



**Federal Bar Association
National Council Meeting**

Midyear Meeting 2016

Saturday, April 2, 2016 at 2:15 p.m.

Capital Hilton Hotel
Washington DC

National Council Meeting Agenda

Saturday, April 2, 2016 at 2:15 p.m. EDT

Capital Hilton Hotel

Washington DC

- | | | |
|--|---------|---------------------|
| 1. Call to Order | | Mark Vincent |
| 2. Consent Agenda | | |
| • Approval of the Minutes (September 12, 2015) | (Tab A) | Mark Vincent |
| 3. Report from the President | | Mark Vincent |
| • FBA Midyear Update | | |
| • Actions of the Board of Directors | (Tab B) | |
| 4. Report from the Treasurer | (Tab C) | Kip Bollin |
| • Financial Update as of January 31, 2016 | | |
| 5. Reports | | |
| • Report from the Executive Director | | Karen Silberman |
| • Report from the President-Elect | | Hon. Michael Newman |
| • Report from the Chair of the Membership Committee | | Jonathan Hafen |
| • Report from the Chair of the Nominations and Elections Committee | (Tab D) | Mark Vincent |
| • Report from the Chair of the Government Relations Committee | (Tab E) | West Allen |
| • Report from the Chair of the Constitution, Bylaws, Rules and Resolutions Committee | (Tab F) | Beth Smith |
| • Report from the President of the Foundation of the FBA | (Tab G) | Nestor Mendez |
| • Report from the President of the Federal Bar Bldg Corporation | (Tab H) | Robert Mueller |
| • Report from the ABA Delegate | (Tab I) | Ashley Belleau |
| 6. Unfinished Business | | Mark Vincent |
| 7. New Business | | Mark Vincent |
| 8. President's Final Remarks | | Mark Vincent |
| 9. Adjournment | | Mark Vincent |

2016

- 41th Annual Indian Law Conference, April 7-8, 2016, Scottsdale, AZ
- Women in the Law Conference, April 21, 2016, New Orleans, LA
- Immigration Law Seminar, May 12-13, 2016, New Orleans, LA
- Capitol Hill Day, May 19, 2016, Washington DC
- Chapter, Section & Division Leadership Training Program, May 20-21, 2016 Washington DC
- 27th Annual Insurance Tax Seminar, June 2-3, 2016, Washington DC
- Board of Directors Meeting, June 16-17, 2016, Baltimore, MD
- Board of Directors Meeting, September 15, 2016, Cleveland, OH
- Annual Meeting and Convention, September 15-17, 2016, Cleveland, OH
- National Council Meeting, September 17, 2016, Cleveland, OH

TAB A

Approval of the Minutes

September 12, 2015

**Federal Bar Association
National Council**

Saturday, September 12, 2015

2:15 p.m. MDT

Little America Hotel

Salt Lake City, Utah

CALL TO ORDER

President Moreland called the meeting to order at 2:26 MDT with a quorum present. The agenda was adopted as distributed prior to the meeting.

APPROVAL OF THE MINUTES

A motion was made to approve the minutes of the March 28, 2015 meeting. The motion was properly seconded and passed unanimously.

REPORT OF THE PRESIDENT

President Moreland reported on the actions of the Board of Directors since the last meeting of the National Council:

Actions of the Board of Directors at its September 10, 2015 meeting

- Empowered the Chair of the Sections and Divisions Council to address vacancies in the Securities Law Section and to take steps necessary to bring the Section's bylaws into compliance with the FBA's constitution, bylaws and policies.
- Authorized the Chair of the Sections and Divisions Council to declare a vacancy in the Chair position of the Securities Law Section and to apply Policy 9.4
- Adopted a Diversity Statement
- Approved the charter for the Knoxville Chapter
- Approved the charter for the Southern District of Georgia Chapter
- Approved the recommendation of the National Convention Committee to select the Tampa Bay Chapter to host the 2019 Annual Meeting and Convention
- Approved the FY2016 committee appointments
- Adopted a resolution that authorizes and empowers the Executive Director, Deputy Executive Director, President, and Treasurer to execute agreements, give direction and to receive information to and from SunTrust Bank regarding the investment and custody accounts of the Federal Bar Association
- Adopted a resolution that authorizes and empowers the Executive Director, Deputy Executive Director, President and Treasurer to act, give instructions, access information, and use the bank's services to perform transactions, enter into agreements and delegate authority on behalf of the operational account of the Federal Bar Association at SunTrust Bank

Actions of the Board of Directors at its July 10, 2015 meeting

- Approved the appointment of Rachel V. Rose to the Government Relations Committee
- Approved the FY2016 budget
- Adopted Policy 9-7: Section and Division Continuing Legal Education Guidelines

- Repealed Policy 6-1 Section and Division Sponsored CLE Programs
- Approved the charter for the South Dakota Chapter
- Approved the 2016-2015 Issues Agenda
- Expressed approval for proposed amendments to the Bylaws
- Approved the recommendation of the 100th Anniversary Special Committee to hold the 100th anniversary celebration in Washington, D.C. (proper) during the 2020 Midyear Meeting at the U.S. Supreme Court
- Approved the recommendation of ABA Delegate Ashley Belleau regarding the position that should be taken on resolutions before the ABA House of Delegates at the ABA Annual Meeting in August

REPORT OF THE TREASURER

Hon. Michael J. Newman presented the financial statements as of July 31, 2015 which cover approximately 83 percent of the year's budget and reported that the FBA is in a solid financial position.

REPORT FROM THE EXECUTIVE DIRECTOR

Karen Silberman began her report by thanking the Utah Chapter for hosting a wonderful Annual Meeting and Convention. She also expressed gratitude to all Federal Bar Association leaders for their service over the past year. Next, Ms. Silberman provided an update on the Federal Bar Association's current status in the following categories: membership, conferences, webinars and advocacy work.

The Federal Bar Association's membership hit an all-time high at the end of August 2015 with 17,308 members. Membership retention is at 83 percent compared to 81 percent last year. Professional membership is also up when compared to last year. Sixty-nine percent of chapters increased their membership, compared to 44 percent of chapters at this time last year. Four new chapters were chartered in FY2015: South Dakota, Northern District of Indiana, Knoxville, and the Southern District of Georgia. Four states remain that do not have chapters: Nebraska, Vermont, Washington and Wisconsin. Ms. Silberman also reported that the Qui Tam Section was formed this year.

Attendance and revenue from meetings and conferences are also trending upward. Ms. Silberman reported that meetings revenue will surpass \$1 million for the first time ever. This achievement is due to increased attendance and sponsorship revenue. There will be two new conferences added to the FY2016 calendar. The Securities Law and Anti-Money Laundering Conference will be held in New York, N.Y. on October 20, 2015. The Federal Litigation Section Conference will be held on October 27, 2015 in Washington, D.C.

So far this year, the Federal Bar Association hosted 33 audio webinars, twenty-one audio webinars, three legislative update webinars and rebroadcast the Fashion Law Conference. Revenue from these webinars totaled \$63,000.

Ms. Silberman also reported that the 2015 Capitol Hill Day boasted over 35 attendees and there are currently 22 chapter government relations liaisons.

Lastly, Ms. Silberman provided highlights from the FY2015 Membership Satisfaction Survey. All satisfaction scores rose or stayed consistent when compared to last year's results. Respondents expressed extreme satisfaction with how well the Federal Bar Association supports the judiciary. Additionally, the results of the survey demonstrated how valuable chapters are to the FBA's members.

REPORT FROM THE PRESIDENT-ELECT

President-Elect Vincent thanked President Moreland for his service and gifted him with the President's Tower.

REPORTS

Report from the Membership Committee

Jonathan Hafen reported that membership is at all-time high at 17,308 members. He recognized chapter, section, division leaders, board of directors, staff and the membership committee for their work. A band played "Celebrate" to commemorate this achievement. Mr. Hafen discussed the membership rules of engagement which included obtaining a membership chair and plan, engaging members via contact with Sections and Divisions and achieving membership growth of at least three percent per year.

Report from the Chair of the Nominations and Elections Committee

President Moreland gave the report of Nominations and Elections Committee. The following individuals were elected to terms beginning Oct. 1, 2015:

Officers

President-Elect.....Hon. Michael J. Newman
 Treasurer.....Kip T. Bollin

Directors

Group 1.....W. West Allen
 Group 2..... Hon. Elizabeth Kronk Warner
 Group 3.....Christine C. Varnado
 Group 4.....Glen R. McMurry

ABA Delegate.....Ashley Belleau

Vice Presidents for the Circuits

1st Circuit.....Oreste Ramos
 2nd Circuit.....Philip R. Schatz
 3rd Circuit.....Hon. Karoline Mehalchick
 4th Circuit..... Andrew K. Clark
 5th Circuit.....Marc Taubenfeld (*appointed*)
 6th Circuit.....Tonya Kennedy Cammon
 7th Circuit..... Kevin G. Desharnais
 8th Circuit.....Daniel Hedlund
 9th Circuit.....Joseph S. Leventhal

10th Circuit.....	Chris M. Stephens
11th Circuit.....	Brett A. Barfield
D.C. Circuit.....	Steven R. Miller

Report from the Government Relations Committee

Mr. Allen recognized members of the committee and Bruce Moyer and presented the report of the Government Relations. Current FBA advocacy priorities are as follows: support for adequate funding for the federal courts, prompt action on judicial vacancies and establishment of additional judgeships, support for curbing abusive patent litigation, opposition to lawsuit abuse reduction act of 2015, and support for establishment of an Article I Immigration Court. Mr. Allen reported that the Government Relations Committee recently formulated the 2016 Issues Agenda, as approved by the Board of Directors at their July 2015 meeting. The 2016 Issues Agenda contains an added issue focusing attention on declining confidence in the federal courts and renewed FBA programming to educate the public about the federal courts and the role they perform in sustaining a just society. Finally, Mr. Allen encouraged attendance at the 2016 Capitol Hill Day to be held on May 19, 2016.

Report from the Constitution, Rules, Resolutions and Bylaws Committee

Beth Smith presented the report of the Constitution, Rules, Resolutions and Bylaws Committee. She began by thanking the members of the committee for their work. The committee developed proposed changes to the bylaws based upon a report from the Younger Lawyers Division and a request from the Board of Directors. Ms. Smith moved to change the qualifying age limit qualification of Younger Lawyers Division members, found in Bylaw 10D and 6(B)(2)(d), from age 36 to 40 and/or the first five years of practice to the first 10 years of practice. The motion was properly seconded and passed.

Ms. Smith moved to change the advanced notice for submission of issues to the Constitution, Rules, Resolutions and Bylaws Committee, found in Bylaw 14(A) from 90 days to 60 days. The motion was properly seconded and passed.

Ms. Smith moved to change the language in Bylaw 6(A) to the following: *In the event that an individual who is the Committee’s sole nominee for an elective office withdraws his or her candidacy, the Committee shall nominate by May 15 another eligible member in good standing who submitted an Application for National Office by the February 1 deadline.* The term “Committee” refers to the Nominations and Elections Committee. Ms. Smith’s motion was properly seconded. After discussion, Mr. Bob Mueller moved to recommit the proposed changes to Bylaw 6(A) back to the Constitution, Rules, Resolutions and Bylaws Committee for further consideration. Mr. Mueller’s motion was properly seconded and carried.

Ms. Smith then moved to change the language in Bylaw 6(D)2 to the following: *In the event more than two candidates run for a national office and no candidate receives a majority of the votes cast, the two candidates that receive the highest and second highest number of votes shall be eligible as candidates in the runoff election. Notification of the runoff election shall be given when notice of the elected officers is given to the*

membership by July 1. The runoff election shall open on July 15 and shall close on July 30. Write-in votes are not permitted in a runoff election. The Committee shall review and certify the tabulated votes in the runoff election and report as elected the candidate for each office who has received a majority of the votes cast for that office by July 31. The term majority shall mean more than 50 percent. The motion was properly seconded.

John McCarthy moved to amend the motion by striking “a national office” and inserting “treasurer or president-elect” in the proposed amendment to Bylaw 6(D)2. Mr. McCarthy’s motion was properly seconded and carried.

Robert Clark moved to amend the motion by inserting “electronically” after “Notification of the runoff election shall be given” in the proposed amendment to Bylaw 6(D)2. The motion was properly seconded and carried.

Ms. Smith’s restated the motion before the Council: to change the language in Bylaw 6(D)2 to the following: *In the event more than two candidates run for treasurer or president-elect and no candidate receives a majority of the votes cast, the two candidates that receive the highest and second highest number of votes shall be eligible as candidates in the runoff election. Notification of the runoff election shall be given electronically when notice of the elected officers is given to the membership by July 1. The runoff election shall open on July 15 and shall close on July 30. Write-in votes are not permitted in a runoff election. The Committee shall review and certify the tabulated votes in the runoff election and report as elected the candidate for each office who has received a majority of the votes cast for that office by July 31.* The motion failed.

Report from President of the Foundation of the Federal Bar Association

Martha Hardwick Hofmeister, President of the Foundation of the Federal Bar Association, presented the report of the Foundation. Ms. Hofmeister reported the revenue from the 2015 Silent Auction totaled more than \$3,300. She also reported that visibility and awareness of the Foundation is increasing. Over the past year, there was a 5 percent growth of individual donors and an additional \$55,000 pledged by Fellows of the Foundation. Nine chapters were awarded Chapter Community Outreach Grants: Dayton Chapter, Eastern District of New York Chapter, Massachusetts Chapter, Middle District of Pennsylvania Chapter, New Orleans Chapter, Orlando Chapter, Oklahoma City Chapter, San Diego Chapter and the Tampa Bay Chapter. She reminded members of the National Council that the deadline for the 2015 Robert A. McNew Law Student Scholarship is Nov. 30, 2015 and the deadline for the Public Service Scholarship is April 30, 2016. The next deadline to apply for a Chapter Community Outreach Grant for established chapters is Dec. 15, 2015. Chapters that have been chartered within the past twenty-four months may submit an application for a Chapter Community Outreach Grant on a rolling basis.

President Moreland presided over the election of the one open director position on the Foundation of the Federal Bar Association Board of Directors by the National Council. Hon. Pamela Mathy was nominated prior to the National Council meeting. Ms.

Hofmeister moved to elect Judge Mathy as a director on the Foundation of the FBA's Board of Directors. The motion was properly seconded and passed.

Report from the President of the Federal Bar Building Corporation

Robert Mueller provided a history of the Federal Bar Building Corporation and stated the investment fund of the FBBC is valued at approximately \$5 million.

President Moreland presided over the election of the three open director positions on the FBBC Board of Directors by the National Council. Past National Presidents Ashley Belleau, Fern Bomchill and Robert Mueller were nominated by the FBBC Nominating Committee prior to the National Council meeting. Mr. Mueller moved to elect Ms. Belleau, Ms. Bomchill and Mr. Mueller as directors on the FBBC Board of Directors. The motion was properly seconded and passed.

Report from the ABA Delegate

Ashley Belleau presented the report of the ABA Delegate. Ms. Belleau reported that she reviewed the 30 resolutions for consideration by the ABA House of Delegates at its annual meeting. Ms. Belleau consulted with the Government Relations Committee, Sections and Divisions to help decide whether resolutions fall within the mission of the FBA before presenting recommendations to the Board of Directors. She voted in favor of eight resolutions that would be of the most interest to FBA members. The following six resolutions were adopted: a resolution granting approval and re-approval to several paralegal education programs; a resolution urging Congress to amend 28 U.S.C. § 1332 to provide unincorporated business entities, for diversity purposes, be deemed citizens of their states where they maintain their principal places of business; a resolution encouraging Council of the Section of Legal Education and Admissions to the Bar to mandate enhanced financial counseling for students on student loans and repayment programs; a resolution adopting specific recommendations contained in the November 2014 report of the U.S. Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence entitled *Ending Violence So Children Can Thrive*, and urges the Administration, Congress, state and tribal governments to promptly implement these recommendations; a resolution urging the National Commission on Forensic Science to develop a model curriculum in the law and forensic science, and to provide training in that curriculum for federal, state, local, territorial and tribal judges; and a resolution urging legislatures and government agencies to provide the funding necessary to develop, implement, and maintain appropriate cybersecurity programs for the courts and to train court personnel on methods to counter threats and protect judicial information systems from cyber intrusions or data breaches. The Midyear Meeting of the ABA House of Delegates will be held on Feb. 9, 2016 in San Diego, Calif.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

Judge Newman and Mr. Bollin presented a promotional video about Cleveland, the site of the 2016 Annual Meeting and Convention.

President Moreland recognized the service of Committee Chairs and distributed awards. Ms. Varnado recognized outgoing Vice Presidents for the Circuits: John McCarthy and Maria Vathis. Mr. Hafen thanked Ms. Varnado for her service as Chair of the Vice Presidents for the Circuits.

The following directors were sworn in by Hon. Michael J. Newman: Mr. Allen, Judge Kronk Warner, and Ms. Varnado. The following Vice Presidents for the Circuits were also sworn in: Mr. Ramos, Mr. Schatz, Judge Mehalchick, Mr. Clark, Mr. Taubenfeld, Ms. Kennedy Cammon, Mr. Desharnais, Mr. Hedlund, Mr. Stephens, Mr. Barfield and Mr. Miller. ABA Delegate Ashley Belleau was also sworn in by Judge Newman.

The following officers were sworn in by Hon. Robert Bacharach: President-elect, Judge Newman and Treasurer, Mr. Bollin.

ADJOURNMENT

President Moreland adjourned the meeting at 5:29 p.m. MDT.

