



# **Federal Bar Association**

## **National Council Annual Meeting 2017**

Saturday, September 16, 2017  
8:00 a.m.

The Westin Peachtree Plaza  
Chastain 1-2  
Atlanta, GA



# Federal Bar Association

## National Council Meeting Agenda

Saturday, September 16, 2017

8:00 am to 11:00 am EDT

The Westin Peachtree Plaza, Chastain 1-2  
Atlanta, GA

- |  |  |  |
|--|--|--|
| 1. Call to Order   | 8:00 am  | Hon. Michael Newman  |
| 2. Consent Agenda (Tab A) <ul style="list-style-type: none"><li>• Approval of the Minutes (March 18, 2017)</li><li>• ABA Delegate Report</li></ul>   | 8:05 am  | Hon. Michael Newman  |
| 3. Report from the President (Tab B) <ul style="list-style-type: none"><li>• FBA Update</li><li>• Actions of the Board of Directors</li><li>• Nominations and Elections Committee Report</li><li>• Final Remarks and President's Awards</li></ul>  | 8:10 am  | Hon. Michael Newman  |
| 4. Report from the Treasurer (Tab C) <ul style="list-style-type: none"><li>• Financial Update as of July 31, 2017</li></ul>  | 8:40 am  | Maria Vathis   |
| 5. Reports <ul style="list-style-type: none"><li>• Report from the Executive Director</li><li>• Report from the President-Elect</li><li>• Report from the Chair of the Government (Tab D) Relations Committee</li><li>• Report from the Chair of the Constitution, Bylaws (Tab E) Rules and Resolutions Committee</li><li>• Foundation of the FBA Election (Tab F)</li><li>• Federal Bar Building Corporation Election (Tab G)</li><li>• Report from the Chair of the Membership Committee</li></ul> | 8:50 am<br>9:00 am<br>9:10 am<br>9:30 am<br>10:00 am<br>10:10 am<br>10:20 am | Stacy King<br>Kip Bollin<br>West Allen<br>Kevin Maxim<br>Sharon O'Grady<br>Bob Mueller<br>Jonathan Hafen |
| 6. Unfinished Business   | 10:30 am   | Hon. Michael Newman  |
| 7. New Business <ul style="list-style-type: none"><li>• Clerks of Court Membership Dues Category (Tab H)</li><li>• 2018 Convention in New York City</li><li>• Recognition Awards</li><li>• SOLACE and Hurricane Harvey Relief Efforts</li><li>• Installation of National Officers</li></ul>  | 10:45 am   | Hon. Michael Newman  |
| 8. Adjournment   | 11:00 am   | Hon. Michael Newman  |

# TAB A

## Consent Agenda

Approval of the Minutes (March 18, 2017)

ABA Delegate Report



# Federal Bar Association

## National Council Meeting Agenda

Saturday, March 18, 2017 at 2:15 p.m. EST

Capital Hilton Hotel

Washington, DC

### 1. Call to Order

President Newman called the meeting to order at 2:25 p.m. EDT with a quorum present. The agenda was adopted and distributed prior to the meeting.

### 2. Consent Agenda

- **Approval of the Minutes**

A motion was made to approve the minutes of the September 17, 2016 meeting. The motion was properly seconded and passed unanimously.

- **Federal Bar Building Corporation Report**

Bob Mueller presented the FBBC report. Mr. Mueller noted that the mission of the FBBC is to maintain and finance the building of the FBA National Headquarters. Mr. Mueller gave an update on the financials for the FBBC, noting the ending portfolio balance as of the end of December was \$5,282,548. As of the end of February that value has grown more than \$147,000 to \$5,429,924. Mr. Mueller concluded by noting that all members of the National Council are always welcome to attend the FBBC board meetings.

### 3. Report from the President

- **FBA Midyear Update**

President Newman gave a recap of the FBA's new SOLACE program, which is intended to help those in need. President Newman reported that the FBA is always looking for more SOLACE liaisons. President Newman noted that SOLACE launched nationally in October, and 10 individuals have been helped to date.

President Newman discussed the Wills for Veterans program. President Newman encouraged all chapters to appoint a Wills for Veterans program liaison to work in conjunction with VA Hospitals this coming November in a new service effort for FY2018.

President Newman reported on the recent efforts of the FBA's civics initiative. President Newman gave recent examples of federal judges meeting with students in both courthouses and schools. President Newman also noted that the Civics Essay Contest was a large success, with 108 High School submissions and more than 90 Middle School submissions. Additionally, President Newman noted that the inaugural Excellence in Civics Education Award was awarded to 22 teachers this year who were nominated by students and colleagues. Lastly, President Newman reported that there are 72 chapter civics liaisons dedicated to facilitating civics programs in local courts and schools. President Newman thanked the Foundation for its generous support of the Civics Essay Contest and the National Community Outreach Project, which will take place during April. President Newman lauded the Chapters, Sections and Divisions participating in projects helping their community.

## • **Nominations and Elections Committee Report**

President Newman reported that the following people have been nominated by the Nominations and Elections Committee for FY18:

### **Officers:**

- Maria Z. Vathis, President-Elect
- Christian K. Adams, Treasurer

### **Directors:**

- Andrew K. Clark, Director (Group 1-Vice Presidents for the Circuits)
- Kelly Titus Scalise, Director (Group 2-Chairs for the Sections and Divisions)
- Joseph S. Leventhal, Director (Group 3-Chapter Presidents)
- Hon. Alison S. Bachus, Director (Group 4-Younger Lawyers)

### **Vice Presidents for the Circuits**

- Oreste R. Ramos, Vice President for the First Circuit
- Rob Rando, Vice President for the Second Circuit
- Hon. Karoline Mehalchick, Vice President for the Third Circuit
- Kacy L. Hunt, Vice President for the Fourth Circuit
- Marc W. Taubenfeld, Vice President for the Fifth Circuit
- Katharine M. Gardner, Vice President for the Sixth Circuit
- Kevin G. Desharnais, Vice President for the Seventh Circuit
- Daniel C. Hedlund, Vice President for the Eighth Circuit
- Darrel Gardner, Vice President for the Ninth Circuit
- Chris M. Stephens, Vice President for the Tenth Circuit
- Brett A. Barfield, Vice President for the Eleventh Circuit
- Steven R. Miller, Vice President for the D.C. Circuit

### **ABA Delegate**

- Ashley L. Belleau

## • **Actions of the Board of Directors**

President Newman reported on the actions of the Board of Directors since September:

### *September 15, 2016 Meeting*

- Adopted a resolution that authorizes and empowers the Executive Director, President, and Treasurer 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, 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 FY2017 committee appointments

### *December 21, 2016 Meeting*

- Approved the Securities Law Section's request to donate \$25,000 of section funds to the SEC Historical Society

*January 27, 2017 Meeting*

- Approved the minutes from the September 15, 2016 board meeting
- Approved the appointment of Anh Kremer as director to fulfill the term of Richard Dellinger upon his resignation
- Approved the honorary membership for Dean Erwin Chemerinksy
- Approved the FY2017 Budget Reforecast
- Approved the Labor and Employment Law Section's Bylaw amendments
- Approved the International Law Section's dues increase to \$15
- Approved the Securities Law Section's request to donate \$15,000 of section funds to Columbia University's Annual Securities Law Conference
- Approved the Central Louisiana Chapter's charter
- Approved the creation of and appointments to the Task Force on Obtaining U.N. Consultative Status
- Approved Policy 1-13: Standards for Professional Ethics and Conduct
- Approved extending Policy 1-7: Conflict of Interest to all FBA leaders
- Established the Chapter Community Service Award
- Established the Outstanding Leader Awards to recognize one circuit vice president, one section or division chair, and up to three chapter leaders each year at annual meeting

*February 14, 2017 Meeting*

- Approved the Vermont Chapter Charter

*February 16, 2017 Meeting*

- Adopted the Statement of the Federal Bar Association Board of Directors on Judicial Independence:

Judicial independence, free of external pressure or political intimidation, lies at the foundation of our constitutional democracy. An independent judiciary needs to remain free of undue influence from the legislative and executive branches and to remain beholden only to the maintenance of the rule of law and the protection of individual rights and personal liberties. We affirm the right to challenge a judge's ruling for reasons based in fact, law or policy. However, when robust criticism of the federal judiciary crosses into personal attacks or intimidation, it threatens to undermine public confidence in the fairness of our courts, the constitutional checks and balances underlying our government and the preservation of liberty.

The Federal Bar Association is comprised of over 19,000 public and private sector lawyers practicing in our federal courts, hailing from all fifty states and the U.S. Territories. The Federal Bar Association is a non-partisan professional organization created to promote the sound administration of justice and integrity, quality and independence of the judiciary.

*March 16-17, 2017 Meeting*

- Approved minutes from the January 27, February 14, and February 16, 2017 meetings
- Approved the transfer of \$100,000 from the operating account to the Reserve Fund
- Approved the report of the Audit Committee and the September 30, 2016 Year-end Financials
- Approved the revised Employee Handbook
- Approved Policy 5-1: Social Media as amended to include an anti-harassment statement
- Approved the recommendation and of the Constitution, Bylaws, Rules and Resolution Committee regarding a constitutional amendment to clarify the definition of the leadership position of Circuit Vice Presidents
- Approved the application to seek UN Consultative Status for the FBA
- Approved the appointment of the Appellate Courts Task Force

#### 4. **Report from the Treasurer**

Maria Vathis presented the treasurer's report. Ms. Vathis reported that FBA assets as of September 2016 increased 20% compared to 2015. Cash and cash equivalents increased approximately \$287,000 compared to the previous year. This difference was attributed to the timing of cash disbursements and higher than budgeted webinar and conference revenues. The FBA's total assets as of September 2016 were valued at \$3.4 million. Total liabilities as of September 16 were up \$166,000 compared to the previous year. Net assets increased \$397,000 compared to the previous year because of higher than expected conference revenue and better than expected performance on investments.

Ms. Vathis reported that the FBA has experienced good growth in the past three years, due to increased revenue and managing expenses. Ms. Vathis stated that revenues grew 35% between FY2012 to FY2016. Ms. Vathis reported that the FBA went through an independent audit and all the financial reports are correct and in accordance with general accounting principles.

Ms. Vathis reported on the finances as of January 2017. Cash and cash equivalents are up \$349,000 compared to last year. This variance is due to timing of disbursements. Investments are up by \$174,000 due to favorable investment performance. Ms. Vathis noted that total assets since September are stable and remain valued at \$3.4 million. Net assets increased \$452,000 compared to last year and account for approximately 7 months of operating expenses. Total revenue is 31% of the budget. All items are forecasted to remain strong. Ms. Vathis concluded by noting that overall activity expenses consist of 20% of the budget, and administrative expenses are slightly lower than budget at 28%.

#### 5. **Additional Reports**

- **Report from the President of the Foundation of the FBA**

Sharon O'Grady gave the report from the foundation. Ms. O'Grady noted that the Foundation has 4 major focuses: Community Outreach; Scholarships; Research and Education; Awards and Recognition.

