a 5.1-percent cut in their FY2013 budgets, and the Department of Defense and its components faced an eight-percent reduction. Then on March 21, Congress made it official, passing a continuing resolution that keeps federal courts and the rest of the government funded through the end of the fiscal year but imposes a five percent cut below last year's levels. The previous continuing resolution was set to expire March 27.

These cuts will affect government attorneys and employees immediately. The Office of Management and Budget predicts as many as 22 days of furloughs at some agencies between now and the end of the fiscal year, which could mean as many as one per week. Many agencies will try to hold off layoffs and furloughs as long as they can, but they also know that if the ultimate cuts are as large as the sequester demands, the longer they wait, the more drastic and bitter the medicine may need to be to achieve the same savings. Our federal courts also face the prospect of furloughs of court staff, including clerk's office personnel. The Judicial Conference and Administrative Office have given districts and circuits flexibility in approaching how they will handle cuts, and some courts already have announced the curtailment of their operations, including by shutting down one day a week. Needless to say, the cuts will extend the pay freeze for all federal employees through a third year.

The full impact of sequestration remains to be seen, including if, when, and where furloughs begin. After the continuing resolution passed in Congress, the Department of Defense announced it was delaying its furlough notices for two weeks and reassessing its furlough plans for the remainder of the fiscal year, in light of funding under the continuing resolution and its terms, including budget-reprogramming authority.

But already, there are reports of furloughs or layoffs among federal defenders' offices. And in a March 5 letter to leading members of the House and

Senate Appropriations and Judiciary Committees, Judge Thomas Hogan, who is the director of the Administrative Office, wrote that the cuts from sequestration could not be sustained beyond fiscal year 2013 and will be difficult and "painful to implement." These concerns are on top of the other systemic and societal effects of sequestration that were summarized in the last issue of *The Right Answer* and have been recounted elsewhere.

The bottom line is that everyone knows a day of reckoning has arrived, with more budget cuts likely to come in FY2014. These budgetary potholes will be here for a

while, as long as the budget battles continue in Washington. We are only at the beginning of a 10-year cycle, established by the 2011 budget law, that imposes a sequester in any year when the savings target has not been achieved for that year.

Over the past several months, the FBA has been warning Congress and the public about the danger of these automatic budget cuts and urging Congress to adopt a comprehensive deficit-reduction package. The FBA also is supporting an emergency supplemental appropriation for the federal courts to mitigate the impact of sequestration. Twenty FBA leaders met with Senate and House lawmakers to make the case for emergency court funding during the FBA's Capitol Hill Day on April 25. FBA leaders at the national, chapter, and section levels, through a coordinated, grassroots advocacy campaign, also have been contacting their Senate and House lawmakers to highlight the danger of sequestration for the federal courts, pointing to its numerous impacts. It is one way the FBA continues to serve its important role as the foremost constituency of the federal courts. ■

Everyone knows a day of reckoning has arrived.



Bruce Moyer is the government relations counsel for FBA.

FCSD Sponsors the Public-Service Career Fair

On Feb. 1, 2013, the Federal Career Service Division sponsored the 11th Annual Washington, D.C./Baltimore Public-Service Career Fair at George Mason University Law School. This year's event drew over 40 public-service organizations along with representatives from local, state, and federal governments.

The event provided employment counseling and opportunities to nearly 300 students from the law schools of American University, University of Baltimore, Catholic University of America, University of the District of Columbia, Howard University, University of Maryland, and George Mason University. The FBA hosted registration for employers on its website, and the FCSD hosted the employers' luncheon. The FBA also sponsored a

table at the event, and volunteers made themselves available to talk to law students about careers in public service or public-interest law.

As always, the event would not have been successful without the help of FBA headquarters, which provided web-hosting services and employer registration for the event. Sections and Divisions Manager, Sherwin Valerio, and Sections and Divisions Co-Chair, Neysa Slater-Chandler, were the FBA's ambassadors for the event, and FBA staff members Jane Zaretskie, Erin Rodgers, and Carlena Farrar helped staff the FBA's table.