2015-2016 CALENDAR OF EVENTS

- Securities Law Conference, October 20, New York, N.Y.
- Federal Litigation Conference, October 27, Washington, D.C.
- D.C. Indian Law Conference, November 10, Washington, D.C.
- Board of Directors Meeting, January 2015, TBD
- Fashion Law Seminar, February 12, New York, N.Y.
- Tax Law Conference, March 4, Washington, D.C.
- Moot Court Competition, March 31-April 1, Washington, D.C.
- Board of Directors Meeting, April 1, Washington, D.C.
- Midyear Meeting, April 2, Washington, D.C.
- Indian Law Conference 7-8, Scottsdale, Ariz.
- Capitol Hill Day, May 19, Washington, D.C.
- Chapter, Section & Division Leadership Training, May 20-21, Washington, D.C.
- Insurance Tax Seminar, June 2-3, Washington, D.C.
- Women in the Law Conference, April or May, TBD
- Board of Directors Meeting, June, TBD
- Annual Meeting and Convention, September 15-17, Cleveland, Ohio

Respectfully submitted,

Karen Silberman
Executive Director

TAB B

Report from the President

FBA Midyear Update
Actions of the Board of Directors



Federal Bar Association

ACTIONS OF THE BOARD OF DIRECTORS FY2016

JANUARY 22, 2016 MEETING

- Approved revised budget for FY2016
- Approved the amendments to the Bankruptcy Law Section Bylaws
- Approved the name and chapter boundaries change for the FBA Chapter for the Districts of Kansas and Western Missouri, formerly the Kansas Chapter
- Approved the recommendation of the Constitution, Bylaws, Rules and Resolutions Committee regarding proposed amendment to the FBA Bylaws that specifies the number of write-in votes a candidate must receive when no other candidate is included on the ballot
- Approved the recommendation of the Constitution, Bylaws, Rules and Resolutions Committee regarding proposed amendment to the FBA Constitution that gives the president the authority to fill vacancies if no individual is duly elected to national office
- Established a LGBT Law Section
- Disapproved the recommendation of the Constitution, Bylaws, Rules and Resolutions Committee regarding proposed amendment to the FBA Constitution that prevents candidates by petition when the Nominations and Elections Committee nominates one member for elective office (including director) who is also a member of the federal or state judiciary or otherwise employed by the federal or any state government and who, by virtue of applicable ethics rules, decisions, or opinion, is prohibited by virtue of such position or employment from participating in a contested election
- Approved the rounding of the automatic dues adjustment as set forth by the Bylaws per the following guidelines: amounts ending in 1 or 2 and 6 or 7 shall be round down to rounded down to 0 or 5, respectively, and amounts ending in 3 or 4 and 8 or 9 rounded up to 5 or 9, respectively and to forego the adjustment to law student associate member dues
- Approved revised Policy 2-2: Authority to Sign Checks
- Adopted recommendations of ABA delegate regarding ABA resolutions

SEPTEMBER 10, 2015 MEETING

- Adopted a resolution that authorizes and empowers the Executive Director, President, Treasurer, and Deputy Executive Director to execute agreements, give direction, and receive information to/from SunTrust Bank regarding the investment and custody accounts of the Federal Bar Association
- Adopted a resolution that authorizes and empowers the Executive Director, Deputy Executive Director, President, and Treasurer to act, give instructions, access information, use Bank's services, perform transactions, enter into agreements, and

delegate authority on behalf the operational account of the Federal Bar Association
at SunTrust Bank

- Approved FY2016 committee appointments

TAB C

Report from the Treasurer

Financial Update as of January 31, 2016

**Federal Bar Association
Statement of Financial Position
January 31 2016 and 2015**

	2016	2015
Assets		
Current Assets		
Cash and cash equivalents	\$ 417,330	\$ 306,237
Short-term Investments	425,748	62,053
Long-term Investments	1,655,815	2,069,993
Accounts Receivable	78,132	66,384
Inventory	12,747	15,321
Prepaid expenses	91,769	51,190
	-----	-----
Total Current Assets	2,681,541	2,571,178
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Other Assets		
Furniture and fixtures	186,201	187,920
Computer equipment and software	520,895	589,460
	-----	-----
Total Property and Equipment before Acc Depr	707,096	777,380
Accumulated depreciation	(544,338)	(544,306)
	-----	-----
Net Property and Equipment	162,758	233,074
	-----	-----
Total Assets	\$ 2,844,299	\$ 2,804,252
	=====	=====
Liabilities		
Current Liabilities		
Accounts payable	\$ 68,490	\$ 116,806
Accrued annual leave	43,449	39,743
Deferred membership dues	123,179	117,223
Due to related entities	2,566	4,880
Other	24,709	8,498
	-----	-----
Total Current Liabilities	262,393	287,148
	-----	-----
Net Assets		
Total Net Assets	2,581,906	2,517,104
	-----	-----
Total Liabilities and Net Assets	\$ 2,844,299	\$ 2,804,252
	=====	=====

These financial statements were prepared by Tate Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

**Federal Bar Association
Statement of Activities
For the Four Month Ending January 31, 2016**

	FY 2016 YTD	FY 2015 YTD	FY 2016 Budget	Percent of Budget
Support and Revenue:				
(1) National dues	\$ 693,600	\$ 681,560	\$ 1,971,763	35%
(2) Sustaining dues	250,765	264,630	745,266	34%
(3) Section/division dues	77,031	55,920	175,000	44%
(4) Conferences	226,372	207,575	1,140,000	20%
(5) Co-sponsored conferences	-	-	50,000	0%
(6) Sections/divisions activities	29,203	24,430	80,000	37%
(7) Administrative and other revenues (Schedule I)	128,392	141,696	243,100	53%
In-Kind Contribution Revenues	109,369	-	328,108	33%
Total support and revenue	1,514,732	1,375,811	4,733,237	32%
Expenses:				
(8) Activity expenses (Schedule II)	455,646	377,589	2,448,500	19%
(9) General and overhead expenses (Schedule III)	703,567	598,771	2,240,108	31%
Total expenses	1,159,213	976,360	4,688,608	25%
Change in net assets before other Income (Expense)	355,519	399,451		
Other Income (Expense)				
Unrealized Gain/(Loss) on Investments	(23,360)	(13,117)		
Realized Gain/ (Loss) on Investments	(216)	893		
Total Other Income (Expense)	(23,577)	(12,224)		
Change in Net Assets	331,942	387,227		
Net Assets, beginning of year	2,249,964	2,129,877		
Current Net Assets	<u>\$ 2,581,906</u>	<u>\$ 2,517,104</u>		

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Federal Bar Association
SCHEDULE OF ADMINISTRATIVE AND OTHER REVENUES
Schedule I
For the Four Month Ending January 31, 2016

	FY 2016 YTD	FY 2015 YTD	FY 2016 Budget	Percent of Budget
Schedule of Revenues				
(7.02) Administrative Fees (FFBA)	\$ 8,250	\$ 4,500	\$ 28,500	29%
(7.03) Administrative Fees (Sections&Divisions)	55,188	52,772	55,100	100%
(7.04) Interest/Dividend Income	25,053	39,574	-	
(7.05) FBA Need an Attorney	5,225	3,525	18,500	28%
(7.06) The Federal Lawyer & Publications	10,390	7,103	33,000	31%
(7.07) Royalty Income	931	1,872	5,000	19%
(7.09) Job Board	1,028	-	2,500	41%
(7.10) Webinars	15,025	23,361	85,000	18%
(7.11) List Sales	1,484	475	5,500	27%
(7.12) Miscellaneous Income	5,818	8,514	10,000	58%
<hr style="border-top: 1px dashed black;"/>				
Total Administrative and Other Revenues	\$ 128,392	\$ 141,696	\$ 243,100	53%

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Federal Bar Association
SCHEDULE OF ACTIVITY EXPENSES
Schedule II
For the Four Month Ending January 31, 2016

	FY 2016 YTD	FY 2015 YTD	FY 2016 Budget	Percent of Budget
Schedule of Activity Expenses				
Activity Expenses				
(8.01) President & BOD	\$ 15,275	\$ 3,740	\$ 125,000	12%
(8.02) National Council	-	14	6,500	0%
(8.03) Circuit Vice Presidents	146	193	45,000	0%
(8.04) NC Appointees	-	-	11,000	0%
(8.05) Past Presidents	-	-	8,500	0%
(8.06) Gov. Committees & Board	-	4	500	0%
(8.07) National Elections	-	-	11,500	0%
(8.08) Government Relations	30,456	30,772	78,000	39%
(8.09) Chapter Delegate	395	-	53,000	1%
(8.10) Chapter Leadership Training	-	(35)	66,000	0%
(8.11) Chapter Activity Fund	1,000	2,200	20,000	5%
(8.12) Chapter Rebates	126,543	116,809	502,000	25%
(8.13) Chapter Services	1,769	935	12,000	15%
(8.14) Membership Services	19,408	22,238	70,000	28%
(8.15) Membership Programs	360	500	12,000	3%
(8.16) The Federal Lawyer & Publications	61,363	48,962	275,000	22%
(8.17) FBA Conferences	68,400	48,252	805,000	8%
(8.18) Membership Marketing	2,520	-	12,000	21%
(8.19) Meetings Marketing	6,418	4,228	20,000	32%
(8.20) Webinar CLE Fees	4,282	4,072	13,000	33%
Subtotal Activity Expenses	338,335	282,884	2,146,000	16%
(8.21) Section and Divisions	115,912	93,641	255,000	45%
(8.22) FBA Funded Divisions	1,122	1,007	40,000	3%
(8.23) Section Council	277	57	2,500	11%
(8.24) Section Activity Fund	-	-	5,000	0%
Subtotal Section & Division Activity Expense	117,311	94,705	302,500	39%
Total Activity Expenses	\$ 455,646	\$ 377,589	\$ 2,448,500	19%

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Federal Bar Association
SCHEDULE OF ADMINISTRATIVE EXPENSES
Schedule III
For the Four Month Ending January 31, 2016

	FY 2016 YTD	FY 2015 YTD	FY 2016 Budget	Percent of Budget
Schedule of Administrative Expenses				
Administrative Expenses				
(9.01) Salaries	\$ 363,948	\$ 358,554	\$ 1,130,000	32%
(9.02) Payroll taxes	27,316	24,085	82,000	33%
(9.03) Employee Insurance	25,831	22,810	76,000	34%
(9.04) Employee Retirement	12,794	7,508	43,000	30%
(9.05) Employee Training	73	1,404	8,000	1%
(9.06) Management Travel	3,392	-	5,000	68%
(9.07) Outsourced Services	48,917	57,669	160,000	31%
(9.08) Dues and subscriptions	1,355	782	5,000	27%
(9.09) Leased Equipment	5,861	5,203	18,500	32%
(9.10) Repairs and maintenance	470	837	2,500	19%
(9.11) Rent	129,369	20,000	388,108	33%
(9.12) Insurance	6,051	5,781	18,000	34%
(9.13) Personal property taxes	710	1,489	3,500	20%
(9.14) Professional fees	6,200	6,100	15,000	41%
(9.15) Supplies	326	7,238	12,000	3%
(9.16) Computer/Internet Services	21,355	33,471	99,000	22%
(9.17) Telephone	8,245	8,491	26,000	32%
(9.18) Postage	1,348	3,751	3,500	39%
(9.19) Depreciation-Furniture & Fixtures	1,994	2,041	6,000	33%
(9.20) Depreciation-Computer Equipment	17,254	18,798	85,000	20%
(9.21) Other Office Expense	14,181	9,939	45,000	32%
(9.22) Miscellaneous Expense	6,577	2,820	9,000	73%
Total Administrative Expenses	\$ 703,567	\$ 598,771	\$ 2,240,108	31%

TAB D

Report from the Chair of the Nominations and Elections Committee



Federal Bar Association

Pursuant to the FBA Constitution and Bylaws, and in accordance with the notice disseminated earlier this year, the Nominations & Elections Committee has met and considered applications for nomination to FBA national office. The committee has nominated the following members for the offices indicated.

Candidates	
Kip T. Bollin	President-Elect
Maria Z. Vathis	Treasurer
Jonathan O. Hafen	Director (Group 1-Vice Presidents for the Circuits)
Vildan A. Teske	Director (Group 2-Chairs for the Sections and Divisions)
Hon. Robin E. Feder	Director (Group 3-Chapter Presidents)
David A. Goodwin	Director (Group 4-Younger Lawyers)
Matthew C. Moschella	Vice President for the First Circuit
Ernest T. Bartol	Vice President for the Second Circuit
Frank J. McGovern	Vice President for the Third Circuit
Hannah Rogers Metcalfe	Vice President for the Fourth Circuit
Barry W. Ashe	Vice President for the Fifth Circuit
Thomas G. McNeill	Vice President for the Sixth Circuit
Sheri H. Mecklenburg	Vice President for the Seventh Circuit
Adine S. Momoh	Vice President for the Eighth Circuit

Hon. Alison S. Bachus	Vice President for the Ninth Circuit
Daniel W. Lewis	Vice President for the Tenth Circuit
Michael S. Vitale	Vice President for the Eleventh Circuit
Elizabeth Pugh	Vice President for the D.C. Circuit

The names of these candidates will be listed on the Notice of Election that will be distributed to each member in good standing as of June 15, 2016.

Petitions

Members who have not been nominated for office by the Committee, but who wish to be placed on the ballot for national office, may do so by delivering to Mark K. Vincent, Chair of the Nominations and Elections Committee, at elections@fedbar.org, a [petition](#), including an [Application](#), specifying the office being sought and bearing the required number of signatures, i.e., fifty (50) signatures for national offices; twenty (20) signatures for vice presidents for the circuits by members within the respective circuit. No member shall be eligible as an endorser of a petition whose dues are not paid for the current fiscal year or who is not otherwise in good standing. Each petition may propose nominees for one or more offices; however, in no event shall any member be eligible as an endorser of more than one candidate for the same office. Petitions must be received by 5 p.m. EDT on **Monday, April 25, 2016**.

Notice of Election, Ballots and Voting

In accordance with Bylaw 6(D), by **June 15, 2016**, the Committee shall cause a Notice of Election to be sent to each member of the Association in good standing. The notice shall list the names of all nominated candidates and candidates by petition in alphabetical order under each elective office. The notice also shall contain such instructions as necessary for members to cast their votes as prescribed by policy adopted by the Board of Directors. A suspended member who is restored to good standing after the transmittal of the notice and who, prior to the election's close, delivers to the Committee evidence of good standing, shall thereupon be entitled to vote. In an uncontested election, the Association shall only send the Notice of Election electronically to members.

The ballot shall contain the names of all nominated candidates and candidates by petition for each elective office as well as space for a write-in candidate for each elective office. Completed ballots shall be received by the Chair of the Committee or by such person as designed by the Chair no later than June 30. The Committee shall review and certify the tabulated votes and report as elected the candidate for each office who has received a plurality of the votes cast for that office by July 1.

Mark K. Vincent, President
2016 Nominations and Elections Committee Chair

TAB E

Report from the Chair of the Government Relations Committee



FEDERAL BAR ASSOCIATION
GOVERNMENT RELATIONS COMMITTEE

February 18, 2016

TO: National Council
Federal Bar Association

FROM: Government Relations Committee
W. West Allen, Chair; and Bruce Moyer, Counsel

SUBJ: Government Relations Activities Report

GRC Programming at Mid-Year Meeting. The Government Relations Committee is cooperating with the FBA Foundation in producing a panel session, “Policing the Police: From Rodney King to Ferguson” during the upcoming Mid-Year Meeting on Saturday morning, April 2. The 90-minute panel session, will feature an inside-look how federal authorities conduct investigations the patterns and practices of local police conduct and enforce federal civil rights laws. The panel will include Department of Justice officials, local law enforcement personnel and other legal experts, as described on the attached overview.

In addition, the GRC is assisting in securing the Saturday keynote luncheon speaker, yet to be named.

FBA Capitol Hill Day. FBA Capitol Hill Day will be held on Thursday, May 19, immediately prior to FBA Leadership Training. Approximately 35 FBA leaders participated in Capitol Hill Day during the last two years, and we are looking forward to exceeding that number this spring. We anticipate our meetings with Congressional lawmakers and staff to focus on the state of the federal courts, including filling vacancies and adequate resources and judgeships.

Legislation Amending the Federal Bar Foundation Charter. The GRC is assisting the Federal Bar Foundation in securing the passage of legislation to amend the federal statute (36 U.S.C. 70501 et seq.) chartering the Foundation as a patriotic and national organization. The Foundation secured its Congressional charter in 1954 and the terms of that charter have remained unchanged over the past 60 years. The legislative amendments, chiefly promoted by Rep. Pedro Pierluisi (D-PR), will provide greater flexibility to the Foundation in connection with the governance and management of its affairs, as well as provide several technical corrections. The amendments also will align the charter provisions of the Foundation with respective charters governing most other Title 36 organizations.

FBA Issues Agenda. The GRC is soliciting nominations to the 2017 FBA Issues Agenda with a deadline of April 1. The GRC will review the nominations this spring and propose the 2017 Agenda to the Board of Directors at its June meeting.

Grassroots Judicial Vacancies Campaign. The GRC coordinated the transmittal of joint chapter letters of concern regarding substantial numbers of district and circuit vacancies in five states (Texas, Alabama, Florida, Tennessee and New York). The letters were co-signed by the FBA chapters in each state and transmitted to each state's respective Senators to urge prompt attention to the judicial vacancies situation in their states. FBA circuit vice-presidents assisted in the promotion of chapter participation in this initiative.

Government Relations Liaisons. Forty-one chapters have now designated government relations liaisons to promote and assist in the chapter's participation of government relations activities.

FBA Government Relations Training. GRC Chair West Allen and Counsel Bruce Moyer will present a training session on FBA government relations activities and opportunities during the upcoming FBA Leadership Training program on May 20-21.

Government Relations Updates and Outreach. These monthly updates are posted on the FBA website and are transmitted to chapters, and in turn to chapter members and judges, by the chapter government relations liaisons. We continue to receive praise for these reports and the information they provide about legal and policy developments in Washington affecting the federal courts and the judiciary. The Federal Judges Association has begun to include the FBA government relations update in its newsletter, with appropriate attribution to FBA.

Webinars on FBA government relations activities and federal legal policy developments also are periodically recorded by FBA counsel Bruce Moyer and posted on the FBA website. The January 26 video update is now available on the website.

In addition, Bruce Moyer's *Washington Watch* column also appears monthly in *The Federal Lawyer*, and is posted on the FBA website.