Ms. O'Grady noted that the largest and most recognized program sponsored by the foundation is the National Community Outreach Project. The Foundation has donated 159,750 since 2011 to 29 states, DC, and Puerto Rico. At least 28 chapters are participating this year. Ms. O'Grady noted that \$61,000 has been committed to this project over the past two years.

Ms. O'Grady reported that a new diversity grant available from the Foundation supports community outreach projects with a specific diversity component. The goal of this initiative is to address needs in communities that pertain to promoting diversity, eliminate bias and contain an educational component. The application for this grant will be available soon and is due in June.

Ms. O'Grady reported on the Robert A. McNew Scholarship. This past year's winner was Valerie Brummel from Northwestern Law. Ms. O'Grady also noted that applications for the 2017 Kintner Public Service Scholarship are due April 30.

Ms. O'Grady reported that one seat on the Foundation Board will become vacant this year. The deadline to apply for this position is April 30. The election will be held at National Council meeting in September.

Ms. O'Grady encouraged all members to donate to the foundation and to the silent auction to help support the Foundation's grants and scholarships.

- **Report from the Executive Director**

Stacy King gave the report from the Executive Director. Ms. King explained that the FBA ended FY2016 with a cash surplus of \$284,424. Ms. King also noted that the bar doubled webinar revenue and ended the year with the highest membership total ever, a 5% increase from 2015. The bar's member retention rate is at 83.7%. Ms. King also stated that 97 Chapters now exist with the FBA, another all-time high. Lastly, Ms. King reported in 2016 there was a 15% increase in CLE registration, and the annual meeting in Cleveland was a success.

Ms. King then reported on the FBA's standing in Fiscal Year 2017. Total membership has risen each month in 2017. Chapters are now established in 49 states. Central Louisiana and Vermont Chapters received charters this year. President Newman noted that a chapter in Guam is on its way to being established as well. LGBT Law Section has doubled in size since October. The Younger Lawyers Division has grown to 4,100 members and is now the largest Section/Division of the FBA. Planning for the Annual Planning in Atlanta is under way. Ms. King gave a brief recap of Spring 2017 events. The Tax Law Conference and Labor and Employment Law Conference took place in March, and the Indian Law Conference and Emerging Professionals Conference are up next. Leadership Training, Capitol Hill Day, and the Immigration Law Conference follow in late April and early May. Ms. King asked those in attendance to save the date for the 2018 Midyear Meeting, March 24, 2018 taking place at the Ritz Carlton in Arlington, Va.

Ms. King then discussed FBA plans given its strong financial position. Ms. King stated that some of surplus will go into the rainy-day fund. Other surplus funds will become an investment in the FBA itself. Ms. King reported that the FBA plans to revamp its website and that member input is appreciated throughout that process.

Ms. King also noted that the FBA has debuted a blog this year. Ms. King encouraged members to follow the blog. Ms. King reminded all those in attendance that an Instagram account has also been established and currently has over 350 members. Ms. King encouraged members to follow us on these two new outlets.

- **Report from the President-Elect**

Kip Bollin first announced the creation of a new taskforce aimed at communicating with the Federal Circuit Courts. Ray Dowd will serve as the chair of this taskforce in the coming months.

Mr. Bollin reported on the Mentorship Pilot Program. Mr. Bollin stated this program was established to help transition Law Student Division members into Younger Lawyers Division members. The goal of this program is to produce a mentorship program for law students that can be successfully replicated in all chapters in FY18. The pilot program began in January and will conclude in June. There are currently 260 total participants in the program.

- **Report from the Chair of the Government Relations Committee**

West Allen presented the report from the Government Relations Committee. Mr. Allen noted that the deadline for the GRC issues agenda is March 31. Mr. Allen also encouraged council members to register for Capitol Hill Day. The main agenda items for Capital Hill Day will be lobbying for adequate funding for the judiciary, filling judicial vacancies, and supporting additional judgeships within the United States. 57 new judicial positions have been recommended from the Judicial Conference and the FBA supports the addition of these new judges.

Mr. Allen then addressed current efforts to fill judicial vacancies. The FBA has historically promoted prompt attention by the President and the Senate to filling of federal judicial vacancies. Mr. Allen noted that vacancies in the United States are at historic highs with 95 district court vacancies and 19 circuit court vacancies. Mr. Allen encouraged members of the FBA to talk to their home state senator and recommend judges to fill these vacancies. Mr. Allen recommended that Chapters educate their membership on judicial vacancies that exist in their respective



judicial district, and encourage well qualified lawyers in their district to apply for consideration as judicial candidates. Mr. Allen reported that FBA National and the GRC will also advocate for filling vacancies. Mr. Allen reported that the FBA will provide technical assistance and information to chapters as they monitor the judicial nomination process in their area.

Carol Scott also called to attention the 3 vacancies of the U.S. Court of Veteran Affairs. She noted that they will soon have only 6 judges.

Mr. Allen noted that similar problems are occurring in the Immigration Court system. Mr. Allen concluded by noting the growth of the FBA and its sphere of influence, citing recent meetings with Justice Sotomayor, the Chief of the Administrative Office of the U.S. Courts, and many other key political and judicial leaders.

President Newman noted that there are ongoing efforts to improve Veterans services by creating a free database with Lexis Nexis to list Veterans Appellate Cases.

Ms. Scott also noted that a bill would be introduced in the coming week to improve Veterans relations. Ms. Scott encouraged members to support this bill.

- **Report from the Chair of the Membership Committee**

Mr. Hafen gave the report of the Membership Committee. Mr. Hafen noted that membership in the FBA is growing across the country. Mr. Hafen stated that the FBA has more chapters, sections and divisions than ever before. The current membership totals 19,099 members across the nation as of February 2017. Mr. Hafen reported that a large source of growth has been with Law Student Associate members. The FBA currently has 2,490 law student associate members.

Mr. Hafen also suggested that every section, division, and chapter should have established best membership practices. Mr. Hafen noted that the goal of the association is 3% growth annually.

Mr. Hafen discussed the FBA value proposition and the importance of leaders having an answer to the question "Why join the FBA?" Mr. Hafen suggested that leaders focus on quantity and quality of both events and communications. Mr. Hafen also highlighted that the opportunity for involvement should also be widely communicated.

Mr. Hafen also noted that it is important to retain Law Student associate members as they are transitioning to active membership as practicing attorneys. The current goal is 38% retention this year.

Lastly, Mr. Hafen stressed the importance of sustaining membership. Sustaining membership is an important source of funding for the FBA, and Mr. Hafen thanked all the sustaining members in attendance this weekend.

## **6. Unfinished Business**

Kevin Maxim discussed the upcoming Annual Meeting and Convention in Atlanta in September. Mr. Maxim noted that the annual meeting is 6 months away, and will take place on Sept 14-16, 2017. Mr. Maxim gave a brief overview of the activities planned for convention and encouraged all to attend and to bring friends and family with them.

7. **New Business**

Bob DeSousa noted that the Veterans and Military Law Section membership is up 33%. He also encouraged attendance to the VMLS full day CLE in Puerto Rico on April 28. Mr. DeSousa noted that scholarships for law students who want to attend this event are available.

Aaron Bulloff inquired for the General Counsel's opinion regarding if the FBA's potential involvement in vetting of judicial nominees could affect the tax-exempt status of the organization. Matt Moschella asked that the question be submitted in writing.

8. **President's Final Remarks**

No other remarks were offered.

9. **Adjournment**

President Newman adjourned the meeting at 4:14 p.m. EDT.



---

## Federal Bar Association

---

*ABA House of Delegates Annual Meeting  
August 14 - 15, 2017  
New York*

---

### **FBA Delegate Report** (8/30/17)

To FBA Board of Directors and National Council:

As the FBA's Delegate to the ABA House of Delegates, I attended the ABA Annual Meeting in New York on August 14 – 15, 2017. There were approximately 49 Resolutions considered and several resolutions were robustly debated.

The FBA Intellectual Property Law Section recommended the ABA Delegate to vote in support of the IP Resolutions 114A, 114B and 114C. The ABA HOD approved Resolutions 114A and 114C (as revised) and withdrew Resolution 114B. See attached Report from Robert J. Rando, Chair, Intellectual Property Law Section.

The FBA International Law Section recommended the ABA Delegate to vote in support of Resolutions 109A and 109B. See attached Report from David Wemhoof, Chair, International Trade and Customs Committee. Resolution 109A was withdrawn from consideration, but Resolution 109B was approved by the ABA HOD.

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

Respectfully submitted by:

Ashley L. Belleau  
*Federal Bar Association ABA Delegate*

Attachments: (1) FBA Intellectual Property Law Section Report  
(2) FBA International Law Section Report  
(3) ABA House of Delegates Daily Journal

## Ashley Belleau

---

**From:** Rob Rando/FBA-IPCHAIR <fba-ipchair@randolawfirm.com>  
**Sent:** Monday, July 31, 2017 2:04 PM  
**To:** Ashley Belleau  
**Cc:** mzussman@masur.com; Benjamin.Stern@hklaw.com; cnixon@taylorenchinese.com;  
mconticelli@fedbar.org; jalbertson@fedbar.org; bruce@moyergroup.net;  
wwa@hslaw.com  
**Subject:** FBA IP LAW SECTION Position on IP-related ABA Proposals

Dear Ashley,

I hope all is well and you are enjoying your summer.

The ILPS conducted a survey of its approximately 1,000 members with a choice of support, oppose or no position regarding the three IP-related ABA proposals (114A, 114B & 114C).

Although there was very low participation in the survey (approx. 4% of membership), of those that voted, I can report the following results:

There is overwhelming support for Prop 1 (114A).

A healthy majority support for Prop 2 (114B).

A majority support for Prop 3 (114C).

Additionally, a significant percentage of those responding voted no position (pro or con) on all three proposals.

Thus, I am inclined to recommend that, based on the participants that voted in the survey, the IPLS supports the three proposals.

Finally, I will also note that the IPLS Executive Board Members (four members including me) unanimously support all three ABA IP-related proposals.

Please feel free to contact me with any questions regarding the above.

Thanks,  
Rob  
--

**Robert J. Rando, Esq.,  
Chair, FBA Intellectual Property Law Section**

**THE RANDO LAW FIRM P.C.  
6800 JERICHO TURNPIKE  
SUITE 120W**

**SYOSSET, NY 11791**

**(516) 799-9800 (o)**

**(516) 799-9820 (f)**

**(516) 885-6708 (m)**

Rrando@randolawfirm.com

Rrando@patentspecialmaster.com

www.randolawfirm.com

www.patentspecialmaster.com

Chair, 2015-2017

FBA Intellectual Property Law Section

Member 2011-2013, 2013-2016, 2016-2019

FBA National Government Relations Committee

Past President,

FBA - EDNY Chapter 2008-2010

About the Federal Bar Association:

The FBA is dedicated to the advancement of the science of jurisprudence and to promoting the welfare, interests, education, and professional development of all attorneys involved in federal law. Our members run the gamut of federal practice: attorneys practicing in small to large legal firms, attorneys in corporations and federal agencies, and members of the judiciary.