The Washington, D.C./Baltimore Public-Service Career Fair will be back again in January 2014, so plan now. Volunteers are always appreciated, and frankly, the career fair is just plain fun.

FBA CLE Webinar Series

presents

Do it Right, Say it Right: Strategies and Golden Rules for Superior Preparation and Effective Testimony During Depositions in Employment Litigation

on

May 22, 2013

www.fedbar.org/Education/Webinars/WEBINAR-Strategies-for-Depositions-Testimony-of-Managers-and-HR-Professionals.aspx

**SUBMIT
YOUR
WORK**

If you'd like to submit material for publication in subsequent issues of *The Right Answer*, please email Mani Dabiri at md@manidabiri.com. We'd love to review it!

Meet John K. Harms



John, who is Associate Counsel to the Office of Assistant Secretary of the Navy (Financial Management and Comptroller). He has worked at that office in the Pentagon for over a year. John is a career Department of Defense attorney, having begun his legal career on active duty in the Army, and has worked as a civil servant for the Army, Air Force, Defense Logistics Agency, and Missile Defense Agency. In that time, his practice has been varied as well. He has handled matters in the areas of government-contract law, mostly in support of large research and development programs; environmental law, including advising management at two Superfund sites; and currently, the law of federal appropriations, also known as fiscal law. John is also a retired Colonel in the Army Reserve. His career highlights in that capacity include commanding the 151st Legal Support Organization in Alexandria, Va., and serving as the senior individual mobilization augmentee at headquarters, U.S. Special Operations Command.

One of John's enduring memories as a member of the Federal Career Service Division has been manning the table at the Annual Baltimore-Washington Public Service Career Fair. As he tells it, "It's great to talk with law students who have such energy and enthusiasm for public service. I'm proud to be able to tell them about what a great organization the FBA is and why they should join early and stay active." John also has been active in his chapter and section. He is the 2012-13 President of the Pentagon Chapter, and in that role, he has been part of a group dedicated to revitalizing the chapter after a period of inactivity. He was the 2010-11 Chair of the Section of Environmental, Energy, and Natural Resources Law, and he was awarded the 2011 Section Chair Award for the section's outstanding annual programs.

John is a graduate of Loyola University New

Orleans and the Northwestern University School of Law, where he was a member of the law review. He also has earned an MBA from Western New England College and a Master's in Strategic Studies from the U.S. Army War College. His wife Pam, LCSW, is a mental health therapist with Easter Seals of Greater Washington-Baltimore, working with seniors. Their oldest son, William, is the assistant director of the helpline at a community-service organization in Prince William County, Va. Their youngest son, Wade, is a junior at Virginia Commonwealth University, majoring in English. Finally, the Harms' household features four rescue beagles—Lola, Tris, Flo, and Faneuil—so there is always someone ready to eat or go for a walk.

Thanks John!



The Harms' four rescue beagles.

Save your Seat for the Second Annual Government Contract Law Symposium

May 2013

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Does your practice involve or touch upon federal government contracts? Then mark your calendar! On May 9-10, 2013, the FBA's San Antonio Chapter will be hosting its Second Annual Government Contract Law Symposium on the banks of the beautiful and charming River Walk at the historic El Tropicano Hotel in Military City (San Antonio, TX).

This year's program features informative sessions by Hon. Francis Allegra of the U.S. Court of Federal Claims, Hon. Carol Park Conroy of the Armed Services Board of Contract Appeals, Law Professor Daniel I. Gordon, who is associate dean for Government Procurement Law at the George Washington University Law School, and top attorneys from the Government Accountability Office, the Small Business Administration, and the Department of Defense as well as prominent private-sector practitioners. This year's program also will offer two hours of ethics credit.

For more information, email govcontracts@fedbarsatx.org or call Joan Gluys, co-chair of the Government Contracts Committee for the San Antonio Chapter, at (210) 524-3821.

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