**FEDERAL BAR ASSOCIATION
2016 MID-YEAR MEETING
CAPITAL HILTON HOTEL, WASHINGTON, D.C.**

**SATURDAY, APRIL 2, 2016
10:30 AM - NOON**

PANEL SESSION

**Policing the Police, from Rodney King to Ferguson: How Federal Authorities
Review Alleged Police Misconduct and Enforce Civil Rights**

This panel session will provide an inside-look at how federal civil rights investigations into police departments are conducted, their impact on law enforcement practices, and the challenges faced in civil rights enforcement. More broadly, it will examine the fabric of citizen trust in law enforcement and the creation and potential erosion of that trust.

The Department of Justice has conducted hundreds of “pattern or practice” probes of police departments, including Ferguson, Missouri and elsewhere, for the possible systematic violation of civil rights under the Violent Crime Control and Law Enforcement Act of 1994 and other statutes. These intensive DOJ investigations into potential police conduct examine allegations involving the use of excessive force, unlawful stops, searches or arrests and discriminatory policing.

Current and former senior-level Department officials, law enforcement representatives and other experts involved in DOJ investigations of local police departments will take part in the panel session. They will provide an informed perspective on investigatory and monitoring processes, how corrective steps and remedies are crafted to fix violations of the law and how public trust in law enforcement can be maintained.

Panelists

- Dr. Cedric L. Alexander, Chief of Police, DeKalb County, Georgia
- Barry F. Kowalski, Former Special Litigation Counsel, Criminal Section, Department of Justice
- Tracey L. Meares, Walton Hale Hamilton Professor of Law, Yale University
- Carole Rendon, Acting United States Attorney, Northern District of Ohio
- Steven H. Rosenbaum, Chief, Special Litigation Section, Civil Rights Division, Department of Justice

Moderator: Bruce Moyer, Counsel for Government Relations, Federal Bar Association

Federal Bar Association

CAPITOL HILL DAY

Thursday, May 19, 2016

Plan to participate in this acclaimed event as FBA leaders from across the country meet with House and Senate offices to discuss important FBA legislative issues that impact the administration of justice and the federal courts. During meetings on Capitol Hill, FBA participants will discuss issues most critical to our Third Branch of government, including: adequate funding for the federal courts, filling judicial vacancies promptly, and sufficient judgeships to render justice.

FBA Capitol Hill Day is becoming more popular each year. Don't miss out on this opportunity to help broaden the FBA's visibility and influence in Congress.

Participants in FBA Capitol Hill Day are responsible for scheduling their meetings with their Senate and House offices in advance of the event. Feedback on these meetings will be distilled during the Group Debriefing at the end of the day.

Between meetings, participants will have the opportunity to visit the Senate and House galleries, as well as the Capitol Visitors Center.

Capitol Hill Day is held in conjunction with the 2016 Leadership Training Program (May 20-21, 2016). All chapters, sections, and divisions are encouraged to send a representative to this event.

Because reimbursement is available for chapter representative attendees of the Leadership Training Program, these attendees will only need to incur the cost of one additional night of lodging. Section and Division representatives should follow National Policy No. 9-5 guidelines regarding reimbursement and receive approval from the Chair and Treasurer of their Section/Division. A discounted block of rooms has been reserved for attendees at the Capital Hilton. Reservations must be made by May 1, 2016 to receive the discounted rate. Call 1-202-393-1000 and refer to the "FBA Leadership Meeting" to reserve your room.

Participants of Capitol Hill Day are responsible for their booking travel and lodging in connection with this event.

REGISTRANT INFORMATION

Name _____ Title _____

Firm/Agency _____

Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____

Email Address _____

Please email the completed registration form to Debbie Smith, chapters coordinator, at dsmith@fedbar.org. Visit www.fedbar.org/CapitolHill16 for additional information and to register online today!

PROGRAM

9:00 a.m.

Legislative Advocacy Training - Learn the issues and how to be effective on the Hill

10:30 a.m.

Participant meetings with Senate and House Offices begin and continue into the afternoon

Lunch

On Your Own

4:00 p.m.

Group debriefing on Hill meetings



Federal Bar Association



Federal Bar Association

February 8, 2016

The Honorable Richard C. Shelby
United States Senator
304 Russell Senate Office Building
Washington, DC 20510

The Honorable Jeff Sessions
United States Senator
326 Russell Senate Office Building
Washington, DC 20510

Re: Federal Judicial Vacancies in Alabama

Dear Senator Shelby and Senator Sessions:

On behalf of the many Alabama lawyers who practice in the federal courts throughout the state, we write to express our concern about the vacancies that continue to exist on the Federal bench in Alabama.

Currently there is one Eleventh Circuit vacancy, designated by the Federal Judiciary as a judicial emergency because of the caseload of the appeals court and length of time the judgeship has remained vacant. It is without a nominee. Similarly there are four district court vacancies -- two in the Northern District and two in the Middle District of Alabama. The two Middle District vacancies also are considered judicial emergencies by the Federal Judiciary.

While the President bears Constitutional responsibility for submitting judicial nominees for consideration for confirmation by the Senate, it is equally recognized that the fulfillment of the Senate's responsibility to "advise and consent" rests in the prompt attention of home state Senators to collaborate in the identification of worthy nominees and their consideration by the Senate.

In Alabama, vacancies have an especially significant impact on litigants in the federal courts, as well as the broader economy, because individuals and corporations must wait longer to have their day in court. Vacancies and delay add greater costs to already high litigation expenses. Those of us who try federal cases know the financial impact of continuances of cases that can extend for months, even years, without decision, due to insufficient bench capacity. For business clients, these costs get passed on to customers. And when the United States is a party to the case, it means that the public is paying that higher tab.

We urge you to undertake vigorous effort toward filling all Eleventh Circuit and Alabama federal district court vacancies as soon as practicable. Thank you for your consideration of our concerns.

Sincerely yours,

Michael Sansbury
President, Birmingham Chapter

T. Grant Sexton, Jr.
President, Montgomery Chapter

Jason Connell
President, North Alabama Chapter



Federal Bar Association

February 8, 2016

The Honorable Bill Nelson
United States Senator
716 Hart Senate Office Building
Washington, DC 20510

The Honorable Marco Rubio
United States Senator
284 Hart Senate Office Building
Washington, DC 20510

Re: Federal Judicial Vacancies in Florida

Dear Senator Nelson and Senator Rubio:

On behalf of the thousands of Florida lawyers who practice in the federal courts throughout the state, we write to express our concern about the vacancies that continue to remain on the Federal bench in Florida.

Currently there are four judicial vacancies in the federal district courts in Florida — one in the Northern District with no nominee, two in the Middle District with no nominees, and one in the Southern District with a nominee, awaiting a blue slip to permit the Senate Judiciary Committee to schedule a hearing. All four vacancies have been designated as judicial emergencies by the Federal Judiciary because of the high caseloads associated with their respective courts and the duration of the vacancies. In addition, there is an Eleventh Circuit vacancy, also designated by the Federal Judiciary as a judicial emergency and without a nominee.

While the President bears Constitutional responsibility for submitting judicial nominees for consideration for confirmation by the Senate, it is equally recognized that the fulfillment of the Senate's responsibility to "advise and consent" rests in the prompt attention of home state Senators to collaborate in the identification of worthy nominees and their consideration by the Senate.

In Florida, vacancies have an especially significant impact on litigants in the federal courts, as well as the broader economy, as individuals and corporations must wait longer to have their day in court. Vacancies and delay add greater costs to already high litigation expenses. Those of us who try federal cases know the financial impact of continuances of cases that can extend for months, even years, without decision, due to insufficient bench capacity. For business clients, these costs get passed on to customers. And when the United States is a party to the case, it means that the public is paying that higher tab.

We urge you to act vigorously toward filling all Florida federal district court vacancies as soon as practicable. Thank you for your consideration of our concerns.

Sincerely yours,

Valorie Chavin
President, Broward County Chapter

Michael Abel
President, Jacksonville Chapter

Robert Griscti
President, North Central Florida Chapter

Taylor Ford
President, Orlando Chapter

Sally Still
President, Palm Beach County Chapter

Oliver Alan Ruiz
President, South Florida Chapter

Richard A. Greenberg
President, Tallahassee Chapter

Anne-Leigh Gaylord Moe
President, Tampa Bay Chapter



Federal Bar Association

February 8, 2016

The Honorable Charles E. Schumer
United States Senator
419 Hart Senate Office Building
Washington, DC 20510

The Honorable Kirsten Gillibrand
United States Senator
478 Russell Senate Office Building
Washington, DC 20510

Re: Federal Judicial Vacancies in New York

Dear Senator Schumer and Senator Gillibrand:

On behalf of the thousands of New York lawyers who practice in the federal courts throughout the state, we write to express our concern about the vacancies that exist on the Federal bench in New York and to thank you for your diligent efforts aimed at filling those vacancies in the promptest fashion possible.

As you know, there are four federal district court vacancies in New York, with one each in the Northern District, Southern District, Western District and Eastern District. The nominee to the Eastern District vacancy, approved by the Senate Judiciary Committee last November, awaits scheduling of a Senate floor vote. That vacancy is considered a judicial emergency by the Federal Judiciary because of the Eastern District's high caseloads and the length of the vacancy. Your persistent effort in a floor vote on the Eastern District nominee and in fostering the President's nominations of judicial candidates to the Northern District, Southern District and Western District vacancies is much appreciated.

In New York, judicial vacancies have an especially significant impact on litigants in the federal courts, as well as the broader economy, because individuals and corporations must wait longer to have their day in court. Those of us who try federal cases know the financial impact of continuances of cases that can extend for months, even years, without decision, due to insufficient bench capacity. Justice delayed is truly justice denied. We recognize that these considerations are national ones, and that the Senate's prompt efforts to consider the nomination of all the President's judicial nominees is critically needed.

Thank you for your personal efforts and support to assure that all federal court vacancies throughout our state are filled as soon as practicable.

Sincerely yours,

Dina Miller
President, Eastern District of New York Chapter

Michael Zussman
President, Southern District of New York Chapter

Jody Galvin
Western District of New York Chapter



Federal Bar Association

February 8, 2016

The Honorable Lamar Alexander
United States Senator
455 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Bob Corker
United States Senator
425 Dirksen Senate Office Building
Washington, DC 20510

Re: Federal Judicial Vacancies in Tennessee

Dear Senator Alexander and Senator Corker:

On behalf of the many Tennessee lawyers who practice in the federal courts throughout the state, we write to express our concern about the vacancies that continue to remain on the Federal bench in Tennessee.

We are appreciative of the hard work and persistence that you have devoted toward assuring that worthy candidates have been nominated to fill the two vacancies arising in the Middle District and the Western District. We note that they have received hearings and been reported out of the Senate Judiciary Committee and now await a final floor vote. We ask you to devote your continued energy toward assuring that these nominations are considered and voted upon by the Senate at the earliest possible time.

In Tennessee, vacancies have an especially significant impact on litigants in the federal courts, as well as the broader economy, because individuals and corporations must wait longer to have their day in court. Vacancies and delay add greater costs to already high litigation expenses. Those of us who try federal cases know the financial impact of continuances of cases that can extend for months, even years, without decision, due to insufficient bench capacity. For business clients, these costs get passed on to customers. And when the United States is a party to the case, it means that the public is paying that higher tab.

Thank you for your continued efforts toward filling all Tennessee federal district court vacancies as soon as practicable.

Sincerely yours,

Donna Mikel
President, Chattanooga Chapter

Earl Houston, II
Memphis Mid-South Chapter



Federal Bar Association

February 8, 2016

The Honorable John Cornyn
United States Senator
517 Hart Senate Office Building
Washington, DC 20510

The Honorable Ted Cruz
United States Senator
404 Russell Senate Office Building
Washington, DC 20510

Re: Federal Judicial Vacancies in Texas

Dear Senator Cornyn and Senator Cruz:

On behalf of the thousands of Texas lawyers who practice in the federal courts throughout the state, we write to express our concern about the significant numbers of vacancies that exist on the Federal bench in Texas.

Currently there are eight federal district court vacancies in Texas, all without nominees. These comprise three vacancies in the Eastern District, two in the Northern District, two in the Southern District and one in the Western District. All eight of the vacancies are considered judicial emergencies by the Federal Judiciary because of the high caseloads associated with each court and the corresponding length of the vacancies. In addition, two unfilled seats on the Fifth Circuit Court of Appeals remain, also judicial emergencies without nominees. Together the ten district and circuit vacancies represent roughly 12% of the current 83 vacancies on the Federal bench.

While the President bears Constitutional responsibility for submitting judicial nominees for consideration for confirmation by the Senate, it is equally recognized that the fulfillment of the Senate's responsibility to "advise and consent" rests in the prompt attention of home state Senators to collaborate in the identification of worthy nominees and their consideration by the Senate.

In Texas, vacancies have an especially significant impact on litigants in the federal courts, as well as the broader economy, because individuals and corporations must wait longer to have their day in court. Vacancies and delay add greater costs to already high litigation expenses. Those of us who try federal cases know the financial impact of continuances of cases that can extend for months, even years, without decision, due to insufficient bench capacity. For business clients, these costs get passed on to customers. And when the United States is a party to the case, it means that the public is paying that higher tab.

We urge you to undertake vigorous effort in filling all federal court vacancies throughout our state as soon as practicable. Thank you for your consideration of our concerns.

Sincerely yours,

Jason Bloom
President, Dallas Chapter

Joseph F. Cleveland
President, Fort Worth Chapter

Melanie Fry
President, San Antonio Chapter

Charles Walker
President, Southern District of Texas Chapter

TAB F

**Report from the Chair of the Constitution, Bylaws, Rules
and Resolutions Committee**

To: National Council

From: Beth Smith, Chair Constitution, Bylaws, Rules and Resolutions Committee

Date: February 26, 2016

Re: Report of Proposed Changes to the FBA Constitution and Bylaws and Other Matters

Committee Members: Beth Smith (chair), Geoffrey Cheshire, Steven Justice, Kevin Maxim, Honorable Suzanne Mitchell, Peg O'Connor, Paul Vamvas, Tyler Brooks, Tom Schuck, Robert Clark, Ex Officio, and Stacy King (staff liaison).

Actions of the Committee

I submit this report on behalf of the Constitution, Bylaws, Rules, and Regulations Committee (“Committee”) for work during the 2015-16 FBA year. Our report encompasses discussion concerning: a change to the Constitution related to contested elections; a change to the Constitution allowing the President to fill a vacancy which is the result of no elected officer; reconsideration of proposed Bylaw 6(A), which was discussed at the September National Council Meeting; a proposal for the creation of a Federal Judges Division; a proposal for creation of a LGBT Section; and a change to the Bylaws providing the number of votes necessary for a write-in candidate to be elected when no candidate is on the ballot.

1. Change to the Constitution: History: During the September 12, 2015 National Council Meeting, the Committee proposed a Bylaw change in an effort to establish a process to provide a full slate of candidates when a nominee candidate withdraws his or her candidacy. The Committee proposed a new bylaw that would allow the Nominations and Elections Committee to nominate another candidate using a May 15 deadline, so long of the pool of candidates had submitted their names for consideration during the initial candidacy process.

After a lengthy discussion, the National Council requested the Committee reconsider the proposed Bylaw change with an eye to proposing a change to remedy the situation when a candidate, who is a judiciary officer, and nominated for office by the FBA Nominations Committee, must resign if another candidate self nominates creating a contested election.

The Committee considered several options in relation to a nominated judicial officer being required to resign due to a contested election. The Committee decided to withdraw the proposed Bylaw 6(A). Further, the Committee drafted a change to the Constitution to address the issue referred by National Council.

The Committee proposes the following Constitutional change to *Article V, Section 3. "Nominations"*, to replace the current subsection (b) with the following provision, which would preclude a contested election in the above fact pattern:

Constitution, Article V, Section 3. Nominations

b. Whenever the Nominations and Elections Committee shall nominate only one member for elective office (including director) who also is a member of the federal or state judiciary or otherwise employed by the federal or any state government and who, by virtue of applicable ethics rules, decision, or opinion, is prohibited by virtue of such position or employment from participating in a contested election, no petition for that office shall be permitted or received for the year for which such nomination has been made.

A red-lined version of the proposed provision to the Constitution is attached. The previous subsection "b" would be re-lettered as "c".

The Committee recommends the change to the Constitution and for approval or comment by the BOD. The Committee will submit the proposed change for consideration by the National Council during the 2016 Mid-Year Meeting. The Committee is aware that all proposed changes to the Constitution must be noticed in writing to National Council members and approved by a vote of 2/3rds of National Council members attending the meeting. Thereafter, the proposal is submitted for vote to all FBA members in good standing, which will pass upon affirmative vote of 2/3rds of those members who vote.

At its January 22, 2016 meeting, the Board of Directors expressed its appreciation to the Committee for its work concerning the issues related to all of the recommendations, however the board disapproved this recommendation. The board supports and encourages the participation of the Federal Judiciary in FBA leadership and supports the creation of a board-level judicial position. President Vincent referred the study of ways to encourage the participation of the federal judiciary, specifically elected positions, to an appointed task force of the board.

2. Change to Constitution to allow President to fill vacancies. The Committee determined the Constitution should be amended to fill a gap concerning the President's authority to fill offices by appointment. Currently, the President has the authority to fill vacancies in offices that have become vacant due to death, resignation or removal. *See Constitution, Article V-Officers, Directors and Delegates: Nomination, Removal and Duties, Section 5. Vacancies in Office.* The President does not have authority to fill vacancies for offices where no election has occurred.

The Committee proposes the following provision be added as new paragraph "d." in Article V, Section 5. as follows:

d. If upon the close of annual elections as prescribed herein and in the Bylaws of the Association no officer, director, or delegate is duly elected, the President shall fill such

vacancy by appointment, subject to ratification by the Board of Directors at its first meeting, except as provided in Section 5.b. herein.

A red-lined version of the proposed provision to the Constitution is attached.

The Committee recommends the change to the Constitution and for approval or comment by the BOD. The Committee will submit the proposed change for consideration by the National Council during the 2016 Mid-Year Meeting.

At its January 22, 2016 meeting, the Board of Directors approved this recommendation, subject to striking the language “at its first meeting.”