The FBA is the catalyst for communication between the bar and the bench, as well as the private and public sectors. Our members include over 16,000 federal practitioners and 900 members of the bench.

The FBA is one of the nation's foremost voices on behalf of federal practitioners. Whether it is working with an oversight agency on new regulations that could impact federal practice or acting as an advocate on a particular initiative - the FBA advances effective practice before the federal bench. More info about the FBA can be found at [www.fedbar.org](http://www.fedbar.org).

=====

The preceding e-mail message (including any attachments) contains information that may be confidential, be protected by the attorney-client or other applicable privileges, or constitute non-public information. It is intended to be conveyed only to the designated recipient(s). If you are not an intended recipient of this message, please notify the sender by replying to this message and then delete it from your system. Use, dissemination, distribution, or reproduction of this message by unintended recipients is not authorized and may be unlawful.

=====

Dear Maria:

I was asked by the leadership of the International Law Section to comment on the matters contained in your July 10, 2017 email concerning two resolutions before the American Bar Association House of Delegates (Resolutions 109A and 109B).

Resolution 109A (“109A”). This is a good resolution and one that should be supported. The comments that follow are not offered in any particular order.

1. The recommendation encapsulated in 109A is to have implemented as “a standard template for use in international trade agreements and other relevant international agreements and guidelines” what is called the American Bar Association Model Provisions on Electronic Commerce For International Trade Agreements (“Model Provisions”). The Model Provisions advance important goals in the free and safe flow of information, and this in turn makes possible the free and safe flow of persons, goods, services, and capital all of which are essential to free trade. Traditionally, free trade consists of four main components or pillars: the free flow of persons, goods, services and capital. The Model Provisions recognize and protect a fifth pillar which makes the other four pillars possible: the free, and safe, flow of information.
2. A more particular analysis of key provisions of the Model Provisions follows to show that the Model Provisions are compatible with principles and provisions underlying the World Trade Organization (“WTO”). These principles are found in other trade organizations and/or agreements. First, Article 1.3.1’s prohibition of customs duties establishes what may be considered a schedule of concessions found in Article II of the General Agreement on Tariffs and Trade (GATT 1947) which is the regimen by which the WTO operates today. Article 1.3.1 sets forth the elimination of any customs or duties on “content transmitted electronically” into a Party (to the agreement). Second, Article 1.3.2 mirrors the provisions of Article III of GATT 1947 which calls for and requires signatories to give national treatment for purposes of internal taxation and regulation to products from other countries. Article 1.3.2 requires treating “content transmitted electronically” and that originates outside of a Party the same as that content that originates within the Party. Third, Article 1.4.1 mirrors the provisions of Article I of the GATT 1947 which imposes a requirement of most favored treatment (or most favored nation treatment) to signatories of the subject agreement having the Model Provisions. This means that the Parties are to treat each others’ “digital products” the same when it comes to the imposition of any duties or taxes and also when it comes to any non-fiscal regulations. (The latter point concerning non-fiscal regulations, is found in Article XI of GATT 1947.)



3. A potential conflict seems to exist between Article 1.3 and Article 1.11.1 which recognizes that each Party has “its own regulatory requirements” when it comes to transferring “information by electronic means.” However, Article 1.11.2 resolves that conflict in favor of the reduction of non-fiscal measures, or regulatory requirements that stand to hinder the flow of information, and this provision is consistent with the general principle favoring the free flow of information to facilitate international trade.
4. Article 1.4.1 raises a potential issue with copyright protection given that it references and pertains to “digital products” as defined by the Model Provisions. Article 1.17.1 does seem to protect copyrights in digital products by protecting source code which is an essential component and copyrightable.
5. Finally, in perhaps a bit of exuberance, it seems to me that the Model Provisions could very well be appended to GATT 1947 and to other treaties dealing with international trade. There is an essential quality to these Model Provisions as we are in what has been called “the Digital Age.”

Resolution 109B. In a telephonic meeting on July 14, 2017, there was expressed support for this resolution. The essence of that support is the concern over health and safety that is compromised or threatened by the use and proliferation of lead based paint. Lead based paint in particular is harmful to younger members of society as many homes have used it. Additionally, the United States banned the consumer use of lead-based paint in 1978. This proposed resolution would expand the prohibitions against the use of lead-based paint to include uses that are not solely for consumer purposes, and so health benefits will accrue to even a wider section of the populace. As the resolution urges national governments to pass measures allowing for the complete phasing out of lead based paints, by 2020, it permits the paint industry to adjust over what may be a reasonable period of time. Encouraging government legislation through education and pro bono efforts is the best way to effect this important change.

Very truly yours,

David Wemhoff  
Chair, International Trade and Customs Committee

**AMERICAN BAR ASSOCIATION  
HOUSE OF DELEGATES**

**2017 ANNUAL MEETING  
NEW YORK, NEW YORK  
AUGUST 14 – 15, 2017**

**DAILY JOURNAL**

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
10A	MASSACHUSETTS BAR ASSOCIATION CRIMINAL JUSTICE SECTION	Urges the Department of Justice to rescind the memorandum issued by Attorney General Sessions' in May 2017 that directs federal prosecutors to charge and pursue the most serious, readily provable offense.	Withdrawn
10B	MASSACHUSETTS BAR ASSOCIATION CRIMINAL JUSTICE SECTION	Opposes the imposition of a mandatory minimum sentence in any criminal case, and urges Congress, state and territorial legislatures to repeal laws requiring minimum sentences.	Approved as Revised and Amended*
10C	MASSACHUSETTS BAR ASSOCIATION CRIMINAL JUSTICE SECTION SECTION OF LITIGATION COMMISSION ON IMMIGRATION	Urges Congress to amend Section 287 of the Immigration and Nationality Act to expand and codify Department of Homeland Security guidelines regarding immigration enforcement actions.	Approved
10D	MASSACHUSETTS BAR ASSOCIATION CRIMINAL JUSTICE SECTION CENTER FOR HUMAN RIGHTS SECTION OF INTERNATIONAL LAW	Urges the United States Department of State to preserve the Office of Global Criminal Justice and the role of the War Crimes Ambassador, including funding and staffing to continue the work of the office and the United States' commitment to international criminal justice and the prevention and prosecution of atrocity crimes.	Approved
11-1	CONSTITUTIONAL AMENDMENT	Seeks to amend §1.2 of the Association's Constitution to include the following language as one of the purposes of the Association: "to defend the right to life of all innocent human beings, including all those conceived but not yet born."	Postponed Indefinitely by Vote of 279;178
11-2	CONSTITUTIONAL AMENDMENT	Seeks to amend §6.8 of the Association's Constitution to provide for representation of the National Creditors Bar Association as an affiliated organization in the House of Delegates.	Withdrawn

---

\* See Attached.



<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
11-3	HOUSEKEEPING AMENDMENT	Seeks to amend §6.5(a) of the Association's Constitution to indicate that if six or fewer nominating petitions are filed for Delegates-at-Large to the House of Delegates, and no two are from the same state, territory or possession, no election shall be conducted and the Secretary shall certify to the Chair of the House that the nominees are elected.	Approved
11-4	HOUSEKEEPING AMENDMENT	Seeks to amend §44.1(a) of the House Rules of Procedure to include a "commission" as having the privileges of the floor of the House of Delegates.	Approved
100	STANDING COMMITTEE ON PARALEGALS	Grants approval and reapproval to several paralegal education programs, withdraws the approval of two programs at the requests of the institutions, and extends the term of approval to several paralegal education programs.	Approved
101	TIMOTHY STANLEY, ABA MEMBER EDWARD J. WALTERS, ABA MEMBER	Urges Congress to require that any works of the U.S. government that are published privately also be deposited with the Government Publishing Office and subsequently distributed on the Internet, to the member libraries of the Federal Depository Library System, to the Library of Congress, and to the National Archives.	Withdrawn
102A	TORT TRIAL AND INSURANCE PRACTICE SECTION	Opposes the use of mandatory, binding, pre-dispute arbitration agreements in private student loan contracts and supports enactment of legislation and regulations that would prohibit or invalidate such arbitration agreements and opposes legislation and regulations that would authorize, encourage or enforce such agreements.	Withdrawn
102B	TORT TRIAL AND INSURANCE PRACTICE SECTION	Urges legislative bodies and governmental agencies to interpret existing laws and policies, and to adopt laws and policies that allow the implementation and administration of trap-neuter-vaccinate-return programs for community cats within their jurisdictions so as to promote their effective, efficient, and humane management.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
102C	TORT TRIAL AND INSURANCE PRACTICE SECTION	Supports common-interest doctrine, under which sharing of privileged communications with persons of common interest who have agreed to maintain confidentiality does not waive privilege.	Approved as Revised*
103	SECTION OF DISPUTE RESOLUTION	Encourages greater use and development of ombuds programs that comply with generally recognized standards of practice as an effective means of preventing, managing, and resolving individual and systemic conflicts and disputes.	Approved
104	STANDING COMMITTEE ON THE AMERICAN JUDICIAL SYSTEM SECTION OF LITIGATION TORT TRIAL AND INSURANCE PRACTICE SECTION CRIMINAL JUSTICE SECTION WASHINGTON STATE BAR ASSOCIATION HAWAII STATE BAR ASSOCIATION KING COUNTY BAR ASSOCIATION BEVERLY HILL BAR ASSOCIATION	Reaffirms its opposition to restructuring the United States Court of Appeals for the Ninth Circuit and supports ongoing efforts by the Ninth Circuit and other federal courts to utilize technological and procedural innovations to handle caseloads efficiently while maintaining coherent, consistent law in their respective jurisdictions.	Approved
105	COMMISSION ON LAW AND AGING	Urges the President to sign the Inter-American Convention on Protecting the Human Rights of Older Persons and the Senate to approve ratification of the convention.	Withdrawn
106	STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS CRIMINAL JUSTICE SECTION	Urges Congress to enable the United States Department of Justice to ensure compliance with the Sixth Amendment right to effective assistance of counsel to: 1) pursue civil actions to obtain equitable relief where violations of that right occur and 2) recognize a cause of action for equitable relief in federal court from systemic violations of the right to counsel.	Approved

---

\* See Attached.

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
107	SENIOR LAWYERS DIVISION	Adopts the <i>ABA Guidelines for Best Practices for Individual Retirement Accounts</i> , dated August 2017, and urges adoption by financial institutions for IRA accounts.	Withdrawn
108	LAW STUDENT DIVISION	Urges the bar admission authorities in each state and territory not to deny bar admission to undocumented immigrants, who have met all the necessary prerequisite qualifications for admission in their respective jurisdictions, solely due to their immigration status.	Approved as Revised*
109A	SECTION OF INTERNATIONAL LAW	Adopts the ABA Model Provisions on Electronic Commerce for International Trade Agreements, dated August 2017, and recommends them as a standard template for use in international trade agreements and other relevant international agreements and guidelines.	Withdrawn
109B	SECTION OF INTERNATIONAL LAW	Urges national governments worldwide to adopt laws to phase out the manufacture, import, and sale of lead paint, supports efforts to promote the phase-out of lead paint by no later than 2020, and supports adoption of laws to phase out and eliminate lead paint thru pro bono support, educational initiatives, and other appropriate measures.	Approved
110	STANDING COMMITTEE ON CLIENT PROTECTION STANDING COMMITTEE ON PROFESSIONAL DISCIPLINE COMMISSION ON INTEREST ON LAWYERS' TRUST ACCOUNTS	Amends the black letter of Rule 7 (Roster of Lawyers) of the <i>ABA Model Rules for Lawyer Disciplinary Enforcement</i> (MRLDE) to minimize instances of lawyer misappropriation of monies held in trust accounts and hold lawyers accountable when appropriate.	Approved
111	STANDING COMMITTEE ON SPECIALIZATION	Accredits the Privacy Law program of the International Association of Privacy Professionals of Portsmouth, New Hampshire for a 5-year term as a designated specialty certification program for lawyers.	Withdrawn

---

\* See Attached.

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
112A	CRIMINAL JUSTICE SECTION	Adopts the <i>ABA Criminal Justice Standards Relating to Dual Jurisdiction Youth</i> , dated August 2017, to address the unique situations for juveniles caught in two court systems at the same time and to provide guidance regarding best practices in these situations.	Approved
112B	CRIMINAL JUSTICE SECTION	Amends the black letter <i>ABA Standards for Criminal Justice: Prosecution Function, 4<sup>th</sup> Edition</i> , and <i>ABA Standards for Defense Function, 4<sup>th</sup> Edition</i> , to make non-substantive changes to the Standards.	Approved
112C	CRIMINAL JUSTICE SECTION	Urges governments to adopt policies and procedures that favor release on personal recognizance bonds or unsecured bonds, that permit cash bonds or secured bonds only upon a determination by the court that such financial conditions and no other conditions will assure appearance, and that pretrial detention should never occur due solely to an inability to pay.	Approved as Revised*
112D	CRIMINAL JUSTICE SECTION	Urges governmental entities to cease use of bail/bond in the juvenile justice system, and to utilize objective criteria that do not have a discriminatory or disparate impact and utilizes the least restrictive conditions of release.	Approved
112E	CRIMINAL JUSTICE SECTION COMMISSION ON YOUTH AT RISK	Urges legislative bodies and governmental agencies to enact laws and adopt policies prohibiting the use of solitary confinement of children and youth under the age of 18.	Approved as Revised*
112F	CRIMINAL JUSTICE SECTION	Urges governments to enact laws allowing individuals to petition to expunge all criminal justice records pertaining to charges or arrests that did not result in a conviction.	Approved
112G	CRIMINAL JUSTICE SECTION	Urges governments to enact laws allowing for the expungement of convictions or other statutory or ordinance violations where a court enters a finding of guilt for actions performed in public spaces associated with homelessness.	Approved

---

\* See Attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
113	COMMISSION ON DISABILITY RIGHTS SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE SECTION OF REAL PROPERTY, TRUST AND ESTATE LAW COMMISSION ON LAW AND AGING	Urges all legislatures to amend their guardianship statutes to require that supported decision-making be identified and fully considered as a less restrictive alternative before guardianship is imposed.	Approved
114A	SECTION OF INTELLECTUAL PROPERTY LAW	Adopts policy supporting the view that proof of willfulness is not a requirement for an accounting of a defendant's profits in trademark infringement, unfair competition, or cyber-piracy cases under Sections 32, 43(a), and 43(d) of the federal Lanham Act, 15 U.S.C. §§ 1114, 1125(a) and 1125(d).	Approved
114B	SECTION OF INTELLECTUAL PROPERTY LAW	Adopts policy in support of a clarification of the patent laws and supports an interpretation of those laws such that a sale or an offer to sell a product or service embodying an invention must have been "available to the public" and made the invention known to the public to invalidate claims directed to that invention.	Withdrawn
114C	SECTION OF INTELLECTUAL PROPERTY LAW	Adopts policy in support of a clarification of the patent laws and supports an interpretation of those laws such that in a post-issuance proceeding at the U.S. Patent and Trademark Office (PTO) in which a previously issued patent is challenged by a third party, the PTO may not, as a condition of accepting new claims, require the patent owner to first demonstrate the patentability of the new claims.	Approved as Revised*
115	COMMISSION ON IMMIGRATION SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE COMMISSION ON HISPANIC LEGAL RIGHTS AND RESPONSIBILITIES COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS	Supports the appointment of counsel at federal government expense to represent all indigent persons in removal proceedings before the Executive Office for Immigration Review (in Immigration Courts and before the Board of Immigration Appeals), and if necessary to advise such individuals of their rights to appeal to the federal Circuit Courts of Appeals.	Approved

---

\* See Attached.



<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
115 Cont'd	MASSACHUSETTS BAR ASSOCIATION CRIMINAL JUSTICE SECTION NEW YORK COUNTY LAWYERS ASSOCIATION SECTION OF LITIGATION NEW YORK CITY BAR ASSOCIATION WORKING GROUP ON UNACCOMPANIED MINOR IMMIGRANTS SECTION OF INTERNATIONAL LAW		
116	SECTION OF LITIGATION JUDICIAL DIVISION	Urges courts to implement plans that welcome opportunities for new lawyers to gain meaningful courtroom experience, and urges law firms and clients to take advantage of those plans.	Approved
117A	COMMISSION ON THE LAWYERS' ROLE IN ASSURING EVERY CHILD'S RIGHT TO A HIGHER-QUALITY EDUCATION SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE COMMISSION ON YOUTH AT RISK CENTER ON CHILDREN AND THE LAW STANDING COMMITTEE ON PUBLIC EDUCATION	Urges all governments to adopt and implement laws, policies, and other effective measures to provide every child with equal access to elementary and secondary public schools funded at levels adequate to ensure a high-quality education.	Approved
117B	COMMISSION ON THE LAWYERS' ROLE IN ASSURING EVERY CHILD'S RIGHT TO A HIGHER-QUALITY EDUCATION SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE COMMISSION ON YOUTH AT RISK STANDING COMMITTEE ON ELECTION LAW CENTER ON CHILDREN AND THE LAW STANDING COMMITTEE ON PUBLIC EDUCATION	Urges all governments to develop and implement an age appropriate curricula designed to instill in all students a sense of the personal responsibility to cast informed votes and to teach them how to educate themselves regarding candidates and issues in elections.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
117C	COMMISSION ON THE LAWYERS' ROLE IN ASSURING EVERY CHILD'S RIGHT TO A HIGHER-QUALITY EDUCATION SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE CENTER ON CHILDREN AND THE LAW COMMISSION ON YOUTH AT RISK	Endorses the <i>Blueprint for Change: Education Success for Children in Foster Care (2007)</i> and the <i>Blueprint for Change: Education Success for Youth in the Juvenile Justice System (2016)</i> , which provide a framework to improve educational access, stability, and success for court-involved youth.	Approved
118A	STANDING COMMITTEE ON GUN VIOLENCE SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE SECTION OF LITIGATION COMMISSION ON YOUTH AT RISK SECTION OF STATE AND LOCAL GOVERNMENT LAW	Urges Congress to amend the Gun Control Act of 1968 to include, among the list of those ineligible to possess, purchase, sell, deliver or otherwise transfer any firearm, persons who have been previously convicted of a misdemeanor crime of violence that was motivated by hate or bias because of the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or diversity, or disability of any person.	Withdrawn
118B	STANDING COMMITTEE ON GUN VIOLENCE SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE CRIMINAL JUSTICE SECTION SECTION OF LITIGATION COMMISSION ON YOUTH AT RISK SECTION OF STATE AND LOCAL GOVERNMENT LAW	Urges governments to enact statutes, rules, or regulations authorizing courts to issue gun violence restraining orders, including <i>ex parte</i> orders.	Approved as Revised*
119A	SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE SECTION OF STATE AND LOCAL GOVERNMENT LAW COMMISSION ON HOMELESSNESS AND POVERTY COMMISSION ON VETERANS LEGAL SERVICES	Urges governments to enact legislation prohibiting discrimination in housing on the basis of lawful source of income.	Approved

---

\* See Attached.

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
119B	SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE STANDING COMMITTEE ON PUBLIC EDUCATION	Urges all legislative bodies to enact statutes and school districts to adopt policies that rigorously protect the ability of student journalists at the secondary and postsecondary levels to make the independent editorial judgments necessary to meaningfully cover issues of social and political importance without fear of retaliation or reprisal.	Approved
120	COMMISSION ON VETERANS LEGAL SERVICES STANDING COMMITTEE ON LEGAL ASSISTANCE FOR MILITARY PERSONNEL	Recommends review and improvement of the processes by which military records are corrected, discharge status petitions are considered, and the character of one's discharge is reviewed.	Approved
121	YOUNG LAWYERS DIVISION JUDICIAL DIVISION SECTION OF LITIGATION	Urges all courts to develop plans of action to make de-biasing training an important part of both initial judicial training and continuing judicial education.	Approved
400A	RESOLUTION WITH REPORT ON ARCHIVING	Recommends that certain Association policies that pertain to public issues and are 10 years old or older be archived.	Approved as Revised**
400B	RESOLUTION WITH REPORT ON ARCHIVING	Recommends that certain Association policies that pertain to public issues that were adopted in 1997 which were previously considered for archiving but retained be archived.	Approved as Revised**

---

\*\*Items No. 61 was removed from the 400A archival list; Item Nos. 24 and 38 were removed from the 400B archival list.



# REVISED AND AMENDED 10B

## RESOLUTION

1           RESOLVED, That the American Bar Association opposes the imposition of a mandatory  
2 minimum sentence ~~in any criminal case;~~ and  
3

4           FURTHER RESOLVED, That the American Bar Association urges Congress, ~~and~~ state,  
5 and territorial legislatures to repeal ~~existing criminal~~ laws requiring minimum sentences, to refrain  
6 from enacting ~~criminal~~ laws punishable by mandatory minimum sentences ~~in the future~~.