3. Policy for self-nomination deadlines in certain circumstances. The Committee suggests that the BOD consider establishing a policy concerning deadlines for self-nominations after the resignation of a candidate when other deadlines have passed. For instance, the election ballot has been mailed and a candidate resigns or is unable to run in the election.

At its January 22, 2016 meeting, the Board of Directors deemed recommendations 2 and 6 appropriate to address certain circumstances as referenced above.

4. Federal Judges Division: The Committee considered a Memorandum proposed by the Hon. Gustavo A. Gelpí, Chair, Federal Judges Committee for the creation of a Federal Judges Division, consisting of Article III, Magistrate, Bankruptcy, and state judges. A copy of the proposal, with proposed Bylaws is attached. The proposal would result in the creation of an ALJ Division. The Committee considered the answers to two questions asked of Judge Gelpi: 1. *What is the benefit to all of the judiciary who are members of the FBA for the creation of the Federal Judges Division? It seems that the creation of another division, might fractionalize the judiciary membership;* and 2. *We did not see a proposal as to how Military, State, Tribal Judges and their staff are to be handled? Is it the intention of your committee to move these categories of judiciary to the current Judiciary Division along with administrative judges? If so, what name would be given to the division, as Administrative Law Judges Division would not be appropriate.* Judge Gelpi’s response is attached.

The pros and cons of the creation of a separate Federal Judges Division and renaming the current Judiciary Division to the “Administrative Law Judges Division”, consisting of ALJ members was discussed, including the following: the new Federal Judges Division would provide a platform specifically for Article III and Magistrate Judges due to a different level of interest in the administration of courts; the possibility of fractionalization of ALJs, including tribal judges, Armed Forces Court of Appeals Judges, Social Security Judges, Immigration Judges, International Court of Trade Judges, etc...; the lack of members and participation of

members who are ALJ judges; Article III Judges have resources of support such as the AO; the budgetary concerns of adding more judges as honorary members; and the possibility of creating a separate sub-section within the current Judiciary Division.

After much discussion, the Committee could not reach a consensus on recommending any action be taken on the Proposal without further action or survey of stakeholders, which is not within the charge given to the Committee as per the Bylaws. We refer the proposal to the BOD and ask that the BOD review the proposal and respond to Judge Gelpi. The Committee reports that the creation of another section does not conflict with the Constitution or Bylaws.

At the January 22, 2016 board meeting, President Vincent appointed a task force of the board to review the proposal for creating a Federal Judges Division and to recommend options for creating a group for Article III judges.

5. Creation of a LGBT Section. The Committee discussed Daniel Weiss's revised proposal for an LGBT section. The Committee found that the creation of a section is a function of the BOD and the Committee does not have jurisdiction to approve the same. *See FBA Constitution Article IX-Sections, Section 1.* A copy of Mr. Weiss's Proposal is attached. Mr. Weiss initially requested a division. Mr. Weiss amended his proposal to request the creation of a LGBT Section after discussion with him about the differences between a section and a division. I have included the original Petition which Mr. Weiss initially attached to the proposal to show the support of FBA members concerning LGBT issues. The Committee refers the proposal to the BOD.

The Committee found nothing in the Constitution or Bylaws that would prohibit the creation of an LGBT section, but a suggestion was made by a Committee member that the LGBT section could be created as a sub-section of the Civil Rights Section.

At its January 22, 2016 meeting, the Board of Directors approved the establishment of the LGBT Law Section.

6. Addition of Bylaw concerning write-in candidates. The Committee determined no provision exists in the Bylaws to establish the number of votes necessary for a write-in candidate to be elected. The Committee proposes the following additional provision to *Bylaws Section 6. Election Schedule, Procedure, and Requirements, D. Notice of Election, Ballots and Voting*, at the end of the second paragraph:

In the event that there is no nominated candidate or candidate by petition for an elective office, a write-in candidate shall be certified as the elected candidate if he or she meets all of the following requirements: is a member of the Association in good standing; meets all eligibility qualifications as prescribed in the Constitution, these Bylaws, and policies of the

Association; and receives not less than 50 write-in votes, except for a candidate for Vice President for the Circuit, who must receive not less than 20 write-in votes.

A red-lined version of the proposed provision to the Bylaws is attached.

The Committee determined the standard for the number of votes by referring to the required number of signatures for nomination by petition.

The Committee recommends the proposed change to the Bylaws and for approval or comment by the BOD. The Committee will submit the change for consideration by the National Council during the 2016 Mid-Year Meeting.

At its January 22, 2016 meeting, the Board of Directors approved this recommendation.

Many thanks to the members of the Committee who were thoughtful, creative, responsive and who took great care in considering the matters contained in this report. Special thanks to Deputy Executive Director Stacy King for her work with the committee and her extensive knowledge of the Federal Bar Association and its governance documents.

Article V – Officers, Directors and Delegates: Nomination, Removal, and Duties

Section 1. *Elective Officers, Directors and Delegates.* The elective officers and directors of the Association shall assume their respective offices at the beginning of the fiscal year to which they are elected and shall serve through the end of the fiscal year in which their terms expire or until their successors shall have been installed in office. The Association shall have three National Officers: President, President-elect, and Treasurer. No one may serve as a National Officer unless that person is a member of the Association in good standing and has served as a voting member of the Board of Directors for at least three years. The elective officers and directors of the Association shall be as follows and in the order named and shall be elected to terms of office as indicated:

- a. The President, who shall be elected only in those years when there is no President-elect to succeed to that office. The President shall also serve as a director.
- b. The President-elect, who shall be elected annually as hereafter provided and who shall succeed the President at the expiration of the latter's term. The President-elect shall also serve as a director.
- c. The Treasurer, who shall be elected annually as hereafter provided. The Treasurer shall also serve as a director.
- d. Twelve additional directors, who shall be elected to staggered terms of three years as provided in the Bylaws of the Association. A member appointed to serve the remaining period of a term to which another person was elected, at the conclusion of that partial term, may stand for election for a full three-year term. No director shall serve more than two elected three-year terms (which terms must be non-consecutive) on the Board exclusive of any term based upon service as a National Officer. A person shall not be eligible to serve as a voting member of the Board of Directors following service as National President.
- e. Two Vice Presidents for the Circuit for each Federal judicial circuit, who shall be elected for staggered terms of two years by the members within that Circuit. No Vice President for the Circuit shall serve more than three full terms.
- f. The Delegate or Delegates to the House of Delegates of the American Bar Association, who shall be elected to terms of office for the number of years then provided for members of the House of Delegates by that association. When the American Bar Association authorizes the Association an increase in the number of delegates to that association's House of Delegates, the President promptly shall appoint such additional delegate or delegates with the approval of the Board of Directors at its next regular meeting, to hold office until the next annual election.

Section 2. *Eligibility.* All members of the Association at the time of nomination, whose dues are paid for the current fiscal year and who otherwise are in good standing, and meet all other qualifications, as may be required by this Constitution, Bylaws, and policies of the Association, shall be eligible as candidates for any elective office (including directors) as prescribed in Section 1 of this Article.

Section 3. *Nominations.* Candidates for elective offices of the Association as prescribed hereinbefore may be nominated for office either by the Nominations and Elections Committee or by petition filed in accordance with this section.

- a. The Nominations and Elections Committee shall nominate one or more members, who

meet all qualifications and are in good standing, for each of the elective offices (including directors) becoming vacant during the upcoming fiscal year, and each such nominee shall be listed on the ballot as a candidate for the particular office.

b. Whenever the Nominations and Elections Committee shall nominate a member for elective office (including director) who is a member of the federal or state judiciary or otherwise employed by the federal or any state government and who, by virtue of applicable ethics rules, decision, or opinion, is prohibited by virtue of such position or employment from participating in a contested election, no petition for that office shall be permitted or received for the year for which such nomination has been made.

~~bc.~~ Each Subject to the foregoing, each nominee by petition shall be listed on the ballot as a candidate for the particular office for which nominated. A candidate nominated by petition must be endorsed by not less than 50 members, except that a candidate for Vice President for the Circuit must be endorsed by not less than 20 members of Chapters and/or members at large of the particular Circuit. No member shall be eligible as an endorser of a petition whose dues are not paid for the current fiscal year or who is not otherwise in good standing. Each petition may propose nominees for one or more offices; however, in no event shall any member be eligible as an endorser of more than one candidate for the same office.

Section 4. Removal from Office. Any officer may be removed from office for delinquency, inefficiency, neglect of duty, or for other good cause in the same manner and subject to the same due-process limitations as described in Article IV, Section 4, for the expulsion of a member. Any officer so removed shall have the same right of appeal from that decision to the National Council of the Association as described in that Section for an expelled member.

Section 5. Vacancies in Office.

a. In case of death, resignation, or removal of the President, the President-elect shall succeed to that office for the remainder of the term and then shall serve as President during the following term. In case of the death, resignation, or removal of the President-elect between the close of nominations and the annual election, the newly elected President-elect shall assume the office of President for one term only; and, thereafter, a President shall be elected at the next election as provided in Section 1.a. of this Article. In case of death, resignation, or removal of both the President and the President-elect in the same term, the Treasurer shall serve as acting-President until the next regular meeting of the Board of Directors; at such meeting, the Board of Directors shall select an acting-President to serve for the balance of the term.

b. Vacancies in the office of President-elect shall not be filled.

c. In case of death, resignation, or removal of any other officer, the President shall promptly fill such vacancy by appointment, subject to the ratification of the Board of Directors at its next regular meeting.

d. If upon the close of annual elections as prescribed herein and in the Bylaws of the Association no officer, director, or delegate is duly elected, the President shall fill such vacancy by appointment, subject to ratification by the Board of Directors at its first meeting, except as provided in Section 5.b. herein.

Section 6. Duties of Officers and Directors.

a. The President shall be the Chief Executive Officer of the Association and the Chairperson

of the Board of Directors and National Council. The President shall perform such other duties as properly pertain to the office or as may be required under this Constitution and the Bylaws of the Association.

b. The President-elect shall perform the duties of the President in the latter's absence or inability to discharge the duties of that office and shall perform such other duties as may be required by the President, this Constitution, or the Bylaws of the Association.

c. The Treasurer shall generally be responsible to oversee the financial affairs of the Association. The Treasurer shall have the assistance of the Executive Director and staff of the Association as designated by the Executive Director. The financial affairs of the Association shall include but not be limited to collection and receipt of all moneys due the Association; depositing the same to the credit of the Association in such financial institutions as may be designated by the Board of Directors; maintaining information available to the Board of Directors relating to the dues status of each member of the Association; and notifying each member each year of the status of that member's national dues for the ensuing fiscal year. Under the direction of the Treasurer, the Association shall keep an itemized record of all moneys received, by whom paid, and for what purpose; and shall submit to the Board of Directors and the National Council, whenever requested by either and at the end of the fiscal year, a financial report in writing including, if requested, a list itemizing all receipts and disbursements for the year. The Treasurer shall make all books, vouchers, and records available to the Audit and Budget & Finance Committees and shall perform such other duties as properly pertain to the office or as may be required by the President, this Constitution, or the Bylaws of the Association.

d. The Directors shall perform all duties as may be required for members of the Board of Directors by the President, this Constitution, or the Bylaws of the Association.

e. Each Vice President for the Circuit shall serve as liaison with all Chapters within that officer's Circuit; shall serve as counselor and advisor for such Chapters in the promotion of their welfare; shall undertake and supervise creation of new Chapters and reactivation of inactive Chapters in that officer's Circuit as appropriate; shall represent that officer's Circuit on the National Council; and shall perform such other duties as properly pertain to the office or as may be required by the President, this Constitution, or the Bylaws of the Association.

f. The Delegate or Delegates to the House of Delegates of the American Bar Association shall represent the Association in the House of Delegates of that association and in such other matters before that association as the Board of Directors or National Council may direct.

FBA Bylaws

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1. National Headquarters and Staff

- A. *National Headquarters.*** The Federal Bar Association shall maintain a National Headquarters at a location to be selected by the Board of Directors. The National Headquarters shall be the repository for the books, records, and reports of the Association and its Officers, Board of Directors, National Council, Divisions, Standing Committees, Sections, and Chapters. Such papers shall be open to inspection by any member upon reasonable application to the Association. Additionally, a roster of the members and associates in good standing, together with listings of the membership of the Divisions, Standing Committees, Sections, and Chapters of the Association shall be maintained at the National Headquarters. All communications with the Association shall be addressed to the Federal Bar Association at its National Headquarters.
- B. *Executive Director.*** The Board of Directors shall employ an Executive Director whose title, terms, and conditions of employment shall be specified by the Board of Directors. The Executive Director shall manage and direct all staff activities of the Association as prescribed by the Board of Directors. The Executive Director shall employ and may terminate the employment of members of the necessary support staff and may fix such employees' compensation within the approved budget and guidelines set by the Board of Directors. The Executive Director shall define the duties of the staff, establish their titles, and supervise their performance, and delegate responsibilities of management as appropriate. The Executive Director shall be responsible for maintaining the books, records, reports and roster of the Association, as noted in Bylaw 1.A.

2. Membership

- A. *Applications.*** Application to become a member or an associate of the Association shall be by a form approved by the Membership Committee and shall be accompanied by one year's dues.
- B. *Approval.*** The Association's Executive Director shall process applications at the Association's National Headquarters for review and approval. The Executive Director may refer any application for review and approval to the Membership Committee.
- C. *Honorary Membership.***
- 1. *Federal Judges.*** A chapter may elect to honorary membership a judge who is eligible for honorary membership under Article IV, Section 2.c., of the Constitution. The Chapter shall

notify the Association at the National Headquarters prior to such election. Similarly, the Chapter shall notify the Association if such an honorary member ends service as a judge in active, senior, or retired status.

2. **Other.** A chapter may propose any other person for receipt of an honorary membership in accordance with Article IV, Section 2b of the Constitution, which proposal shall be submitted in advance to the Association at the National Headquarters for approval. Upon approval, the chapter may extend honorary membership to the person(s) so approved.

D. **Secondary Chapter Association.** Although each member is assigned to one primary chapter based upon geographic location or request, such assignment does not preclude association, attendance or inclusion in the events or activities of any other chapter (subject to any applicable dues, fees, or other prerequisites imposed by such other chapter(s)).

3. Expulsion from Membership

A. **Cause.** As provided in Article IV, Section 4, of the Constitution, the Board of Directors may expel any member of the Association for good cause. "Good cause" includes, but is not limited to, knowingly engaging in conduct designed to overthrow the constitutional form of government in the United States by force or violence, or knowingly assisting another in such conduct; disbarment by (or resignation with disciplinary proceedings pending before) any State, Federal court or tribal court of record or knowingly engaging in conduct that is in violation of the Constitution of the Association or these Bylaws.

B. **Charge and Response.** A charge for expulsion may be brought by any active member of the Association. The charge shall be in writing and signed by the charging party, and shall describe in detail the act or acts in question and why such act or acts justify expulsion. The charge shall be filed with the Association and shall be referred immediately to the Board of Directors. The Association shall give actual notice to the respondent of the charge and of the right to respond to the charge in writing and in person before the Board of Directors. If a member of the Board of Directors brought the charge against the respondent or is the respondent, that person shall not participate in the Board of Directors' consideration or in its vote.

C. **Board of Directors Action.** At the next meeting of the Board of Directors that allows at least ten days' notice to the respondent, the Board shall consider the charge for expulsion. The Board initially shall consider whether the charge sets forth factual assertions that would constitute reasonable grounds for expulsion, and shall determine by a majority vote whether to dismiss the charge or to pursue the charge as provided in this Bylaw. If the Board of Directors pursues the charge, it shall consider the respondent's written response, if any. If the respondent has requested an appearance before the Board, the Board shall grant the respondent a reasonable opportunity to be heard. After fully considering the charge and any response, the Board shall determine by a majority vote whether to expel the respondent or to dismiss the charge. The Association immediately shall notify the respondent of the Board's action and of the respondent's right to appeal any decision to expel.

D. **Appeal.** If the Board of Directors expels the respondent from the Association, the respondent may appeal that decision to the Association within 60 days from notice thereof by the Association. To appeal, the respondent shall send the Association at the National Headquarters a letter so indicating and may send a written statement for consideration by the Association and a notice of intent to appear before the Association. The appeal will be considered by the National Council at the next regular meeting or at a special meeting called for that purpose. The Association shall give actual notice to the respondent of the time and place of that meeting. The decision of the Board of Directors shall be affirmed unless overruled by a majority of those members of the National Council present and eligible to vote.