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED

RESOLUTION

1 RESOLVED, That the American Bar Association urges all federal, state, local,  
2 territorial, and tribal legislative, judicial and other governmental bodies to support  
3 the principles that:

4 (1) the holder of the attorney-client privilege does not waive the privilege  
5 ~~or protection~~ by sharing communications or materials (or by having  
6 contemporaneous communications with) with another person (not jointly  
7 represented by the same counsel) who,

8 (a) having common legal interests with the holder in some  
9 litigated, potentially litigated, or nonlitigated matter or in related  
10 matters (such as parallel lawsuits),

11 (b) has agreed with the holder of the privilege or protection

12 (i) to cooperate with one another to develop and pursue a  
13 joint legal strategy with respect to some aspect of the  
14 matter or matters in which the parties have common  
15 interests, and

16 (ii) to maintain the confidentiality of any privileged or  
17 protected communications or materials shared in pursuit of  
18 such cooperation;

19 *provided that* the communications or materials shared relate to the parties'  
20 common interests;

21 (2) no party to such a common-interest arrangement can unilaterally waive  
22 privilege or protection with respect to communications or materials other  
23 than the waiving party's own communications or materials;

24 (3) in the event of later adverse proceedings between or among the parties  
25 to the common-interest arrangement, any party may use communications  
26 or materials shared against any other party;

27 (4) existence of a common-interest or agreement to a common-interest  
28 arrangement is not a basis to compel the holder of a privilege or protection  
29 to disclose to others having that common interest any communications or  
30 materials that the holder does not voluntarily share;

31 (5) while some authorities condition protection of common-interest  
32 sharing on each party to the common-interest arrangement being  
33 separately represented, no such requirement should be applied when the  
34 parties to the common-interest arrangement have a preexisting relationship  
35 (including, without limitation, indemnitor-indemnitee, insurer-insured,  
36 patent holder-licensee, or lead lender and participants in the loan) that

# REVISED 102C

37 (a) binds them to a common outcome on the issue(s) as to which  
38 they have a common interest,

39 (b) creates duties to respect one another's interests, and

40 (c) creates rights to participate in decision making regarding the  
41 common interest (at least to the extent of providing input).

42 Nothing in this Resolution applies to waiver of work product protection, which is governed by  
43 different standards than attorney-client privilege.—~~(Paragraph (5) has no application in criminal~~  
44 ~~litigation.~~

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED

# REVISED 108

## RESOLUTION

1 RESOLVED, That the American Bar Association supports the principle that bar admission should  
2 not be denied based solely on immigration status.

3  
4 FURTHER RESOLVED, That the American Bar Association urges Congress to amend 8 U.S.C.  
5 § 1621(d) to insert, at the conclusion of all existing language, the following sentence:  
6

7 “A state court vested with exclusive authority to regulate admission to the bar may, by rule,  
8 order, or other affirmative act, permit an undocumented alien seeking legal status to obtain  
9 a professional license to practice law in that jurisdiction.”

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED



# REVISED 112C

## RESOLUTION

1 RESOLVED, That the American Bar Association urges federal, state, local,  
2 territorial, and tribal governments to ~~promote public safety and assure that defendants~~  
3 ~~appear in court by~~ adopt ing policies and procedures that:

- 4 1. favor release of defendants upon their own recognizance or unsecured bond;
- 5 2. require that a court determine that release on cash bail or secured bond is  
6 necessary to assure the defendant's appearance and no other conditions will  
7 suffice for that purpose before requiring such bail or bond;
- 8 3. prohibit a judicial officer from imposing a financial condition of release that  
9 results in the pretrial detention of a defendant solely due to the defendant's  
10 inability to pay;
- 11 4. permit a court to order a defendant to be held without bail where public safety  
12 warrants pretrial detention and no conditions of pretrial release suffice, and  
13 require that the court state on the record the reasons for detention; and
- 14 5. bar the use of "bail schedules" that consider only the nature of the charged  
15 offense, and require instead that courts make bail and release determinations  
16 based upon individualized, evidence-based assessments that use objective  
17 verifiable release criteria that do not have a discriminatory or disparate impact  
18 based on race, ethnicity, religion, socio-economic status, disability, ~~or~~ sexual  
19 orientation, or gender identification.

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED

# REVISED 112E

## RESOLUTION

1 RESOLVED, That the American Bar Association urges federal, state, local, territorial and tribal  
2 legislative bodies and governmental agencies to enact laws and adopt policies prohibiting the use  
3 of solitary confinement – the involuntary placement alone in a cell, room or other area for any  
4 reason other than as a temporary response to behavior that threatens immediate harm and ends  
5 when the threat is over and, in no case, more than 4 hours - of children and youth under age 18.

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED

## RESOLUTION

1 RESOLVED, That the American Bar Association supports, in a post issuance proceeding at the  
2 U.S. Patent and Trademark Office in which a previously issued patent is challenged by a  
3 petitioner, applying the statutory requirement that the petitioner asserting the unpatentability of a  
4 patent “shall have the burden of proving unpatentability by a preponderance of the evidence” on  
5 both the challenged claims and any amendment of the claims proposed by the patent owner  
6 during the proceeding; provided that the patent owner has the initial burden of production  
7 (burden of going forward) on the patentability of any proposed amended claims.

**DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED**

RESOLUTION

1 RESOLVED, That the American Bar Association urges state, local, territorial, and tribal  
2 governments to enact statutes, rules, or regulations authorizing courts to issue gun violence  
3 restraining orders, including *ex parte* orders, that include at least the following provisions:  
4

- 5 1. That a person (a “petitioner”) with documented evidence that another person (a  
6 “respondent”) poses a serious threat to himself or herself or others may petition a court  
7 for an order temporarily suspending the respondent’s possession of a firearm or  
8 ammunition ~~poses a credible threat~~;
- 9 2. That there shall be a verifiable procedure to ensure the surrender of firearms and  
10 ammunition pursuant to the court order; and
- 11 3. That the issuance of the gun violence restraining order shall be reported to appropriate  
12 state or federal databases in order to prevent respondent from passing a background  
13 check required to purchase a firearm or obtain a firearm license or permit while  
14 restraining order is in effect.

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED



**AMERICAN BAR ASSOCIATION  
HOUSE OF DELEGATES**

**2017 ANNUAL MEETING  
NEW YORK, NEW YORK  
AUGUST 14 – 15, 2017**

**DAILY JOURNAL**

<b><u>RPT NO.</u></b>	<b><u>PROPOSED BY</u></b>	<b><u>SHORT TITLE</u></b>	<b><u>ACTION</u></b>
10A	MASSACHUSETTS BAR ASSOCIATION CRIMINAL JUSTICE SECTION	Urges the Department of Justice to rescind the memorandum issued by Attorney General Sessions' in May 2017 that directs federal prosecutors to charge and pursue the most serious, readily provable offense.	Withdrawn
10B	MASSACHUSETTS BAR ASSOCIATION CRIMINAL JUSTICE SECTION	Opposes the imposition of a mandatory minimum sentence in any criminal case, and urges Congress, state and territorial legislatures to repeal laws requiring minimum sentences.	Approved as Revised and Amended*
10C	MASSACHUSETTS BAR ASSOCIATION CRIMINAL JUSTICE SECTION SECTION OF LITIGATION COMMISSION ON IMMIGRATION	Urges Congress to amend Section 287 of the Immigration and Nationality Act to expand and codify Department of Homeland Security guidelines regarding immigration enforcement actions.	Approved
10D	MASSACHUSETTS BAR ASSOCIATION CRIMINAL JUSTICE SECTION CENTER FOR HUMAN RIGHTS SECTION OF INTERNATIONAL LAW	Urges the United States Department of State to preserve the Office of Global Criminal Justice and the role of the War Crimes Ambassador, including funding and staffing to continue the work of the office and the United States' commitment to international criminal justice and the prevention and prosecution of atrocity crimes.	Approved
11-1	CONSTITUTIONAL AMENDMENT	Seeks to amend §1.2 of the Association's Constitution to include the following language as one of the purposes of the Association: "to defend the right to life of all innocent human beings, including all those conceived but not yet born."	Postponed Indefinitely by Vote of 279;178
11-2	CONSTITUTIONAL AMENDMENT	Seeks to amend §6.8 of the Association's Constitution to provide for representation of the National Creditors Bar Association as an affiliated organization in the House of Delegates.	Withdrawn

---

\* See Attached.

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
11-3	HOUSEKEEPING AMENDMENT	Seeks to amend §6.5(a) of the Association's Constitution to indicate that if six or fewer nominating petitions are filed for Delegates-at-Large to the House of Delegates, and no two are from the same state, territory or possession, no election shall be conducted and the Secretary shall certify to the Chair of the House that the nominees are elected.	Approved
11-4	HOUSEKEEPING AMENDMENT	Seeks to amend §44.1(a) of the House Rules of Procedure to include a "commission" as having the privileges of the floor of the House of Delegates.	Approved
100	STANDING COMMITTEE ON PARALEGALS	Grants approval and reapproval to several paralegal education programs, withdraws the approval of two programs at the requests of the institutions, and extends the term of approval to several paralegal education programs.	Approved
101	TIMOTHY STANLEY, ABA MEMBER EDWARD J. WALTERS, ABA MEMBER	Urges Congress to require that any works of the U.S. government that are published privately also be deposited with the Government Publishing Office and subsequently distributed on the Internet, to the member libraries of the Federal Depository Library System, to the Library of Congress, and to the National Archives.	Withdrawn
102A	TORT TRIAL AND INSURANCE PRACTICE SECTION	Opposes the use of mandatory, binding, pre-dispute arbitration agreements in private student loan contracts and supports enactment of legislation and regulations that would prohibit or invalidate such arbitration agreements and opposes legislation and regulations that would authorize, encourage or enforce such agreements.	Withdrawn
102B	TORT TRIAL AND INSURANCE PRACTICE SECTION	Urges legislative bodies and governmental agencies to interpret existing laws and policies, and to adopt laws and policies that allow the implementation and administration of trap-neuter-vaccinate-return programs for community cats within their jurisdictions so as to promote their effective, efficient, and humane management.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
102C	TORT TRIAL AND INSURANCE PRACTICE SECTION	Supports common-interest doctrine, under which sharing of privileged communications with persons of common interest who have agreed to maintain confidentiality does not waive privilege.	Approved as Revised*
103	SECTION OF DISPUTE RESOLUTION	Encourages greater use and development of ombuds programs that comply with generally recognized standards of practice as an effective means of preventing, managing, and resolving individual and systemic conflicts and disputes.	Approved
104	STANDING COMMITTEE ON THE AMERICAN JUDICIAL SYSTEM SECTION OF LITIGATION TORT TRIAL AND INSURANCE PRACTICE SECTION CRIMINAL JUSTICE SECTION WASHINGTON STATE BAR ASSOCIATION HAWAII STATE BAR ASSOCIATION KING COUNTY BAR ASSOCIATION BEVERLY HILL BAR ASSOCIATION	Reaffirms its opposition to restructuring the United States Court of Appeals for the Ninth Circuit and supports ongoing efforts by the Ninth Circuit and other federal courts to utilize technological and procedural innovations to handle caseloads efficiently while maintaining coherent, consistent law in their respective jurisdictions.	Approved
105	COMMISSION ON LAW AND AGING	Urges the President to sign the Inter-American Convention on Protecting the Human Rights of Older Persons and the Senate to approve ratification of the convention.	Withdrawn
106	STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS CRIMINAL JUSTICE SECTION	Urges Congress to enable the United States Department of Justice to ensure compliance with the Sixth Amendment right to effective assistance of counsel to: 1) pursue civil actions to obtain equitable relief where violations of that right occur and 2) recognize a cause of action for equitable relief in federal court from systemic violations of the right to counsel.	Approved

---

\* See Attached.

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
107	SENIOR LAWYERS DIVISION	Adopts the <i>ABA Guidelines for Best Practices for Individual Retirement Accounts</i> , dated August 2017, and urges adoption by financial institutions for IRA accounts.	Withdrawn
108	LAW STUDENT DIVISION	Urges the bar admission authorities in each state and territory not to deny bar admission to undocumented immigrants, who have met all the necessary prerequisite qualifications for admission in their respective jurisdictions, solely due to their immigration status.	Approved as Revised*
109A	SECTION OF INTERNATIONAL LAW	Adopts the ABA Model Provisions on Electronic Commerce for International Trade Agreements, dated August 2017, and recommends them as a standard template for use in international trade agreements and other relevant international agreements and guidelines.	Withdrawn
109B	SECTION OF INTERNATIONAL LAW	Urges national governments worldwide to adopt laws to phase out the manufacture, import, and sale of lead paint, supports efforts to promote the phase-out of lead paint by no later than 2020, and supports adoption of laws to phase out and eliminate lead paint thru pro bono support, educational initiatives, and other appropriate measures.	Approved
110	STANDING COMMITTEE ON CLIENT PROTECTION STANDING COMMITTEE ON PROFESSIONAL DISCIPLINE COMMISSION ON INTEREST ON LAWYERS' TRUST ACCOUNTS	Amends the black letter of Rule 7 (Roster of Lawyers) of the <i>ABA Model Rules for Lawyer Disciplinary Enforcement</i> (MRLDE) to minimize instances of lawyer misappropriation of monies held in trust accounts and hold lawyers accountable when appropriate.	Approved
111	STANDING COMMITTEE ON SPECIALIZATION	Accredits the Privacy Law program of the International Association of Privacy Professionals of Portsmouth, New Hampshire for a 5-year term as a designated specialty certification program for lawyers.	Withdrawn

---

\* See Attached.

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
112A	CRIMINAL JUSTICE SECTION	Adopts the <i>ABA Criminal Justice Standards Relating to Dual Jurisdiction Youth</i> , dated August 2017, to address the unique situations for juveniles caught in two court systems at the same time and to provide guidance regarding best practices in these situations.	Approved
112B	CRIMINAL JUSTICE SECTION	Amends the black letter <i>ABA Standards for Criminal Justice: Prosecution Function, 4<sup>th</sup> Edition</i> , and <i>ABA Standards for Defense Function, 4<sup>th</sup> Edition</i> , to make non-substantive changes to the Standards.	Approved
112C	CRIMINAL JUSTICE SECTION	Urges governments to adopt policies and procedures that favor release on personal recognizance bonds or unsecured bonds, that permit cash bonds or secured bonds only upon a determination by the court that such financial conditions and no other conditions will assure appearance, and that pretrial detention should never occur due solely to an inability to pay.	Approved as Revised*
112D	CRIMINAL JUSTICE SECTION	Urges governmental entities to cease use of bail/bond in the juvenile justice system, and to utilize objective criteria that do not have a discriminatory or disparate impact and utilizes the least restrictive conditions of release.	Approved
112E	CRIMINAL JUSTICE SECTION COMMISSION ON YOUTH AT RISK	Urges legislative bodies and governmental agencies to enact laws and adopt policies prohibiting the use of solitary confinement of children and youth under the age of 18.	Approved as Revised*
112F	CRIMINAL JUSTICE SECTION	Urges governments to enact laws allowing individuals to petition to expunge all criminal justice records pertaining to charges or arrests that did not result in a conviction.	Approved
112G	CRIMINAL JUSTICE SECTION	Urges governments to enact laws allowing for the expungement of convictions or other statutory or ordinance violations where a court enters a finding of guilt for actions performed in public spaces associated with homelessness.	Approved

---

\* See Attached.

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
113	COMMISSION ON DISABILITY RIGHTS SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE SECTION OF REAL PROPERTY, TRUST AND ESTATE LAW COMMISSION ON LAW AND AGING	Urges all legislatures to amend their guardianship statutes to require that supported decision-making be identified and fully considered as a less restrictive alternative before guardianship is imposed.	Approved
114A	SECTION OF INTELLECTUAL PROPERTY LAW	Adopts policy supporting the view that proof of willfulness is not a requirement for an accounting of a defendant's profits in trademark infringement, unfair competition, or cyber-piracy cases under Sections 32, 43(a), and 43(d) of the federal Lanham Act, 15 U.S.C. §§ 1114, 1125(a) and 1125(d).	Approved
114B	SECTION OF INTELLECTUAL PROPERTY LAW	Adopts policy in support of a clarification of the patent laws and supports an interpretation of those laws such that a sale or an offer to sell a product or service embodying an invention must have been "available to the public" and made the invention known to the public to invalidate claims directed to that invention.	Withdrawn
114C	SECTION OF INTELLECTUAL PROPERTY LAW	Adopts policy in support of a clarification of the patent laws and supports an interpretation of those laws such that in a post-issuance proceeding at the U.S. Patent and Trademark Office (PTO) in which a previously issued patent is challenged by a third party, the PTO may not, as a condition of accepting new claims, require the patent owner to first demonstrate the patentability of the new claims.	Approved as Revised*
115	COMMISSION ON IMMIGRATION SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE COMMISSION ON HISPANIC LEGAL RIGHTS AND RESPONSIBILITIES COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS	Supports the appointment of counsel at federal government expense to represent all indigent persons in removal proceedings before the Executive Office for Immigration Review (in Immigration Courts and before the Board of Immigration Appeals), and if necessary to advise such individuals of their rights to appeal to the federal Circuit Courts of Appeals.	Approved

---

\* See Attached.

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
115 Cont'd	MASSACHUSETTS BAR ASSOCIATION CRIMINAL JUSTICE SECTION NEW YORK COUNTY LAWYERS ASSOCIATION SECTION OF LITIGATION NEW YORK CITY BAR ASSOCIATION WORKING GROUP ON UNACCOMPANIED MINOR IMMIGRANTS SECTION OF INTERNATIONAL LAW		
116	SECTION OF LITIGATION JUDICIAL DIVISION	Urges courts to implement plans that welcome opportunities for new lawyers to gain meaningful courtroom experience, and urges law firms and clients to take advantage of those plans.	Approved
117A	COMMISSION ON THE LAWYERS' ROLE IN ASSURING EVERY CHILD'S RIGHT TO A HIGHER-QUALITY EDUCATION SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE COMMISSION ON YOUTH AT RISK CENTER ON CHILDREN AND THE LAW STANDING COMMITTEE ON PUBLIC EDUCATION	Urges all governments to adopt and implement laws, policies, and other effective measures to provide every child with equal access to elementary and secondary public schools funded at levels adequate to ensure a high-quality education.	Approved
117B	COMMISSION ON THE LAWYERS' ROLE IN ASSURING EVERY CHILD'S RIGHT TO A HIGHER-QUALITY EDUCATION SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE COMMISSION ON YOUTH AT RISK STANDING COMMITTEE ON ELECTION LAW CENTER ON CHILDREN AND THE LAW STANDING COMMITTEE ON PUBLIC EDUCATION	Urges all governments to develop and implement an age appropriate curricula designed to instill in all students a sense of the personal responsibility to cast informed votes and to teach them how to educate themselves regarding candidates and issues in elections.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
117C	COMMISSION ON THE LAWYERS' ROLE IN ASSURING EVERY CHILD'S RIGHT TO A HIGHER-QUALITY EDUCATION SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE CENTER ON CHILDREN AND THE LAW COMMISSION ON YOUTH AT RISK	Endorses the <i>Blueprint for Change: Education Success for Children in Foster Care (2007)</i> and the <i>Blueprint for Change: Education Success for Youth in the Juvenile Justice System (2016)</i> , which provide a framework to improve educational access, stability, and success for court-involved youth.	Approved
118A	STANDING COMMITTEE ON GUN VIOLENCE SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE SECTION OF LITIGATION COMMISSION ON YOUTH AT RISK SECTION OF STATE AND LOCAL GOVERNMENT LAW	Urges Congress to amend the Gun Control Act of 1968 to include, among the list of those ineligible to possess, purchase, sell, deliver or otherwise transfer any firearm, persons who have been previously convicted of a misdemeanor crime of violence that was motivated by hate or bias because of the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or diversity, or disability of any person.	Withdrawn
118B	STANDING COMMITTEE ON GUN VIOLENCE SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE CRIMINAL JUSTICE SECTION SECTION OF LITIGATION COMMISSION ON YOUTH AT RISK SECTION OF STATE AND LOCAL GOVERNMENT LAW	Urges governments to enact statutes, rules, or regulations authorizing courts to issue gun violence restraining orders, including <i>ex parte</i> orders.	Approved as Revised*
119A	SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE SECTION OF STATE AND LOCAL GOVERNMENT LAW COMMISSION ON HOMELESSNESS AND POVERTY COMMISSION ON VETERANS LEGAL SERVICES	Urges governments to enact legislation prohibiting discrimination in housing on the basis of lawful source of income.	Approved

---

\* See Attached.



<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
119B	SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE STANDING COMMITTEE ON PUBLIC EDUCATION	Urges all legislative bodies to enact statutes and school districts to adopt policies that rigorously protect the ability of student journalists at the secondary and postsecondary levels to make the independent editorial judgments necessary to meaningfully cover issues of social and political importance without fear of retaliation or reprisal.	Approved
120	COMMISSION ON VETERANS LEGAL SERVICES STANDING COMMITTEE ON LEGAL ASSISTANCE FOR MILITARY PERSONNEL	Recommends review and improvement of the processes by which military records are corrected, discharge status petitions are considered, and the character of one's discharge is reviewed.	Approved
121	YOUNG LAWYERS DIVISION JUDICIAL DIVISION SECTION OF LITIGATION	Urges all courts to develop plans of action to make de-biasing training an important part of both initial judicial training and continuing judicial education.	Approved
400A	RESOLUTION WITH REPORT ON ARCHIVING	Recommends that certain Association policies that pertain to public issues and are 10 years old or older be archived.	Approved as Revised**
400B	RESOLUTION WITH REPORT ON ARCHIVING	Recommends that certain Association policies that pertain to public issues that were adopted in 1997 which were previously considered for archiving but retained be archived.	Approved as Revised**

---

\*\*Items No. 61 was removed from the 400A archival list; Item Nos. 24 and 38 were removed from the 400B archival list.