4. Dues

- A. Amount of Dues.** Except honorary members, each member and associate of the Association shall pay annual dues to the Association. Twenty percent (20%) of each regular (i.e., not associate) annual member's dues (not including sustaining dues), rounded upward to the next one-half dollar, shall be rebated to the Chapter that serves the location of the member's mailing address, provided: If, as of the date of adoption of this Bylaw, a different Chapter is receiving a rebate of a member's dues or if a member designates a different Chapter as the member's primary Chapter, such different Chapter shall receive such rebate. Provided further, if a member opts to affiliate with no Chapter, no rebate shall be paid to any Chapter. Annual dues for members and associates of the Association shall be established by the Board of Directors and National Council. The National Council shall consider the dues recommendations of the Board of Directors upon notification as prescribed in Article VII of the Constitution provided that no proposed change in the amount of annual dues shall be considered unless the members of the National Council shall have received at least thirty (30) days advance notice of such proposed change (including amount(s) thereof).
- B. Dues Adjustments and Payment.** Beginning October 1, 1990, dues for each category of membership, as well as for associates, shall be adjusted by the change in the Consumer Price Index over the previous three years as of the prior January 31st, rounded upward to the next dollar, and will be adjusted similarly every three years thereafter. Beginning October 1, 1996, the Board of Directors may further adjust the amount of such annual dues upward or downward to the nearest whole dollar figure ending in a 0 or a 5, which further adjustment shall not affect the calculation of future adjustments to reflect a change in the Consumer Price Index, as set forth in the first sentence of this Bylaw 4B. In turn, the portion of such dues to be rebated to Chapters shall be adjusted similarly to maintain the percentage level indicated in this Bylaw. Dues payments shall be collected and recorded by the Association at the National Headquarters; Chapter rebates portion of dues will be transmitted to the respective Chapters.
- C. Dues Anniversary.** Members and associates shall pay a full year's dues upon admission and shall be billed annually thereafter within a month of the anniversary month of admission, with the exception that those who were members prior to September 30, 1975, shall be billed at the beginning of each fiscal year.
- D. Waiver of Dues.** A member or associate may request, by a written request to the National Headquarters a waiver of dues for compassionate or exceptional reasons for a period not to exceed one year. The National Headquarters will forward the request to the President-elect for decisions. If the President-elect approves the request, the President-elect will notify the Executive Director, who will notify the Treasurer, the requesting member or associate, and that member's or associate's Chapter President of this decision. The member's or associate's Chapter will receive no rebate with respect to dues that have been waived.
- E. Chapter, Division, and Section Dues.** Each Chapter may collect additional Chapter dues in its discretion, and the Chapter does not need to account for such dues to the National Headquarters. On request of any Chapter, approved by the Executive Director, the Association at the National Headquarters shall collect a Chapter's dues and remit same to the Chapter. Each Division and Section may charge additional Division or Section dues in its discretion; all Division and Section dues shall be collected by the Association at the National Headquarters.
- F. Sustaining Dues.** Members of the Association may distinguish themselves by becoming Sustaining Members. Rebates for Sustaining Members are only paid on the amount equal to active dues. The sustaining portion of the sustaining dues is not eligible for a rebate. Sustaining Membership dues shall be set as established by this Bylaw.
- G. Purpose of Dues.** Annual dues shall be used to pay the general expenses of the Association. All additional dues collected through Sustaining Dues memberships shall be used primarily to support publications and educational programs of the Association.
- H. Membership Development and Dues Adjustments.** Effective October 1, 1995, should a Chapter determine that, as a membership development tool, the waiver or reduction of

national dues chargeable within its Chapter for a specific category(ies) of members is justified, that Chapter must submit its proposal to the Board of Directors for approval, for that Chapter only, in writing at least sixty (60) days in advance of the next regularly scheduled Board of Directors meeting. Each proposal must include justification and provide for the Chapter to maintain appropriate membership statistics. The Budget Committee shall analyze each such proposal and present its analysis and conclusions at least thirty (30) days prior to the next scheduled Board of Directors' meeting. The prior approval of the Board of Directors must be obtained before the experiment is implemented as a program. Each Chapter which shall obtain approval of such a program shall reimburse the Association for any additional administrative cost related to implementing the program. Each dues experiment program will be limited in duration to no more than three (3) years. Each Chapter with an approved program will submit a written progress report to the Board of Directors annually, so long as the program remains in effect.

5. Non-Payment of Dues

- A. ***Delinquent Member.*** If annual dues of a member or an associate have not been received by the National Headquarters within 60 days after dues have expired for the prior year, the Association shall notify the member or associate that the dues are in arrears and that the member or associate will be suspended from the Association unless the dues are received within 30 days. The Association also shall notify each Chapter with which the member or associate is affiliated and the Vice President for the Circuit in which such member or associate is located of the delinquency.
- B. ***Persons Not in Good Standing.*** A person whose annual dues have not been received at the National Headquarters within 90 days after dues have expired for the prior year shall be regarded as not in good standing and shall be suspended from the Association. A person who has been suspended from membership for nonpayment of annual dues may be reinstated at any time by payment of the current annual dues.
- C. ***Members of the Armed Forces During Time of War.*** Notwithstanding the foregoing, all Association members on active duty in the armed forces of the United States during a war, who do not request to the contrary, shall be exempt from the payment of dues while so serving.

6. Election Schedule, Procedure, and Requirements

- A. ***Nominations by Nominations and Elections Committee and Notice of Election.*** By February 1 of each year, any member who desires to be considered by the Nominations and Elections Committee (Committee) for any elective office shall submit a completed Application for National Office (Application) to the Committee. The Committee may also seek out or consider other qualified members of the Association for possible nomination. By February 28 of each year, the Committee shall nominate one or more eligible members in good standing for each of the elective offices becoming vacant for the coming term. By April 1, the Committee shall cause to be transmitted to each member in good standing notice of the upcoming annual election and of the offices to be filled therein; of the Committee's nominations for those offices; and the manner and time by which nominations of candidates may be made by petition as provided in Article V, Section 3.b., of the Constitution and this Bylaw.
- B. ***Qualifications and Elections of Officers and Directors***
 - 1. ***Qualifications of Officers.*** To be eligible for election as a National Officer, a person must be a member of the Association in good standing and have served as a voting member of the Association's Board of Directors for at least three (3) years.
 - 2. ***Qualifications and Election of Directors.*** Twelve members of the Board of Directors shall be elected by members of the Association as follows:

- a. Three (3) Board positions shall be filled by current or former Circuit Vice Presidents, elected for staggered three-year terms.
- b. Three (3) Board positions shall be filled by current or former Chairs of Sections or Divisions, elected for staggered three-year terms.
- c. Three (3) Board positions shall be filled by current or former Chapter Presidents, elected for staggered three-year terms.
- d. Three (3) Board positions shall be filled by members who, at the time of election, are age 40 or younger or who have engaged in the practice of law for fewer than ten years and have served as a chapter officer, a national YLD officer or Board member, or as a chapter leader with YLD responsibilities.

A member appointed to serve the remaining period of a term to which another person was elected, at the conclusion of that partial term, may stand for election for a full three-year term. No director shall serve more than two elected three-year terms (which terms must be non-consecutive) on the Board exclusive of any term based upon service as a National Officer.

3. Qualifications of Vice Presidents of the Circuits. To be eligible for election as a Circuit Vice President, a person must have been a member of the FBA in good standing for a minimum of five (5) years and have served or be currently serving as a Chapter President or a Chapter Officer.

C. Nominations Close. Nominating petitions shall be delivered to the Committee at National Headquarters by April 25. Any petitions received thereafter shall be returned to the would-be candidate, indicating that the petition was tardy and the date it was delivered to the Committee. Nominating petitions must include a completed Application.

D. Notice of Election, Ballots and Voting. By June 15, the Committee shall cause a Notice of Election to be sent to each member of the Association in good standing. The notice shall list the names of all nominated candidates and candidates by petition in alphabetical order under each elective office. The notice also shall contain such instructions as necessary for members to cast their votes as prescribed by policy adopted by the Board of Directors. A suspended member who is restored to good standing after the transmittal of the notice and who, prior to the election's close, delivers to the Committee evidence of good standing, shall thereupon be entitled to vote. In an uncontested election, the Association shall only send the Notice of Election electronically to members.

The ballot shall contain the names of all nominated candidates and candidates by petition for each elective office as well as space for a write-in candidate for each elective office. In an uncontested election, the Association shall conduct an election in a manner in which the Executive Director and Committee, subject to the approval of the President, deem to be the most efficient and cost effective. Completed ballots shall be received by the Chair of the Committee or by such person as designated by the Chair no later than June 30. The Committee shall review and certify the tabulated votes and report as elected the candidate for each office who has received a plurality of the votes cast for that office by July 1. In the event that there is no nominated candidate or candidate by petition for an elective office, a write-in candidate shall be certified as the elected candidate if he or she meets all of the following requirements: is a member of the Association in good standing; meets all eligibility qualifications as prescribed in the Constitution, these Bylaws, and policies of the Association; and receives not less than 50 write-in votes, except for a candidate for Vice President for the Circuit, who must receive not less than 20 write-in votes.

If no candidate for a national office receives a plurality of the votes counted:

- a. in the case of a tie between two (2) candidates, the election shall be resolved by a coin flip in the presence of the tied candidates or their designees by the National President or the President's designee, which shall resolve the tie. The tosser of the coin shall be designated by the President. The candidate whose last name occurs last alphabetically shall call the coin toss;
 - b. in the case of a tie among more than two candidates; the election shall be resolved by drawing straws by the tied candidates or their designees from the hand of the National President or the President's designee. The National President or the President's designee shall prepare the straws and the candidate or designee drawing the longest straw shall win the election.
- E. **Voting Procedure.** Procedures shall be adopted by the Board of Directors to regulate the handling of voting, including the form of notices and ballots, and to prevent abuses of the voting privilege.
- F. **Authority of Nominations and Elections Committee.** The Committee is responsible for monitoring the overall conduct of the annual election and for ensuring compliance with this Bylaw.
- G. **Time.** In the event that any deadline herein specified is a Saturday, Sunday, or legal federal holiday, the next succeeding business day shall substitute for that specific deadline.

7. Meetings

- A. **Time of Meetings and Procedures.** Meetings of the Board of Directors and the National Council required by Article VI, Section 4.a. and Article VII, Section 2.a., of the Constitution shall be held at such time and place as the Board of Directors may direct. No proxies may be voted at meetings of the Board of Directors, National Council, or other meetings of the Association. Meetings of the Board of Directors, National Council, and of the Association shall be governed by the Constitution of the Association, these Bylaws and such rules as the Board of Directors and National Council may prescribe. When not inconsistent with such rules, the latest edition of Robert's Rules of Order shall apply. The President shall appoint a parliamentarian for each meeting of the National Council and the Board of Directors.
- B. **Notice of Meetings and Agenda.** Notice of meetings shall comply with the requirements of the Constitution. An agenda for meetings of the National Council and the Board of Directors shall be included with any notice. Additional agenda items for a meeting of the National Council (except as provided in Bylaw 4A or with respect to amendments to the Constitution or Bylaws, which must be addressed only by satisfying the full notice requirements established by the Constitution) may be added by the President or Board of Directors if supplemental notice is provided by mail or electronic transmission no later than ten (10) days before a properly noticed meeting. Upon motion to suspend the notice requirement to address additional business, a two-thirds majority of those present and voting may raise additional issues at a National Council meeting, except that no motion to suspend the notice requirement shall be entertained with respect to amendments to the Constitution or Bylaws.
- C. **Telephonic Meetings.** Upon the decision of the President and appropriate notice, the Board of Directors may convene via telephone, video-conference or other electronic means.
- D. **Challenge to Board Action.** Any motion to alter, amend, or reverse a decision of the Board of Directors pursuant to Article VI Section 3.C.(2) of the Constitution shall be presented at least forty-five (45) days prior to the National Council meeting.

8. Standing Committees

- A. **Establishment.** Under Article VI, Section 5, of the Constitution, the following Standing Committees, Council, and Boards are established:

1. *Operational Committees and Council.*

- a. ***Audit Committee.*** The Audit Committee is responsible for securing and reviewing an independent audit. The President shall appoint four (4) Board members and three (3) association members, who will serve for a term of one year. The Board appointees shall not include the President-elect or Treasurer.
- b. ***Budget and Finance Committee.*** The Budget and Finance Committee is responsible for developing and monitoring the implementation of the budget of the Association. The President shall appoint the President-elect, Treasurer, and three (3) additional members of the Board who will serve a term of one year. The President shall appoint the President-elect as chair.
- c. ***Constitution, Bylaws, Rules, and Resolutions Committee.*** The Constitution, Bylaws, Rules, and Resolutions Committee is responsible for considering and reporting on proposed changes in the Constitution and the Bylaws of the Association prior to presenting such proposals to the Board of Directors and/or the National Council. The Committee is responsible for considering and reporting to the Board of Directors on all resolutions prior to presenting such resolutions to the National Council. It is also responsible for studying and considering, on a continuing basis, means of improving the operations and the rules of the Board of Directors and the National Council prescribed pursuant to Bylaw 7.
- d. ***Government Relations Committee.*** The Government Relations Committee is responsible for coordinating and advancing the Association's issues agenda in implementation of policies adopted by the Board of Directors. The Committee shall have at least nine members and the President will appoint a member as chair. The President-elect, the Chair of the Sections and Divisions Council, and the Chair of the Circuit Vice Presidents shall be members.
- e. ***Membership Committee.*** The Membership Committee is responsible for developing and implementing the Association's annual membership recruitment and retention programs.
- f. ***Nominations and Elections Committee.*** The Nominations and Elections Committee is responsible for administering the procedures applicable to nomination and election of national officers of the Association during the annual election as prescribed in Article V, Section 3, of the Constitution and Bylaw 6. The Committee shall be composed of the President, who shall chair the Committee; President-elect; immediate past-President; two Vice Presidents for the Circuit designated by the President; a Division chairperson designated by the President-elect; a Section Chairperson designated by the President, and two Chapter representatives designated by the President-elect. If a member of the Nominations and Elections Committee becomes a candidate for an elective office, the person shall be deemed to have resigned from the Committee instantaneously and a substitute member shall be promptly appointed by the person who originally appointed the resigning member. The substitute member shall complete the original term of the resigning member.
- g. ***Sections and Divisions Council.*** The Sections and Divisions Council as established by the Board of Directors is responsible to coordinate, assist, and supervise the efforts of Sections and Divisions of the Association. The President shall nominate and, with the approval of the Board of Directors, appoint a Chair of the Sections and Divisions Council, and such Deputy Chairs and members as the President may deem appropriate.

2. *Programmatic Committees and Boards*

- a. **Annual Meeting.** The Annual Meeting Committee is responsible for planning and administering the annual meetings of the Association and for recommending to the Board of Directors sites and dates for future annual meetings. The Committee shall be composed of the President, President-elect, the Treasurer, and two members of the Board of Directors and chaired by the President-elect unless the President-elect determines a different composition.
 - b. **Bench/Bar Relations.** The Bench/Bar Relations Committee is responsible for facilitating and acting as the liaison between the federal judiciary and the members of the Federal Bar Association and for keeping the President and Board of Directors advised as to issues affecting the bench/bar. The committee shall be composed of six (6) members of the Federal bench and six (6) members of the Association and the Clerk of the Supreme Court. The members are appointed to the committee by the President and shall represent as many different Circuits as possible. The President-Elect shall appoint from the committee members the Deputy Chair, who shall become the Chair the following year.
 - c. **Editorial Board.** The Editorial Board is responsible for developing and publishing The Federal Lawyer. The Committee shall have at least nine members and the President shall appoint a member as chair.
 - d. **Professional Ethics.** The Professional Ethics Committee is to encourage professional and ethical practice in the Federal bar and to serve as a resource for events and CLE activities of the chapters, sections, divisions, and the national organization regarding professional ethics.
- B. Committee Composition and Terms of Office.** The composition of the following Standing Committees: (1) Constitution, Bylaws, Rules, and Resolutions; (2) Membership; and (3) Professional Ethics, shall consist of no more than nine members, at least six of whom are from different Circuits. The President shall appoint a member as chairperson. Any vacancy shall be filled by appointment by the President for the time remaining in the vacated term. The terms shall be on a three (3) year staggered basis.

9. Special Committees

Any Special Committee or Task Force established by the Board of Directors shall go out of existence one year from the date it is established unless prior thereto the Board of Directors shall extend its existence for another year. The President shall appoint the members and shall appoint the chairperson.

10. Divisions

There shall exist the following Divisions, each of which shall enact bylaws, subject to the approval of the Board of Directors, which will provide for the Division's general objectives, organization—including a chairperson and other internal leadership progression—and operation.

- A. **Federal Career Service Division.** There shall be a Federal Career Service Division of the Association. All members of the Association who are or have been officers or employees of the United States or of the District of Columbia are eligible to be members.
- B. **Judiciary Division.** There shall be a Judiciary Division of the Association. All past and present members of the Federal, Administrative, Military, State, and tribal judiciaries and their legal staffs are eligible to be members.
- C. **Senior Lawyers Division.** There shall be a Senior Lawyers Division of the Association. All active members of the Association who are age 55 years or older on the date on which each such member's dues is payable are eligible to be members.

- D. *Younger Lawyers Division.*** There shall be a Younger Lawyers Division of the Association, comprised of all active members of the Association who are age 40 years or younger on the first day of the fiscal year of the Association or who have engaged in the practice of law for fewer than ten years as of the first day of the fiscal year of the Association. In the event that the Immediate Past Chairperson, who serves as an officer of the Division the year following his or her term as Chairperson, is older than 40 years as of the first day of the fiscal year of the Association in the year he/she is to serve as Immediate Past Chairperson, or in the event he/she has been engaged in the practice of law for more than ten years as of the first day of the fiscal year of the Association, he/she shall still be an eligible member of the Division for the year he/she is fulfilling his/her term as Immediate Past Chairperson. In the event the Division membership of any Division officer would otherwise cease in accordance with the foregoing, that officer shall remain a member of the Division and in office until the succeeding officers have commenced their terms.
- E. *Corporate and Association Counsel Division.*** There shall be a Corporate and Association Counsel Division of the Association. All past or present members of corporate or association counsel's staffs are eligible to be members.
- F. *Law Student Division.*** There shall be a Law Student Division of the Association. All Law Student Associate members shall be members of the division. Law Student Associate members are not eligible or authorized to vote or hold any elective office in the Association.

11. Public Positions by Association Entities

A Division, Section or Chapter may not issue a public report or take a public position on an issue unless it adheres to the process set forth in the Constitution. A Standing or Special Committee may not take a public position or issue a public report; however, it may make recommendations or submit positions for consideration to the Board of Directors. No report or position may be inconsistent with any existing position of the Association. The Association shall keep a record of every report or position reported to the Board of Directors.

12. Assets of Inactive Chapters

Upon determination by the Board of Directors that a Chapter has failed to maintain an active membership of at least ten members for a period of one year, that it has withdrawn itself from the Association, or that it has had its charter revoked, the President shall direct the Treasurer to take charge of all assets and property of the Chapter and to hold them in trust for one year for the benefit of any Chapter that may organize or reorganize in that geographic area. If, at the end of one year, the Chapter is not reactivated and no new Chapter is organized, title to all such assets of the Chapter shall vest in the Association.

13. Fiscal Year

The fiscal year of the Association shall run from October 1 through September 30 of the following year.