# REVISED AND AMENDED 10B

## RESOLUTION

1           RESOLVED, That the American Bar Association opposes the imposition of a mandatory  
2 minimum sentence ~~in any criminal case;~~ and

3  
4           FURTHER RESOLVED, That the American Bar Association urges Congress, ~~and~~ state,  
5 and territorial legislatures to repeal ~~existing criminal~~ laws requiring minimum sentences, to refrain  
6 from enacting ~~criminal~~ laws punishable by mandatory minimum sentences ~~in the future~~.

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED

## RESOLUTION

1 RESOLVED, That the American Bar Association urges all federal, state, local,  
2 territorial, and tribal legislative, judicial and other governmental bodies to support  
3 the principles that:

4 (1) the holder of the attorney-client privilege does not waive the privilege  
5 ~~or protection~~ by sharing communications or materials (or by having  
6 contemporaneous communications with) with another person (not jointly  
7 represented by the same counsel) who,

8 (a) having common legal interests with the holder in some  
9 litigated, potentially litigated, or nonlitigated matter or in related  
10 matters (such as parallel lawsuits),

11 (b) has agreed with the holder of the privilege or protection

12 (i) to cooperate with one another to develop and pursue a  
13 joint legal strategy with respect to some aspect of the  
14 matter or matters in which the parties have common  
15 interests, and

16 (ii) to maintain the confidentiality of any privileged or  
17 protected communications or materials shared in pursuit of  
18 such cooperation;

19 *provided that* the communications or materials shared relate to the parties'  
20 common interests;

21 (2) no party to such a common-interest arrangement can unilaterally waive  
22 privilege or protection with respect to communications or materials other  
23 than the waiving party's own communications or materials;

24 (3) in the event of later adverse proceedings between or among the parties  
25 to the common-interest arrangement, any party may use communications  
26 or materials shared against any other party;

27 (4) existence of a common-interest or agreement to a common-interest  
28 arrangement is not a basis to compel the holder of a privilege or protection  
29 to disclose to others having that common interest any communications or  
30 materials that the holder does not voluntarily share;

31 (5) while some authorities condition protection of common-interest  
32 sharing on each party to the common-interest arrangement being  
33 separately represented, no such requirement should be applied when the  
34 parties to the common-interest arrangement have a preexisting relationship  
35 (including, without limitation, indemnitor-indemnitee, insurer-insured,  
36 patent holder-licensee, or lead lender and participants in the loan) that

# REVISED 102C

37 (a) binds them to a common outcome on the issue(s) as to which  
38 they have a common interest,

39 (b) creates duties to respect one another's interests, and

40 (c) creates rights to participate in decision making regarding the  
41 common interest (at least to the extent of providing input).

42 Nothing in this Resolution applies to waiver of work product protection, which is governed by  
43 different standards than attorney-client privilege.—~~(Paragraph (5) has no application in criminal~~  
44 ~~litigation.~~

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED

# REVISED 108

## RESOLUTION

1 RESOLVED, That the American Bar Association supports the principle that bar admission should  
2 not be denied based solely on immigration status.

3  
4 FURTHER RESOLVED, That the American Bar Association urges Congress to amend 8 U.S.C.  
5 § 1621(d) to insert, at the conclusion of all existing language, the following sentence:

6  
7 “A state court vested with exclusive authority to regulate admission to the bar may, by rule,  
8 order, or other affirmative act, permit an undocumented alien seeking legal status to obtain  
9 a professional license to practice law in that jurisdiction.”

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED

## RESOLUTION

1           RESOLVED, That the American Bar Association urges federal, state, local,  
2 territorial, and tribal governments to ~~promote public safety and assure that defendants~~  
3 ~~appear in court by~~ adopt~~ing~~ policies and procedures that:

- 4           1. favor release of defendants upon their own recognizance or unsecured bond;
- 5           2. require that a court determine that release on cash bail or secured bond is  
6           necessary to assure the defendant's appearance and no other conditions will  
7           suffice for that purpose before requiring such bail or bond;
- 8           3. prohibit a judicial officer from imposing a financial condition of release that  
9           results in the pretrial detention of a defendant solely due to the defendant's  
10          inability to pay;
- 11          4. permit a court to order a defendant to be held without bail where public safety  
12          warrants pretrial detention and no conditions of pretrial release suffice, and  
13          require that the court state on the record the reasons for detention; and
- 14          5. bar the use of "bail schedules" that consider only the nature of the charged  
15          offense, and require instead that courts make bail and release determinations  
16          based upon individualized, evidence-based assessments that use objective  
17          verifiable release criteria that do not have a discriminatory or disparate impact  
18          based on race, ethnicity, religion, socio-economic status, disability, ~~or~~ sexual  
19          orientation, or gender identification.

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED

# REVISED 112E

## RESOLUTION

1 RESOLVED, That the American Bar Association urges federal, state, local, territorial and tribal  
2 legislative bodies and governmental agencies to enact laws and adopt policies prohibiting the use  
3 of solitary confinement – the involuntary placement alone in a cell, room or other area for any  
4 reason other than as a temporary response to behavior that threatens immediate harm and ends  
5 when the threat is over and, in no case, more than 4 hours - of children and youth under age 18.

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED

## RESOLUTION

1 RESOLVED, That the American Bar Association supports, in a post issuance proceeding at the  
2 U.S. Patent and Trademark Office in which a previously issued patent is challenged by a  
3 petitioner, applying the statutory requirement that the petitioner asserting the unpatentability of a  
4 patent “shall have the burden of proving unpatentability by a preponderance of the evidence” on  
5 both the challenged claims and any amendment of the claims proposed by the patent owner  
6 during the proceeding; provided that the patent owner has the initial burden of production  
7 (burden of going forward) on the patentability of any proposed amended claims.

**DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED**



## RESOLUTION

- 1 RESOLVED, That the American Bar Association urges state, local, territorial, and tribal  
2 governments to enact statutes, rules, or regulations authorizing courts to issue gun violence  
3 restraining orders, including *ex parte* orders, that include at least the following provisions:  
4
- 5 1. That a person (a “petitioner”) with documented evidence that another person (a  
6 “respondent”) poses a serious threat to himself or herself or others may petition a court  
7 for an order temporarily suspending the respondent’s possession of a firearm or  
8 ammunition ~~poses a credible threat~~;
  - 9 2. That there shall be a verifiable procedure to ensure the surrender of firearms and  
10 ammunition pursuant to the court order; and
  - 11 3. That the issuance of the gun violence restraining order shall be reported to appropriate  
12 state or federal databases in order to prevent respondent from passing a background  
13 check required to purchase a firearm or obtain a firearm license or permit while  
14 restraining order is in effect.

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED

# TAB B

Report from the President

FBA Update

Actions of the Board of Directors

Nominations and Elections Committee Report

Final Remarks and President's Awards



# Federal Bar Association

*Office of the President*  
*Hon. Michael J. Newman*

To: FBA Board of Directors & National Council  
From: Judge Newman  
Re: Summary of Presidential Accomplishments, 2016-17  
Date: August 15, 2017

Members of the Board of Directors and National Council:

I hereby submit the FBA's list of accomplishments during my term as National President.

1. Created a standing committee for community outreach (Civics, Solace, Community Service), the "Community Service & Outreach Committee."
2. Under the banner of *Civics and Service to Others*, created a national civics initiative with multiple components: judges meeting with students in courtrooms and classrooms; essay contests for middle and high school students via writing and via the StoryCorps app; honoring of civics teachers across the U.S.; helping the A.O. to commemorate Constitution Day & Citizenship Day 2016 (via naturalization ceremonies at national parks) and 2017 (via naturalizations in schools); and working with the A.O. to celebrate the 225<sup>th</sup> anniversary of the ratification of the Bill of Rights via a video on the FBA's website. Promotion of the civics effort: an email to every FBA member; two emails and two individual letters to every Chief Judge in the U.S.; an email to every chapter president; appointment of Joan Brady to ensure civics liaisons are selected by each chapter; appointment of Maria Vathis to run essay contest and teacher recognition efforts; civics article by A.O. Director Jim Duff in *The Federal Lawyer* ("TFL"); monthly civics pieces in TFL as President's Messages. Joan's effort has proven quite successful; we received responses from parts of the country where we did not yet have FBA chapters (specifically, Vermont and Guam). (As a result of the Guam inquiry, Christian Adams and Judge Newman are both working to help start a Guam/Pacific Islands chapter.)  
August 2017 Update: It appears 10,000 school children will meet with a federal judge this year as a direct result of the FBA's national civics initiative done in conjunction with the A.O.
3. Created a civics-specific page on the FBA's website where civics materials can be found, [www.fedbar.org/civics](http://www.fedbar.org/civics). Very helpful to federal judges around the country who are meeting with students. Materials are organized by how much time a judge has to spend with students.

4. FBA retained Laura Orrico in Chicago to do public relations for the Civics/National Community Outreach Project (“NCOP”)/SOLACE effort – multiple press releases were distributed, and Judge Newman was scheduled for many radio and podcast interviews, the most prominent of which was WGN Radio in Chicago. Judge Newman appeared on WGN twice.
5. FBA sent representatives to the National Conference of Social Studies Teachers (“NCSS”) in D.C. in December 2016 (attended by 4,000 or more S.S. teachers) to promote the civics effort with judges, national civics essay contest, and national teacher recognition program. Also encouraged civics liaisons and chapters to reach out to local judges regarding civics and to send letters to local schools regarding civics. In the Dayton, Ohio seat of court, where Judge Newman sits, such letters were sent to 180 local schools - resulting in the opportunity for more than 1,000 students to interact with a federal judge, in a classroom or courtroom, in 2017.
6. Under the leadership of Steve Justice and Judge Zainey, took the SOLACE program national.
7. New Chapters:  
 Worked on starting chapters in Vermont and Washington State so we will hopefully have chapters in all 50 states soon. (We have members in all 50 states currently.)  
 Fall 2016 update: Multiple conference calls with Chief Judge Reiss in Vermont. As of December 2016, she has 20 local attorneys interested in signing a charter. In Idaho, working with Walt Sinclair to get the chapter to increase their boundary to include E.D. Wash; the Idaho chapter voted to approve the change in mid-January.  
 March 2017 update: Vermont charter approved by the board in February 2017.  
 August 2017 update: A representative from the Eastern District of Washington, Assistant Federal Public Defender Matt Campbell, attended Leadership Training. The E.D. Washington Chief Judge was also invited. We are continuing to work on starting a chapter there and in the Western District of Washington. Joe Leventhal and Judge Bachus have spent significant time on the Washington effort and, during the Ninth Circuit Conference in July 2017, Judge Newman met personally with Roger Townsend from the W.D. Washington.
8. With the assistance of FBA General Counsel Matt Moschella and FBA Outside Counsel Rob Clark, worked to ensure that the FBA’s intellectual property rights were protected by, *inter alia*, reviewing the FBA trademarks. Rob Clark is filing an application regarding the FBA seal.
9. Ensured the FBA and its board have adequate insurance coverage.
10. Supervised transition to hire Stacy King as our new Executive Director and participated in her employment contract.
11. Directed board member Anh Kremer to create a Code of Conduct for FBA officers.
12. Idea suggested by Matt Moschella and considered: create an Advisory Board for Past National Presidents & Past General Counsels.