14. Amendments to the Constitution and the Bylaws

- A. *Proposal and Study of Amendments.*** All proposals or petitions to amend (including repeal) provisions of the Constitution under Article XIX thereof, or these Bylaws under Bylaw 14C., except for annual dues changes proposed by the Board of Directors, shall be directed or referred to the Constitution, Bylaws, Rules, and Resolutions Committee for its recommendations. All such proposals or petitions shall reach the Committee at least sixty (60) days before the proposed amendments are to be considered for adoption at a National Council meeting or an annual meeting of the membership, as appropriate. The Constitution, Bylaws, Rules, and Resolutions Committee shall consider all such proposed amendments and shall report on them to the members of the Board of Directors sufficiently in advance of the meeting of the National Council at which any proposed change is to be considered to allow the

Board of Directors to consider and express its approval or disapproval of the proposed change; and to the National Council or membership, as appropriate, on or before the dates on which notice must be provided of the next meeting of the National Council or annual meeting of the membership at which such proposed amendments may be acted upon. The Committee shall include in its report the recommendation of the Board of Directors and its recommendations as to whether the proposed amendment conflicts with provisions of the Constitution and other Bylaws, and if so, in what form or with what related changes to the Constitution or these Bylaws as may be necessary and appropriate. The provisions of this Bylaw shall not be suspended.

B. Constitution.

1. Report of Constitution, Bylaws, Rules, and Resolutions Committee. The Constitution, Bylaws, Rules, and Resolutions Committee shall prepare a report on the proposal. The report shall include the text of the proposal, the text of any part to be repealed or amended, and a summary of the arguments for and against adoption of the proposal. A copy of this report shall be mailed or transmitted electronically with the ballot to each member of the Association in good standing.
2. Ballots. Returned ballots may not be required to be signed or otherwise identified by the members voting. The envelopes in which the ballots are returned shall be identified to enable the Association to identify them as ballots. The Constitution, Bylaws, Rules, and Resolutions Committee shall be responsible for overseeing the opening and counting the ballots and for reporting the vote.

- C. Bylaws.** Subject to satisfying the notice and quorum requirements of the Constitution and these Bylaws, the National Council may adopt, amend, or repeal any Bylaw at a regular or special meeting of the National Council upon two-thirds vote of those present and voting.

15. Robert's Rules of Order

Wherever the Constitution of the Association or these Bylaws omit or fail to address any substantive or procedural matter that is addressed in the most current version of Robert's Rules of Order, the most current version of Robert's Rules of Order shall govern as to that matter.

Base Document Published September 28, 1991

Last revised September 12, 2015; March 28, 2015; April 6, 2013; September 10, 2011; March 19, 2011; September 25, 2010; February 10, 2006; Bylaw 8a (1) (e) added & former (e) through (l) redesignated (f) through (m) April 24, 1999; Bylaw 4 and 14 revised October 10, 1998; Bylaw 4 revised April 25, 1998, effective October 1, 1998; Bylaw 4b revised & bylaw 8a 1(l) added September 21, 1996; Bylaw 6D Revised April 27, 1996; Bylaw 4A, 4B, 4D, and 4H Revised September 16, 1995; Bylaws 6A and 8A2(c) & (g) Revised April 22, 1995; Bylaw 6 Revised October 8, 1994; Bylaw 16 Repealed October 1, 1993

MEMORANDUM

To: Matt Moreland, President, Federal Bar Association
From: Hon. Gustavo A. Gelpí, Chair, Federal Judges Committee
RE: Bylaws for Proposed Federal Judges Division
Date: May 12, 2015

As tasked by you at the outset of your presidency, the members of my committee drafted the bylaws for the proposed Federal Judges Division, which were recently sent to you. This Division is necessary because under the current FBA scheme, there exists a Judicial Division, in which members are both Article III branch judges, as well as administrative judges from the executive branch of government. This creates an issue of separation of powers given that Article III branch judges have their own unique challenges, as do administrative law judges. Except for the common theme of judicial independence, Article III judges will best be represented within the FBA by having their own division. Administrative law judges meanwhile can continue to pursue their own respective matters under the existing division.

As Article III branch judicial officers, we cannot advocate on behalf of administrative law judges within the same division. Likewise, administrative law judges should not do the same for us. We can still continue to support each group, but within the greater FBA framework. More so, administrative law judges come from different executive branch agencies, and thus may appear before us as parties, and administrative law decisions, in turn, are reviewed by us. In addition, when it comes to reaching out to Article III branch judges, it is best that this be done by other Article III branch judges themselves, who share an internal nationwide email system. The same holds for administrative law judges.

I do want to make it clear that my committee fully supports the work of administrative law judges and recognizes their immense commitment to our association. Thus, our splintering from the existing Judicial Division is purely one of practicability and common sense.

Furthermore, when the new Federal Judges Division is approved, I recommend that the Judicial Division be renamed the Administrative Law Judges Division. Also, said division will have to amend and update its bylaws. We did not make any changes to those, as we feel it is a matter best left to the administrative law judges themselves.

Finally, I commend the work of all my committee members, to wit:

1. Hon. Michael Newman
2. Hon. Michelle Burns
3. Hon. Ruben Castillo
4. Hon. Susan Mollway
5. Hon. Craig Gargotta
6. Hon. Dee Benson

BYLAWS
of the
FEDERAL JUDGES DIVISION
FEDERAL BAR ASSOCIATION

ARTICLE I: NAME AND PURPOSE

Section 1. Name. This organization shall be known as the Federal Judges Division of the Federal Bar Association (“the Association”).

Section 2. Authorization. The Federal Judges Division (“the Division”) is established by Article VII, Section 2 of the Constitution of the Association. The Division is governed by the Constitution and Bylaws of the Association and these Bylaws.

Section 3. Purpose. The purpose of this Division is to promote and support the administration of justice in our Nation’s federal courts: in furtherance of that purpose, the Division will act to promote the Association within the federal judiciary, will promote the involvement of federal judges in the work of the Association and its Chapters, and shall serve as the Association’s liaison to the Federal Judges Association (FJA), Federal Magistrate Judges Association (FMJA), and the National Conference of Bankruptcy Judges (NCBJ).

ARTICLE II: MEMBERSHIP

Section 1. Active Membership. Any of the following members of the Association in good standing may become a member of this Division: (1) present or retired Article III United States Judges and Justices; (2) present or retired United States Magistrate and Bankruptcy Judges; (3) present or retired Judges of the United States Courts in Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands; (4) present or retired Judges of the United States Court of Appeals for the Armed Forces; and (5) present or retired Judges of the United States Court of Claims.

Section 2. Honorary Membership. Any federal judge who is an honorary member of the Association is an honorary member of the Division.

Section 3. Associate Membership. Any Clerk of a federal court, state judge, or tribal judge is permitted by the Bylaws to become an Associate Member of, and participate in, all Division affairs, but may not vote or hold office.

Section 4. Dues. Active members shall pay such dues as shall be fixed from time to time by Division Council.

ARTICLE III: OFFICERS

Section 1. Officers. The Officers shall be a Chair, a Chair-Elect, and a Secretary/Treasurer. The Officers shall serve two-year terms.

Section 2. Election and Succession. The Chair-Elect shall automatically succeed to the position of Chair and the Secretary/Treasurer shall automatically succeed to the position of Chair-Elect. At every other annual meeting of the Association there shall be elected a Secretary/Treasurer whose term shall commence at the close of the annual meeting of the Association and extend for two years or until a successor has been elected and qualified.

ARTICLE IV: NOMINATING COMMITTEE AND PETITIONS

Section 1. Nominating Committee. There shall be a Nominations and Elections Committee (“the Committee”) to be appointed no later than March of the year of the election, chaired by the immediate past Division Chair and composed of five (5) members, at least one shall be a United States District Court Judge, a United States Magistrate Judge, or a United States Bankruptcy Judge. The Committee shall supervise the election process and report the result.

Section 2. Nominations. The Committee shall make and timely report to the Division Council its nominations to the offices of the Division Chair, Division Chair-Elect (if such offices are to be filled by election for want of automatic succession), and Division Secretary/Treasurer to succeed those individuals whose terms will expire at the close of the Annual Meeting.

Section 3. Nominations by Petition. Additional nominations may be made by petition signed by at least fifteen (15) Division members and delivered to the Past Division Chair at least forty-five (45) days prior to the election deadline.

Section 4. Restriction. Nominations for Division offices may not be made from the floor at the time Division Officers are being elected.

ARTICLE V: OFFICERS DUTIES

Section 1. Chair. The Chair is the Chief Executive Officer of the Division. The Chair shall preside at all meetings of the Division and its Officers and Council; shall represent the Division at meetings of the Association and the National Council; shall prepare reports as requested on the Division’s activities for the President, the National Council, and the Association; and shall perform such other duties and acts as usually pertain to the office.

Section 2. Chair-Elect. The Chair-Elect shall act for the Chair in the latter’s absence or inability to discharge the duties of the office and shall assume the position of Chair if the Chair resigns or is unable to complete the term of the office.

Section 3. Secretary/Treasurer. The Secretary/Treasurer shall keep the records of the Division and record and distribute minutes of the meetings of the Division's Executive Committee and Council; shall advise the Association's Executive Director and President of the results of the elections and any public reports or public positions taken by the Division; and shall perform other duties as assigned by the Division Chair. The Secretary/Treasurer shall, in coordination with the Association's Treasurer and Staff, keep record of all money received, expended or committed and shall prepare a proposed budget, if any, for the Division.

Section 4. Terms of Office. No individual may serve in any office, other than the offices of the Chair or Chair-Elect, for more than two consecutive terms. Anyone who serves one year of the unexpired term of the officer's predecessor is considered to have completed a term in office.

ARTICLE VI: DIVISION COUNCIL

Section 1. The Division Council shall consist of no less than five (5), and no more than ten (10) Division members, selected by a majority of the Officers of the Division, at the beginning of their term to serve two (2) year terms, to expire at the Annual Meeting of the second year. At least one of the Council members shall be a U.S. bankruptcy judge, a magistrate judge, and a district judge.

Section 2. The Division Council shall be called upon by the Chair of the Division to conduct the business of the Division, and shall hold regular meetings, at least quarterly. Such business may be conducted by telephone.

Section 3. Terms of Office. No individual may serve as a member of the Division Council for more than two consecutive terms. Anyone who services one year of the unexpired term of the officer's predecessor is considered to have completed a term in office.

ARTICLE VII: MEETINGS OF THE DIVISION

Section 1. Frequency of Meetings. The Division shall meet at least bi-annually. Meetings shall be open to all Division members.

Section 2. Public Positions of the Division. Subject to the provisions of Article VII, Section 5 of the Associate's Constitution, and Section 10 of the Association's Bylaws, the Division may issue a public report or take a public position on an issue that reflects the views of the members of the Division. However, no report or position may be inconsistent with any existing position of the Association.

Section 3. Procedure. Robert's Rules of Order shall govern procedures at all Division meetings.

ARTICLE VIII: COMMITTEES

Section 1. Committees. The Division Chair shall, when necessary, create committees for a particular task or purpose and appoint any committee members. The committee shall expire at the end of the Chair's term, unless the incoming Chair otherwise provides. A committee may not take a public position but must take the same position as the Division.

ARTICLE IX: MISCELLANEOUS PROVISIONS

Section 1. Fiscal Year. The Fiscal Year of the Division shall be the same as that of the Association.

Section 2. Initial Directors Appointment. Upon approval of these Bylaws by National Council, the Association President shall appoint Association members to fill the initial terms of office of the Chair, Chair-Elect, Secretary/Treasurer and at least five (5), but no more than ten (10), Division Council members. The Council and the Officers of the Division shall comprise the Division Directors.

ARTICLE X: AMENDMENTS

These Bylaws may be amended by a two-thirds (2/3) vote of the members of the Division who are present and voting. No amendment or amendments so adopted shall be effective until approved by the Nation Council of the Association.

TAB G

Report from the President of the Foundation of the FBA

THE FOUNDATION OF THE FEDERAL BAR ASSOCIATION
Statement of Financial Position
January, 2016 and 2015

	2016	2015
<u>ASSETS</u>		
CURRENT ASSETS		
Cash	\$ 55,191	\$ 70,471
Investments	857,491	888,496
Due from affiliates	2,566	4,880
Promises to give	35,279	42,465
Prepaid expense	445	408
TOTAL CURRENT ASSETS	950,971	1,006,719
OTHER ASSETS		
Promises to give, long-term net	42,421	46,894
TOTAL OTHER ASSETS	42,421	46,894
TOTAL ASSETS	\$ 993,392	\$ 1,053,613
<u>LIABILITIES</u>		
CURRENT LIABILITIES		
Accounts payable	\$ 203	\$ 125
TOTAL CURRENT LIABILITIES	203	125
<u>NET ASSETS</u>		
NET ASSETS	993,189	1,053,488
TOTAL LIABILITIES AND NET ASSETS	\$ 993,392	\$ 1,053,613

These financial statements were prepared by Tate Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

THE FOUNDATION OF THE FEDERAL BAR ASSOCIATION
Statements of Activities and Changes in Net Assets
For the Four Month Ended January 31, 2016

	FY2016 YTD	FY2015 YTD	FY2016 Budget	Percent of Budget
Revenues:				
Grants and Contributions:				
Fellows' Contributions	\$ 6,000	\$ 3,050	\$ 35,000	17%
Voluntary Contributions	21,111	23,850	70,000	30%
Other Grants and Contributions	64,750	10,500	45,000	144%
Silent Auction	-	-	10,000	0%
Support and Revenue:				
Fellows Dinner	(290)	(145)	8,000	(4%)
Interest Earned	24,253	30,699	30,000	81%
Miscellaneous Revenue	-	-	6,000	0%
Total Revenue	115,824	67,954	204,000	57%
 Expenses:				
Program				
Grants and Awards	64,650	-	70,000	92%
Fellows Dinner	650	1,000	8,000	8%
Program Expense	48	185	4,000	1%
Total Program	65,348	1,185	82,000	80%
Management and Support				
Administrative Fees	4,500	4,500	13,500	33%
Insurance	254	236	600	42%
Board Expense	-	-	7,500	0%
Office Expense	1,773	344	500	355%
Postage	547	95	800	68%
Professional Fees	6,325	4,510	22,000	29%
Miscellaneous Expense	1,542	1,498	7,000	22%
Total Management and Support	14,941	11,182	51,900	29%
Total Expenses	80,289	12,367	133,900	60%
 Change in Net Assets before Other Income (Expense)	 35,534	 55,587	 70,100	
 Other Income (Expense)				
Unrealized Gain/(Loss) on Investments	(17,123)	(13,926)		
Realized Gain/ (Loss) on Investments / Sale of Asset	(5,551)	(13,070)		
Total Other Income (Expense)	(22,674)	(26,996)		
 Change in Net Assets	 12,860	 28,591		
Net Assets, Beginning of Year	980,329	1,024,897		
 Net Assets	\$ 993,189	\$ 1,053,488		

THE FOUNDATION OF THE FEDERAL BAR ASSOCIATION
Schedule of Fund Activity
For the Four Month Ended January 31, 2016

	Unrestricted		Temporarily Restricted								Total	
	Operating Fund	Foundation Corpus	Fellow LT	Minnesota Donor Advised Fund	No. CA Donor Advised Fund	Michael Shaw Public Service Award Fund	Boots Fisher Memorial Fund	Judicial Research & Education Fund	Moot Court Competition Fund	John T. Stewart, Jr. Scholarship Fund		Byron Woodside Fund
Support and Revenue:												
Grants and Contributions:												
Voluntary Contributions	21,111	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 21,111
Fellows program		6,000										6,000
Fellows Dinner		(290)										(290)
Other Grants and Contributions	-			54,650		10,000						64,650
Silent Auction	-											-
Memoriams and Remembrances	100											100
Foundation 1% Challenge	-											-
Miscellaneous income	-											-
Unrealized Gain/(Loss) on Inv.	(17,123)											(17,123)
Realized Gain/ (Loss) on Inv.	(5,551)											(5,551)
Interest Income	7,041	12,404		200	130	75	589	2,950	532	90	242	24,253
Total Support and Revenue	5,578	18,114	-	54,850	130	10,075	589	2,950	532	90	242	93,150
Expenses:												
Fellows Dinner Expense	-	650										650
Program Expenses	-	48										48
Board Meeting Expense	-											-
Grants	10,000			54,650								64,650
Awards												-
Administrative Costs	4,500											4,500
Insurance	254											254
Consultants	-											-
Postage and Mailing Expense	547											547
Professional Fees	6,325											6,325
Contract Services	-											-
Supplies	1,773											1,773
Telephone	-											-
Miscellaneous Expense	1,542											1,542
Total Expenses	24,941	698	-	54,650	-	-	-	-	-	-	-	80,289
Change in Net Assets	(19,364)	17,416	-	200	130	10,075	589	2,950	532	90	242	12,860
Net Assets, Beginning of Year	257,709	501,379	26,888	8,087	5,247	3,039	23,807	119,245	21,489	3,645	9,794	980,329
Net Assets, End of Period	<u>\$ 238,345</u>	<u>\$ 518,795</u>	<u>\$ 26,888</u>	<u>\$ 8,287</u>	<u>\$ 5,377</u>	<u>\$ 13,114</u>	<u>\$ 24,396</u>	<u>\$ 122,195</u>	<u>\$ 22,021</u>	<u>\$ 3,735</u>	<u>\$ 10,036</u>	<u>\$ 993,189</u>

These financial statements were prepared by Tate Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

TAB H

**Report from the President of the Federal Bar Building
Corporation**

February 8, 2016

MEMORANDUM TO: Members of the Federal Bar Association National Council; members of the Board of Directors

FROM: Robert C. Mueller, President and Chairman of the Board, Federal Bar Building Corp.

SUBJECT: FBBC financials

For your information and update, under this cover memorandum please find two sets of financials of the Federal Bar Building Corporation (FBBC). The first set is the FY 2015 year-end financials (ending September 30, 2015), so that you may see what a one-year financial life of the FBBC looks like. The second set is the first quarter financials for FY 2016 (October 1 through December 31, 2015), so that you may see the current financial status of the investments and operational costs. Please keep in mind that these are unaudited financials at this point; while historically accurate, the possibility remains of minor adjustments.

As you may or may not know, these investments are a product of an enormous effort made several decades ago by Federal Bar Association (FBA) two-time President Earl Kintner. In the name of the FBBC, a then-newly created IRS Code Section 501(c)(2) organization, Earl personally – assisted by a group of influential friends and colleagues – conducted a powerful fundraising effort that produced contributions and grants that funded the construction of a building that housed the first formal headquarters of the FBA on H Street, NW, in Washington, DC. Not a single dollar that funded that ambitious effort came from the FBA.

Since then, the FBA moved to a new headquarters building on M Street, NW, in Washington, and then to the current headquarters condominium in Arlington, VA. In each of these moves, the purchase of the headquarters space by the FBBC was totally funded by the sale of the previous building. No contributions from the FBA were required. Each time, the remaining funds realized from the sale were invested for the purpose of supporting the operational/maintenance/capital-improvement costs of the new office space.

Through hard work and careful decision-making based on sound financial advice, the FBBC Board of Directors over time has built the investments that are reported in these financials. The stated investment policy of the Board is to accumulate an investment portfolio that is sufficient to weather any financial crisis or unexpected substantial expense, so that the headquarters of the FBA is reliably ensured. When the investment goal is reached, under Section 501(c)(2) the FBBC will periodically distribute funds in excess of that goal to the FBA and/or the Foundation of the Federal Bar – the FBBC's two "parent" organizations.

A principal consequential benefit to the FBA from all this is that, for current rent of \$60,000 per year paid to the FBBC, the FBA enjoys office space that has a fair market rental value of \$380,000 per year.

FBBC

FEDERAL BAR BUILDING CORPORATION

FINANCIAL STATEMENTS

FOR THE PERIOD ENDING

SEPTEMBER 30, 2015

PRELIMINARY AND UNAUDITED



FEDERAL BAR BUILDING CORP**Statement of Financial Position**

9/30/2015

Preliminary and Unaudited

	<u>2015</u>	<u>2014</u>
<u>ASSETS</u>		
CURRENT ASSETS		
Cash & cash equivalents	\$17,630	\$31,906
Prepaid Expenses	14,583	17,170
Accounts Receivable	0	0
TOTAL CURRENT ASSETS	<u>32,213</u>	<u>49,076</u>
PROPERTY AND EQUIPMENT		
Building	4,100,260	4,100,260
Leasehold Improvements	513,765	513,765
Phone System	18,977	18,977
Furniture & Fixtures	96,995	96,995
	<u>4,729,997</u>	<u>4,729,997</u>
Accumulated depreciation-Building	(600,144)	(495,010)
Accumulated depreciation-Leasehold Improvements	(136,121)	(121,892)
Accumulated depreciation-Phone System	(14,391)	(12,493)
Accumulated depreciation-Furniture & Fixtures	(71,768)	(62,069)
	<u>(822,425)</u>	<u>(691,464)</u>
NET PROPERTY AND EQUIPMENT	<u>3,907,572</u>	<u>4,038,533</u>
OTHER ASSETS		
Investments - mutual funds	4,937,206	5,086,894
TOTAL ASSETS	<u>\$8,876,991</u>	<u>\$9,174,503</u>
<u>LIABILITIES</u>		
CURRENT LIABILITIES		
Accounts payable	\$7,148	\$5,994
Due to affiliates	0	5,994
Prepaid Rental Income	5,000	0
TOTAL CURRENT LIABILITIES	<u>12,148</u>	<u>11,988</u>
<u>NET ASSETS</u>		
NET ASSETS		
Beginning Balance Unrestricted	9,162,515	9,104,891
Change in Net Assets	<u>(297,672)</u>	<u>57,623</u>
TOTAL LIABILITIES AND NET ASSETS	<u>\$8,876,991</u>	<u>\$9,174,503</u>

FEDERAL BAR BUILDING CORP
Statement of Activities
For the Twelve Months Ending Wednesday, September 30, 2015
Preliminary and Unaudited

	2015	2014	2015	2016
	YTD	YTD	Annual	Actual/Budget
	Actual	Actual	Budget	Variance
Sep				
2015				
SUPPORT AND REVENUE				
Rental income				
Federal Bar Association	\$32,342	\$388,108	\$388,108	\$388,108
Interest and dividend income	13,299	163,587	179,718	165,000
Miscellaneous Income	1,730	1,730	0	0
TOTAL SUPPORT AND REVENUE	47,372	553,425	567,826	553,108
				(317)
EXPENSES				
Administrative Fees	2,000	24,000	33,500	24,000
Condo Fees	4,987	59,343	67,527	60,000
Depreciation	10,913	130,961	130,961	135,000
Real Estate Tax / Personal Property Tax	0	46,641	45,460	45,000
Repairs & Maintenance	109	776	3,504	5,000
Insurance	0	3,334	4,964	3,294
Investment Fees	1,963	24,149	24,260	27,000
Board Meetings	0	575	487	1,000
Postage	2	214	3	0
Telephone	0	21	0	50
Supplies	0	77	0	50
Stationary & Printing	59	798	0	0
Professional Fees	0	2,332	8,000	3,500
Travel	1,140	5,186	582	5,000
In-Kind Contribution Expense	27,342	328,108	328,108	328,108
Miscellaneous Expense	0	130	0	300
TOTAL EXPENSES	48,515	626,644	647,357	637,302
				10,658
CHANGE IN NET ASSETS BEFORE OTHER INCOME (EXPENSE)	(1,143)	(73,219)	(79,531)	(84,194)
OTHER INCOME (EXPENSE)				
Realized gains (losses) on sales of investments	(392)	31,692	250,070	0
Unrealized gains (losses) on investments	(67,055)	(256,145)	(112,916)	0
TOTAL OTHER INCOME (EXPENSE)	(67,447)	(224,453)	137,154	0
CHANGE IN NET ASSETS	(68,589)	(297,672)	57,623	(84,194)
NET ASSETS, BEGINNING OF YEAR	0	9,162,515	9,104,891	0
NET ASSETS	(68,589)	8,864,843	9,162,515	(84,194)

FBBC

FEDERAL BAR BUILDING CORPORATION

FINANCIAL STATEMENTS

FOR THE PERIOD ENDING

DECEMBER 31, 2015

PRELIMINARY AND UNAUDITED



FEDERAL BAR BUILDING CORP**Statement of Financial Position**

12/31/2015

Preliminary and Unaudited

	Dec 2015	Dec 2014
<u>ASSETS</u>		
CURRENT ASSETS		
Cash & cash equivalents	\$7,013	\$28,265
Prepaid Expenses	1,814	(5,001)
Accounts Receivable	0	1,510
TOTAL CURRENT ASSETS	<u>8,827</u>	<u>24,774</u>
PROPERTY AND EQUIPMENT		
Building	4,100,260	4,100,260
Leasehold Improvements	513,765	513,765
Phone System	18,977	18,977
Furniture & Fixtures	98,942	96,995
	<u>4,731,944</u>	<u>4,729,997</u>
Accumulated depreciation-Building	(626,428)	(521,293)
Accumulated depreciation-Leasehold Improvments	(139,678)	(125,449)
Accumulated depreciation-Phone System	(14,865)	(12,968)
Accumulated depreciation-Furniture & Fixtures	(74,193)	(64,494)
	<u>(855,165)</u>	<u>(724,204)</u>
NET PROPERTY AND EQUIPMENT	<u>3,876,779</u>	<u>4,005,793</u>
OTHER ASSETS		
Investments - mutual funds	<u>5,056,817</u>	<u>5,142,494</u>
TOTAL ASSETS	<u>\$8,942,423</u>	<u>\$9,173,061</u>
<u>LIABILITIES</u>		
CURRENT LIABILITIES		
Accounts payable	\$27,629	\$33,521
Due to affiliates	0	5,994
Prepaid Rental Income	5,000	0
TOTAL CURRENT LIABILITIES	<u>32,629</u>	<u>39,515</u>
<u>NET ASSETS</u>		
NET ASSETS		
Begining Balance Unrestricted	8,864,843	9,162,515
Change in Net Assets	<u>44,951</u>	<u>(28,968)</u>
TOTAL LIABILITIES AND NET ASSETS	<u>\$8,942,423</u>	<u>\$9,173,061</u>

FEDERAL BAR BUILDING CORP
Statement of Activities
For the Three Months Ending Thursday, December 31, 2015
Preliminary and Unaudited

	Dec 2015	2016 YTD Actual	2015 YTD Actual	2016 Annual Budget	2016 Actual/Budget Variance
SUPPORT AND REVENUE					
Rental income					
Federal Bar Association	\$32,342	\$97,027	\$97,027	\$388,108	\$291,081
Interest and dividend income	57,838	77,742	86,184	125,710	47,968
Miscellaneous Income	0	0	0	0	0
TOTAL SUPPORT AND REVENUE	90,181	174,769	183,211	513,818	339,049
EXPENSES					
Administrative Fees	2,000	6,000	6,000	24,000	18,000
Condo Fees	4,987	14,961	19,400	63,000	48,039
Depreciation	10,913	32,740	32,740	131,000	98,260
Real Estate Tax / Personal Property Tax	0	34,971	36,348	50,000	15,029
Repairs & Maintenance	0	229	60	1,500	1,271
Insurance	202	605	3,334	3,500	2,895
Investment Fees	2,006	5,959	5,976	25,000	19,041
Board Meetings	0	0	0	1,000	1,000
Postage	0	18	155	150	132
Telephone	0	7	13	50	43
Supplies	0	0	77	100	100
Stationary & Printing	8	29	385	0	(29)
Professional Fees	0	0	0	5,000	5,000
Travel	0	5	1,012	2,500	2,495
In-Kind Contribution Expense	27,342	82,027	82,027	328,108	246,081
Miscellaneous Expense	0	17	0	300	283
TOTAL EXPENSES	47,458	177,569	187,525	635,208	457,639
CHANGE IN NET ASSETS BEFORE OTHER INCOME (EXPENSE)	42,723	(2,800)	(4,314)	(121,390)	(118,590)
OTHER INCOME (EXPENSE)					
Realized gains (losses) on sales of investments	(30,824)	(30,824)	(15,237)	0	
Unrealized gains (losses) on investments	(84,928)	78,575	(9,418)	0	
TOTAL OTHER INCOME (EXPENSE)	(115,752)	47,751	(24,654)	0	
CHANGE IN NET ASSETS	(73,030)	44,951	(28,968)	(121,390)	
NET ASSETS, BEGINNING OF YEAR	0	8,864,843	9,162,515	0	
NET ASSETS	(73,030)	8,909,794	(9,133,546)	(121,390)	

TAB I
Report from the ABA Delegate



Federal Bar Association

*ABA House of Delegates Mid-Year Meeting
February 8, 2016
San Diego*

FBA Delegate Report (2/24/2016)

To National Council:

As the FBA's Delegate to the ABA House of Delegates, I attended the ABA Mid-Year Meeting in San Diego on February 8, 2016. There were approximately 30 proposed Resolutions considered and several resolutions were robustly debated.

The FBA leadership instructed the ABA Delegate to vote in support of Resolutions 101, 104, 108A, 108B, 108C, 109 and 113, and to abstain from the remaining Resolutions. I am pleased to report that the ABA House of Delegates adopted Resolutions 101, 104, 108A, 108B, and 109. Resolutions 108C and 113 were withdrawn to allow more time to be revised.

For more detailed information regarding the actions by the ABA House of Delegates, see the attached Daily Journal.

Respectfully submitted by:

Ashley L. Belleau

Federal Bar Association ABA Delegate

Attachment: (1) ABA House of Delegates Daily Journal

**AMERICAN BAR ASSOCIATION
HOUSE OF DELEGATES**

**2016 MIDYEAR MEETING
SAN DIEGO, CALIFORNIA
FEBRUARY 8, 2016**

DAILY JOURNAL

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
<u>10A</u>	NEW YORK COUNTY LAWYERS ASSOCIATION CRIMINAL JUSTICE SECTION	Urges the Department of Justice and the Federal Bureau of Prisons to amend their policies with respect to monitoring emails between attorneys and their incarcerated clients to permit attorneys and their incarcerated clients to communicate confidentially via email and thereby maintain the attorney-client privilege.	Approved
<u>10B</u>	NEW JERSEY STATE BAR ASSOCIATION	Supports constitutional equality for women, urges the extension of legal rights, privileges and responsibilities to all persons, regardless of sex, and reaffirms support of and affirmatively act toward the goal of the ratification of the Equal Rights Amendment to the U.S. Constitution.	Approved
<u>100</u>	SECTION OF DISPUTE RESOLUTION SECTION OF HEALTH LAW SECTION OF SCIENCE AND TECHNOLOGY LAW	Urges lawyers and all interested parties to increase the use of alternative dispute resolution (ADR) processes to resolve health care disputes.	Approved as Revised*
<u>101</u>	STANDING COMMITTEE ON PARALEGALS	Grants approval and reapproval to several paralegal education programs, withdraws the approval of three programs at the request of the institutions, and extends the term of approval to several paralegal education programs.	Approved
<u>102</u>	CRIMINAL JUSTICE SECTION	Urges legislatures to review all statutes criminalizing consensual noncommercial sexual conduct, in private and between persons who have the legal capacity to consent, and, to repeal or amend such statutes to criminalize only sexual acts that are nonconsensual, commercial, public, or that involve individuals who lack the legal capacity to consent.	Approved as Revised*

* See Attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
<u>103</u>	SECTION OF INTERNATIONAL LAW STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY STANDING COMMITTEE ON PROFESSIONAL DISCIPLINE TASK FORCE ON INTERNATIONAL TRADE IN LEGAL SERVICES	Amends the black letter of Rule 5.5 of the <i>ABA Model Rules of Professional Conduct</i> and the <i>ABA Model Rule for Registration of In-House Counsel</i> , to include language specifying that the court of highest appellate jurisdiction may, in its discretion, allow foreign in-house lawyers who do not meet the ABA definition of foreign lawyer because they cannot be "members of the bar" to be able to practice as in-house counsel in the U.S. and to be so registered.	Approved as Revised*
<u>104</u>	STANDING COMMITTEE ON SPECIALIZATION	Reaccredits the Civil Pretrial Practice Law program of the National Board of Trial Advocacy of Wrentham, Massachusetts as a designated specialty certification program for lawyers for an additional five-year term.	Approved
<u>105</u>	COMMISSION ON THE FUTURE OF LEGAL SERVICES STANDING COMMITTEE ON PROFESSIONAL DISCIPLINE CRIMINAL JUSTICE SECTION LAW PRACTICE DIVISION STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS STANDING COMMITTEE ON CLIENT PROTECTION	Adopts the <i>ABA Model Regulatory Objectives for the Provision of Legal Services</i> , dated February, 2016 and urges that each state's highest court, and those of each territory and tribe be guided by the Model Regulatory Objectives when they assess the court's existing regulatory framework and any other regulation they may choose to develop concerning non-traditional legal service providers.	Approved as Revised and Amended*
106A	SECTION OF ADMINISTRATIVE LAW AND REGULATORY PRACTICE	Urges Congress to amend 5 U.S.C. §552(a)(1) of the Freedom of Information Act (FOIA) to require that when a standard drafted by a private organization is exempted from Federal Register publication because it has been "incorporated by reference" (IBR) into a substantive rule of general applicability, the rulemaking agency must ensure meaningful free public availability of the incorporated text.	Withdrawn
<u>106B</u>	SECTION OF ADMINISTRATIVE LAW AND REGULATORY PRACTICE	Urges Congress to amend the rulemaking provisions of the Administrative Procedure Act.	Approved

* See Attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
<u>107</u>	COMMISSION ON DIVERSITY AND INCLUSION 360	Encourages all state, territorial and tribal courts, bar associations and other licensing and regulatory authorities, that have mandatory or minimum continuing legal education requirements (MCLE) to modify their rules to include as a separate credit, programs regarding diversity and inclusion for the legal profession of all persons regardless of race, ethnicity, gender, sexual orientation, gender identity or disabilities, and programs regarding the elimination of bias.	Approved
<u>108A</u>	SECTION OF INTELLECTUAL PROPERTY LAW	Opposes intellectual property laws and agency and court interpretations of intellectual property laws that impose the payment of the government's attorney fees on a party challenging a decision of the United States Patent and Trademark Office in federal district court, unless the statute in question explicitly directs the courts to award attorney fees.	Approved
<u>108B</u>	SECTION OF INTELLECTUAL PROPERTY LAW	Supports interpretation and application of the statutory six-year patent damages period (35 U.S.C. §286) as limiting availability of the judicially created laches defense as a bar to legal damages for patent infringement.	Approved
<u>108C</u>	SECTION OF INTELLECTUAL PROPERTY LAW	Supports the traditional rule that the first sale of patented goods (as opposed to a mere license) by U.S. patent owners or their licensees triggers the defense of patent exhaustion with respect to an allegation of patent infringement related to those goods.	Withdrawn
<u>109</u>	LAW STUDENT DIVISION LAW PRACTICE DIVISION NATIONAL CONFERENCE OF BAR EXAMINERS SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR SENIOR LAWYERS DIVISION TORT TRIAL AND INSURANCE PRACTICE SECTION	Urges the bar admission authorities in each state and territory to adopt expeditiously the Uniform Bar Examination in their respective jurisdictions.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
<u>110</u>	YOUNG LAWYERS DIVISION	Urges the United States Supreme Court to record and make available video recordings of its oral arguments.	Approved
<u>111</u>	COMMISSION ON YOUTH AT RISK COMMISSION ON HOMELESSNESS AND POVERTY SECTION OF HEALTH LAW SECTION OF SCIENCE AND TECHNOLOGY LAW	Urges state, local, territorial and tribal child welfare and juvenile justice agencies to provide adequate resources for assessing and treating emotional and behavioral disorders of children in their custody, including psychosocial and clinical interventions, recreational opportunities and supportive services that can reduce the need for prescribing psychotropic drugs.	Approved
<u>112A</u>	SECTION OF FAMILY LAW SECTION OF REAL PROPERTY, TRUST AND ESTATE LAW SECTION OF SCIENCE AND TECHNOLOGY LAW	Adopts the <i>ABA Model Act Governing Assisted Reproductive Technology Agencies (ART)</i> , dated February 2016, which provides model licensing legislation governing ART agencies and recommends consideration and adoption of the Model Act by appropriate governmental agencies and legislatures.	Approved
<u>112B</u>	SECTION OF FAMILY LAW SECTION OF REAL PROPERTY, TRUST AND ESTATE LAW SECTION OF SCIENCE AND TECHNOLOGY LAW	Urges the United States Department of State to seek specific negotiations regarding a possible Hague Convention on private international law concerning children, including international surrogacy arrangements.	Approved
113	STANDING COMMITTEE ON LAWYER REFERRAL AND INFORMATION SERVICE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK AUSTIN BAR ASSOCIATION BROOKLYN BAR ASSOCIATION CINCINNATI BAR ASSOCIATION OREGON STATE BAR SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE STANDING COMMITTEE ON DISASTER RESPONSE AND PREPAREDNESS STANDING COMMITTEE ON GROUP AND PREPAID LEGAL SERVICES LAW PRACTICE DIVISION	Urges courts and legislative bodies to adopt rules or enact legislation to establish an evidentiary privilege for confidential communications between a client and a lawyer referral service for the purpose of retaining a lawyer or obtaining legal advice from a lawyer.	Withdrawn

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
114	SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE COMMISSION ON HOMELESSNESS AND POVERTY	Urges Congress to enact legislation to make permanent the tax deduction for donation of wholesome food inventory as previously codified in Internal Revenue Code section 170(e)(3)(C).	Withdrawn
<u>115A</u>	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Revised Uniform Athlete Agents Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved
<u>115B</u>	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Revised Uniform Residential Landlord and Tenant Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved
<u>115C</u>	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Commercial Real Estate Receivership Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved
<u>115D</u>	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Home Foreclosure Procedures Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved
<u>115E</u>	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved
<u>115F</u>	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Trust Decanting Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
<u>116</u>	COMMISSION ON WOMEN IN THE PROFESSION SECTION OF BUSINESS LAW COMMISSION ON DISABILITY RIGHTS COMMISSION ON SEXUAL ORIENTATION AND GENDER IDENTITY	Urges public companies in the United States to diversify their boards to more closely reflect the diversity of society and the workforce in the United States.	Approved
<u>117</u>	NATIONAL NATIVE AMERICAN BAR ASSOCIATION STATE BAR OF SOUTH DAKOTA	Urges bar admission authorities to consider the impact on minority applicants in deciding whether to adopt the Uniform Bar Examination (UBE) in their jurisdiction and to consider including subjects not included on the UBE, particularly Indian Law in each state or territory with sizable American Indian populations or trust land.	Approved
<u>300</u>	HEALTH LAW SECTION	Urges Congress to enact legislation to encompass services provided by advanced practice providers within the locum tenens exception to the prohibition on reassignment of Medicare billing privileges.	Approved

REVISED 100

RESOLUTION

1 **RESOLVED**, That the American Bar Association urges lawyers and all interested parties to
2 ~~increase~~ encourage the informed and voluntary use of alternative dispute resolution (ADR)
3 processes as an effective, efficient and appropriate means to resolve health care disputes.

4
5 **FURTHER RESOLVED**, That the American Bar Association opposes the use of binding forms
6 of alternative dispute resolution involving patients in medical malpractice disputes, disputes with
7 private managed health care organizations, or involving residents in disputes with long-term care
8 facilities or similar health care institutions, unless the parties agree to do so voluntarily and
9 knowingly after a dispute arises.

ADDITIONS UNDERLINED; DELETIONS STRUCK THROUGH

REVISED 102

RESOLUTION

1 RESOLVED, That the American Bar Association urges state, territorial, local, and tribal
2 legislatures to review all statutes criminalizing consensual noncommercial sexual conduct, in
3 private and between persons who have the legal capacity to consent, and, to repeal or amend
4 such statutes ~~to criminalize only sexual acts that are nonconsensual, commercial, public, or that~~
5 ~~involve individuals who lack the legal capacity to consent.~~ to ensure that such conduct is not
6 made criminal.
7
8 FURTHER RESOLVED, That the American Bar Association urges state, territorial, local, and
9 tribal legislatures to repeal or amend any statutes, regulations, or policies that denigrate persons
10 who engage in constitutionally protected sexual conduct.

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED

RESOLUTION

1 RESOLVED, That the American Bar Association amends the black letter of Rule 5.5 of the ABA
2 Model Rules of Professional Conduct as follows (insertions underlined, deletions ~~struck through~~):

3
4 **RULE 5.5: UNAUTHORIZED PRACTICE OF LAW;
5 MULTIJURISDICTIONAL PRACTICE OF LAW**

6
7 ...

8 (d) A lawyer admitted in another United States jurisdiction or in a foreign jurisdiction, and
9 not disbarred or suspended from practice in any jurisdiction or the equivalent thereof,
10 or a person otherwise lawfully practicing as an in-house counsel under the laws of a
11 foreign jurisdiction, may provide legal services through an office or other systematic and
12 continuous presence in this jurisdiction that:

13
14 (e) For purposes of paragraph (d), ~~only,~~

15
16 (i) the foreign lawyer must be a member in good standing of a recognized legal
17 profession in a foreign jurisdiction, the members of which are admitted to practice as
18 lawyers or counselors at law or the equivalent; and ~~the foreign lawyer or foreign in-house~~
19 ~~counsel must be~~ are subject to effective regulation and discipline by a duly constituted
20 professional body or a public authority, ~~or,~~

21 (ii) the person otherwise lawfully practicing as an in-house counsel under the laws of a
22 foreign jurisdiction ~~must in its discretion, be otherwise authorized to practice under this~~
23 rule by, in the exercise of its discretion, ~~[this the highest court of appellate this~~
24 jurisdiction] to practice in this jurisdiction as an in-house counsel.
25

26 FURTHER RESOLVED, That the American Bar Association amends the ABA Model Rule for
27 Registration of In-House Counsel and the Commentary (deletions ~~struck through~~, additions
28 underlined), dated February 2016.

29
30 **Model Rule for Registration of In-House Counsel**

31
32 **GENERAL PROVISIONS:**

33 ...

34 1)

35 For purposes of this Rule, a “foreign lawyer” is a member in good standing of a
36 recognized legal profession in a foreign jurisdiction, the members of which are admitted
37 to practice as lawyers or counselors at law or the equivalent and subject to effective
38 regulation and discipline by a duly constituted professional body or a public authority.
39 For purposes of this Rule ~~only,~~ the [state’s highest court of appellate jurisdiction] may, in
40 its discretion, allow a lawyer lawfully practicing as in-house counsel in a foreign
41 jurisdiction who does not meet the above requirements to register as an in-house counsel
42 after consideration of other criteria, including the lawyer’s legal education, references,
43 and experience.

...

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED

105 Revised and Amended

RESOLUTION

1 RESOLVED, That the American Bar Association adopts the ABA Model Regulatory Objectives
2 for the Provision of Legal Services, dated February, 2016.

ABA Model Regulatory Objectives for the Provision of Legal Services

- 3
- 4
- 5
- 6 A. Protection of the public
- 7 B. Advancement of the administration of justice and the rule of law
- 8 C. Meaningful access to justice and information about the law, legal issues, and the civil and
9 criminal justice systems
- 10 D. Transparency regarding the nature and scope of legal services to be provided, the
11 credentials of those who provide them, and the availability of regulatory protections
- 12 E. Delivery of affordable and accessible legal services
- 13 F. Efficient, competent, and ethical delivery of legal services
- 14 G. Protection of privileged and confidential information
- 15 H. Independence of professional judgment
- 16 I. Accessible civil remedies for negligence and breach of other duties owed, and
17 disciplinary sanctions for misconduct, and advancement of appropriate preventive or
18 wellness programs.
- 19 J. Diversity and inclusion among legal services providers and freedom from discrimination
20 for those receiving legal services and in the justice system
- 21
- 22

23 FURTHER RESOLVED, That the American Bar Association urges that each state's highest
24 court, and those of each territory and tribe, be guided by the ABA Model Regulatory Objectives
25 for the Provision of Legal Services when they assess the court's existing regulatory framework
26 and any other regulations they may choose to develop concerning non-traditional legal service
27 providers.

28 FURTHER RESOLVED, That nothing contained in this Resolution abrogates in any manner
29 existing ABA policy prohibiting non lawyer ownership of law firms or the core values adopted
30 by the House of Delegates.

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED

Retrieved on Feb 12, 2016, 9:08 am CST



Home / Daily News / Could Uniform Bar Exam help law grads' mobility?...

ABA MIDYEAR MEETING

Could Uniform Bar Exam help law grads' mobility? ABA House asks states to adopt it 'expeditiously'

POSTED FEB 08, 2016 07:50 PM CST

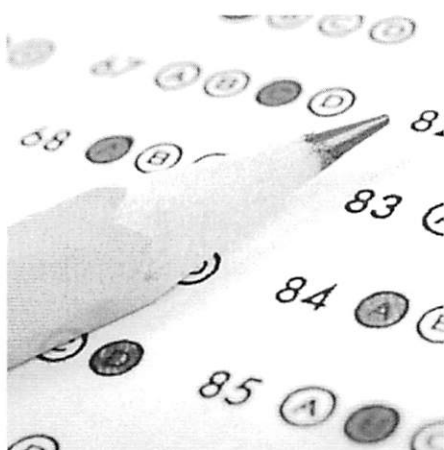
BY LORELEI LAIRD ([HTTP://WWW.ABAJOURNAL.COM/AUTHORS/27616/](http://www.abajournal.com/authors/27616/))

Image from Shutterstock

(<http://www.shutterstock.com>).

Law students seeking a more mobile practice got some encouragement from the ABA's House of Delegates on Monday afternoon, when it adopted two resolutions concerning the Uniform Bar Examination

(<http://www.ncbex.org/exams/ube/>).

Over some opposition, the House adopted Resolution 109

(http://www.americanbar.org/news/reporter_resources/midyear-meeting-2016/house-of-delegates-resolutions/109.html), which urges bar admission authorities to “adopt

expeditiously” the UBE. The UBE is a combination of the Multistate Bar Exam, the Multistate Essay Examination and the Multistate Performance Test, and it is coordinated by the National Conference of Bar Examiners. The resolution was sponsored by the ABA Law Student Division.

Christopher Jennison, a delegate from that division and a 3L at the Syracuse University College of Law, said widespread adoption of the UBE would “make the bar exam less costly and more efficient for recent graduates already saddled with astronomical debt.” Such young lawyers

would be able to take their scores across state lines. States concerned about state-specific fields of law are welcome to test bar-takers separately on those matters, he said.

But Alice Richmond of Massachusetts, a past board member of the National Conference of Bar Examiners, introduced an amendment asking that jurisdictions consider the UBE and any other such material that would be relevant to fair bar admission and protection of the public. She noted that the adoption of the UBE by the state of New York has accelerated consideration of the uniform exam, but she wanted to move more slowly, in part because of the documented differential impact of the UBE on minority bar applicants.

There were several speakers for and against the amendment, though House chair Patricia Lee Refo (http://www.americanbar.org/groups/leadership/aba_officers/patricia-lee-refo.html) worked to keep the schedule moving. Supporters of the amendment called for caution; proponents noted that it doesn't stop states from adopting their own requirements in addition to the UBE and noted that ABA executive director Jack Rives had just said law students are an important demographic for the ABA's future. In the end, the amendment failed.

Another short debate on the resolution itself echoed many of those themes. Carol Sigmond (<http://www.cohenseglias.com/attorneys/carol-a-sigmond>) of the New York County Lawyers Association said New York adopted the UBE over objections of many county bar groups and urged the ABA “not to repeat the mistake of New York.” Past ABA president Michael Greco (<http://www.klgates.com/michael-s-greco/>) of Massachusetts took his metaphor from armadillos, who he said continue going forward forever because that's all they know how to do.

"I don't see how we can say no to the law students," he said. "And if we do say no, we may regret it."

Many more "salmon slips" for speakers were submitted, but the question then proceeded to a vote. Over audible opposition, the ayes had it.

The House then considered the related Resolution 117 (http://www.americanbar.org/news/reporter_resources/midyear-meeting-2016/house-of-delegates-resolutions/117.html), urging bar admission authorities to consider the impact on minorities of adopting the UBE. It also asked bar admission groups to consider including subjects that are important in their jurisdictions—particularly Indian law, which is important in some regions but not covered by the UBE.

Mary Smith (<http://www.nativeamericanbar.org/leadership-2/mary-smith/>), the immediate-past president of the National Native American Bar Association and the nominee for ABA secretary starting in August 2017, told the audience that she saw the resolution as complementary to 109. It passed easily.

- **See what people are saying on social media** (<https://storify.com/ABAJournal/aba-midyear-meeting-house-of-delegates-san-diego>), and follow along with our full coverage of the 2016 ABA Midyear Meeting (<http://www.abajournal.com/topic/midyear+meeting>).
- **See the full schedule of events** (<https://event.crowdcompass.com/2016abamidyear>). There are mobile apps available for Apple and Android users.

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Home / Daily News / ABA House approves model regulatory objectives...

ABA MIDYEAR MEETING

ABA House approves model regulatory objectives for nontraditional legal services

POSTED FEB 08, 2016 05:55 PM CST

BY LORELEI LAIRD ([HTTP://WWW.ABAJOURNAL.COM/AUTHORS/27616/](http://www.abajournal.com/authors/27616/))

Judy Perry Martinez, chair of the Commission on the Future of Legal Services, addresses the ABA House of Delegates. Photo by Earnie Grafton.

After extended and heated debate Monday, the ABA adopted a resolution that would guide states in their regulation of nontraditional legal services.

Resolution 105 (http://www.americanbar.org/news/reporter_resources/midyear-meeting-2016/house-of-delegates-resolutions/105.html) provides model regulatory objectives for state regulators considering how to regulate nontraditional legal service providers. These providers include online startup businesses and corporations, but also practitioners like the limited license legal technicians recently authorized in the state of Washington

(http://www.abajournal.com/news/article/seven_people_pass_test_to_become_nations_first_legal_technicians). The heart of the debate was over whether by adopting the resolution the House was endorsing the practice of law by nonlawyers.

The resolution was proposed by the Commission on the Future of Legal Services

(http://www.americanbar.org/groups/centers_commissions/commission-on-the-future-of-legal-services.html), a major project of immediate-past ABA president William Hubbard (https://www.americanbar.org/groups/leadership/aba_officers/hubbard.html). Commission chair Judy Perry Martinez of New Orleans introduced it with a short speech noting that nontraditional legal services are now a significant economic force, and are already providing services for people of modest means.

A long list of delegates filled out "salmon slips" seeking to speak about the resolution, but House chair Patricia Lee Refo (http://www.americanbar.org/groups/leadership/aba_officers/patricia-lee-refo.html) limited debate to two speakers for and two against. Hubbard spoke in favor of the motion, giving a long list of ABA entities and outside legal organizations that supported the motion. He then cited statistics on the "justice gap" and told the audience that nonlawyer providers would continue regardless of what the House did.

"We're not going to put the Internet back in a bottle," Hubbard said. "Let's stand up and lead."

But opposition also came from many ABA and outside legal entities. One of those opposing the resolution was Marjorie O'Connell, the ABA delegate from the National Conference of Women's Bar Associations. She said her members were "mad as anything" at the prospect of handing legitimacy to poorly trained practitioners, particularly since so many female lawyers have struggled to be taken seriously.



Marjorie O'Connell, the ABA delegate from the National Conference of Women's Bar Associations. Photo by Earnie Grafton.

"We have no patience with the idea of a big corporation coming in and saying, 'We can for \$5 get you a lawyer and get you an answer,' " she said. "It's not informed by an education, by adherence to professional standards."

A motion to postpone the resolution indefinitely—leaving time for proponents to rewrite it before the ABA Annual Meeting in 2016—failed. A voice vote left Refo in doubt, so she asked delegates to stand and be counted. In the end, 276 delegates opposed postponing and 191 favored it.

The House then considered proposed amendments to the measure. The first was adopted easily, adding language saying that nothing in the resolution abrogates ABA policy on nonlawyer ownership of law firms or other core values.

The second was the subject of more debate. Sharon Stern Gerstman (<http://www.magavern.com/attorneys/sharon-stern-gerstman/>) of Buffalo, New York, moved an amendment that urged regulators to require lawyer supervision of nonlawyers providing legal services; require that such practitioners be subject to rules of professional conduct; and require that such practitioners accurately state the scope of services provided. She phrased it as a matter of consumer protection.

Amendment supporter Marshall Wolf (<http://www.wolfakers.com/attorney-wolf.shtml>) of Wolf and Akers in Cleveland said the Section of Family Law would support the resolution only with this amendment, and noted that family attorneys were not represented on the commission despite family law taking up 50 percent of civil dockets.

But speakers against the amendment cautioned that it would have unintended consequences. Andrew Perlman (<https://www.suffolk.edu/law/faculty/26811.php>), vice chair of the Commission on the Future of Legal Services, said the amendment could regulate paralegals who are currently not regulated, as well as Washington's limited license legal technicians and various states' courthouse navigator programs. Lucian Pera (<http://www.adamsandrees.com/lucian-tpera/>), a past ABA treasurer and partner at Adams and Reese in Memphis, said it would be "the work of months and years" to come up with appropriate model regulations.

The second amendment failed on a voice vote, though there was strong support. The resolution itself then proceeded to a voice vote. The ayes had it.

After Resolution 105 was adopted, ABA President Paulette Brown released the following statement: "The adoption of Resolution 105 is intended to create a framework to guide the courts in the face of the burgeoning access to justice crisis and fast-paced change affecting the delivery of legal services. The ABA Model Regulatory Objectives for the Provision of Legal Services that was adopted provides for the protection of the public, the advancement of the rule of law, the independence of professional judgment and diversity and inclusion among legal services providers as well as freedom from discrimination for those receiving legal services. Moving forward, it allows the assessment of regulations that may develop concerning nontraditional legal service providers. The ABA recognizes the importance of evaluating the changes in delivery of legal services and the need for the ABA to carefully analyze these changes so that the public and the legal profession are protected and lawyers maintain the ability to serve their clients."

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- **See the full schedule of events** (<https://event.crowdcompass.com/2016abamidyear>). **There are mobile apps available for Apple and Android users.**

Updated at 8:07 p.m. to add Paulette Brown's statement.