13. Created two national programs for veterans:

Wills for Veterans to be held in conjunction with Veterans Day 2017. Todd Hedgepeth to lead this national effort involving chapters all over the U.S.

Training session for lawyers who seek to assist veterans in applying for and securing V.A. disability benefits. First session held in Cincinnati in late January 2017; subsequent sessions now under consideration and planning.

14. Sent complimentary TFL magazine subscriptions to Judge Fogel (head of the Federal Judicial Center), Jim Duff, David Sellers, Rebecca Fanning, all Supreme Court Justices, and Clerk of the U.S. Supreme Court.

15. Sent certificates of appreciation to FBA members who have done outstanding work for the FBA.

16. Civics Essay Contest: Nearly 200 entries were received; Maria Vathis led a stellar group of essay contest judges. With the financial assistance of the FBA Foundation, we arranged for the FBA board of directors and the two top essay contest winners (one middle school winner and one high school winner) to meet with a Justice at the U.S. Supreme Court. Each winner was accompanied by a parent. The two winners and their parents were honored at the Mid-Year Meeting.

17. Civics Teacher Recognition: The FBA recognized more than 20 Social Studies teachers from around the country for their civics contributions. Each teacher received a certificate from the FBA. Maria Vathis led this effort, and plans are to continue it again in 2017-18.

18. National Constitution Center: A civics program was held at the National Constitution Center ("NCC") in Philadelphia in conjunction with the June 2017 board meeting (a "Judges Chat" with Judge Newman and Judge Huff from the U.S. District Court for the Eastern District of Pennsylvania). At the NCC, the FBA Executive Committee also met with Ellen Iwamoto from the Civics Renewal Network to brainstorm about ways the two entities can collaborate on civics efforts. In April 2017, a "Cafeteria Summit" was held at the United States Supreme Court cafeteria with Professor Jeffrey Rosen, president and CEO of the NCC, Judge Newman, Stacy King, and Bruce Moyer. We discussed ways for the FBA and NCC to work together and collaborate on civics efforts going forward. An email announcement to that end was sent by Judge Newman to all FBA members in connection with the July 4<sup>th</sup> holiday, and was referenced by Judge Newman in the August 2017 President's Message published in *The Federal Lawyer*.

19. Appointed Joan Brady as the national civics liaison coordinator who, in turn, worked to appoint numerous civics liaisons in chapters around the country. Joan will be producing a report -- of the FBA's civics efforts to date -- that will be given to the Committee on the Judicial Branch, a Committee of the Judicial Conference. Judge Newman will meet with the Committee in May 2017. This report will also be provided to Chief Justice Roberts and to Jim Duff, and will be added to the FBA's website.

August 2017 update: 87 civics liaisons have been appointed to date. Judge Newman presented a report to the Judicial Branch Committee in May 2017; a copy of that report is attached hereto as Exhibit B.

20. Ideas considered:

Judge Kovachevich's idea that the FBA screen and rate applicants for federal judgeships.

Mimi Tsankov's proposal that the FBA apply for U.N. Consultative Status. (To be considered more fully at the March 2017 board of directors meeting.)

August 2017 update: Board approved the concept, and application was made.

Create a 'leave of absence policy'/'duties and expectations policy' for board members.

21. Agreed to assist the A.O. when the spouses of federal judges are sued by *pro se* litigants. Created a program at the request of Jim Duff -- he will contact Stacy in the future if such issues arise.

August 2017 update: Rob Clark and his firm, Parr Brown, have agreed to assist *pro bono*.

22. Worked with author Peter McCabe to update the *Magistrate Judge White Paper*. Updated *White Paper* put on the FBA's website in October 2016.

23. FBA board of directors held its first strategy session at the January 2017 South Carolina board meeting. Strategy sessions will be part of every board meeting going forward.

24. Sent a letter to every Dean of an accredited law school in the United States, where a law school division does not yet exist, requesting them to start a law school division at their law school.

25. Appointed Anh Kremer to replace Richard Dellinger, who stepped down from the board of directors in January 2017. Also, Karleen Green was selected to replace Professor Elizabeth Kronk, who stepped down from the board in spring 2017.

26. Held preliminary and initial discussions with Stacy and the Executive Committee regarding the need for a new FBA website and need for changes to the current website to hold more information.

27. Mid Year Meeting: Worked to invite Professor Rosen from GWU Law School as the keynote speaker; arranged for Judge Bianco, Dina Miller, Rob Clark, and Rebecca Fanning to talk about court camps and civics.

28. Reviewed ABA Delegate status.

29. Considered amending the Constitution to permit each local chapter to add -- as a free, honorary member -- the Clerk of Courts, or a Clerk designee, as a board member for each local chapter.

August 2017 update: Provision was approved by the board.

30. The Board of Directors approved a “Rule of Law” position statement, which was initially drafted by Jeff Cox and Bruce Moyer. This was placed on the FBA website in February 2017.

31. Working with Matt Moschella and other authors to facilitate the drafting of an article for TFL on specialty courts – specifically, ReEntry Courts and how they operate around the country in the Federal Courts.

32. Encouraged the board to approve an *Access to Justice Task Force* to study and brainstorm about ways the FBA can increase access to justice in the District Courts, Bankruptcy Courts, and Circuit Courts. Promoted this Task Force in the President’s Message, and discussed two ideas central to access to justice: (1) *Pro Se* Handbooks (which many FBA chapters have written at the request of the local federal courts); and (2) a list of counsel willing to accept *pro bono* representation when called upon to do so by the court. The FBA’s access to justice efforts in the veterans arena include (1) a CLE to help train lawyers to assist veterans *pro bono* with disability claims; (2) the National Wills for Veterans Day in November 2017; and (3) the promotion of Federal Veterans Treatment Courts.

33. The FBA encouraged openness in the Federal Courts by promoting, in conjunction with the A.O.: (1) the 225<sup>th</sup> anniversary of the signing of the Constitution on December 15; (2) Law Day (May 1) and Law Month 2017 (May) – celebrating “open doors to federal courts”; (3) Constitution Day & Citizenship Day 2017 (September 18) – encouraging courts to hold naturalization ceremonies in schools.

34. As part of Mid-Year, the Executive Committee met with the Supreme Court Clerk of Courts, Scott Harris, and also with Jeff Minnear, Counselor to the Chief Justice.
35. Working on law student divisions at Fordham Law and University of Texas Law School.
36. Requested the board of directors to make Dean Chemerinsky an honorary member of the FBA. Approved unanimously.
37. Sent letters to each Chief Circuit Judge and Circuit Executives -- asking them to invite the FBA to upcoming judicial conferences. The FBA was invited to speak at Judicial Conference held in the Seventh, Eighth and Ninth Circuits. Judge Newman spoke at the Seventh and Ninth Circuit Conferences (in Indianapolis and San Francisco, respectively); Judge Melendez from the District of Minnesota, along with other Federal Judges, spoke at the Eighth Circuit Conference (in Fargo, North Dakota).
38. Created the following three Task Forces:

*Nominations & Elections Task Force*

(Chair: Hon. Alison Bachus)

Mission:

Study the role of the Nominations and Elections Committee in nominating candidates to a slate;

Study the makeup of the Nominations and Elections Committee;

Study the nomination process including the petition process;

Study the election process including allowing write-in candidates and elections for uncontested seats;

Study the role of the ABA Delegate as an elected officer of the Association;

Study Policy 1-1: Application for National Office and consider if additional information should be captured;

Study Policy 1-3: Procedures for National Elections and consider if procedures are efficient, cost-effective and make good use of FBA funds;

Study Policy 1-4: Endorsement of Candidates and consider limitations on campaigning emails, staff-provided mailing lists, sanctions for non-compliance;

Study ways to encourage membership to vote; and

Provide quarterly updates to the Board of Directors and, upon conclusion of the above areas of study, prepare a report to the Board that includes recommended changes to governance documents (Constitution, Bylaws, policies) if deemed appropriate and a list of topics that require further discussion, if necessary.



*Access to Justice Task Force*

(Chair: Tonya Cammon)

Mission:

The Access to Justice Task Force will investigate and study ways that the FBA, through its chapters and also on a nationwide basis, can increase individuals' access to justice in the federal trial and appellate courts. (Such efforts might include, among others, ways for courts to provide counsel to *pro se* litigants in civil cases; writing *Pro Se Handbooks* for the District Courts and Courts of Appeals; helping courts to put information on their websites so that the litigation process is more user-friendly to *pro se* litigants; and assisting judges and courts in other ways when requested to do so.);

Create a list of access-to-justice suggestions/"to do" items for the District Courts and Courts of Appeals to consider;

Write a form *Pro Se Handbook* for use by *pro se* litigants in the District Court and the Courts of Appeals;

Survey District Courts around the country in order to investigate different ways these courts are handling large numbers of *pro se* cases and related requests for the appointment of counsel; and

Provide a status report to the FBA board of directors on a quarterly basis, and produce a final written report at the conclusion of its term along with appropriate recommendations for the FBA and courts to adopt.

*Task Force on Circuit Courts*

(Chair: Ray Dowd)

Mission:

A Presidential Task Force to consider how the Federal Bar Association might better support the work of the nation's federal Circuit courts, the interests of federal appellate practitioners, and the delivery of justice to the public they serve. The Task Force shall collect information from FBA chapters, Circuit Vice Presidents, and Sections and Divisions, the Government Relations Committee, the judiciary and FBA membership to address the following questions:

How is the Federal Bar Association currently serving each of the federal circuit courts?

How are other bar associations or non-profits serving each of the federal circuit courts?

How might the Federal Bar Association better support circuit courts?

Are there any steps that the FBA should take to further public education, historic preservation, continuing legal education, *pro bono* or other efforts to improve knowledge and/or the quality of the administration of justice in the appellate courts?

The Task Force is asked to provide a report to the President and the Board of Directors at least by, at the latest, the Midyear Meeting in 2018.

39. Created a *Special Committee on Diversity*  
(Chair: Tara Norgard)

Mission:

Research the demographic information collected by other bar associations and consider a diversity census/survey;

Identify chapter “banner” programming events that focus on legal issues that impact diverse communities and assist in the creation of resources to replicate programs;

Identify diversity and inclusion topics and speakers and encourage them to submit presentation proposals to FBA’s national conferences;

Highlight achievements and history of FBA diverse leaders at all levels;  
and

At the end of the membership year, prepare a report to the board that includes the progress and the achievements of this committee along with recommendations on how to continue to make diversity and inclusion an organizational priority.

40. Had a detailed report written (by Joan Brady) which outlines the success of the national civics initiative. Report was presented to the Judicial Conference of the United States, Committee on the Judicial Branch, in Washington, D.C. in May 2017 when Judge Newman appeared before the Committee. Report was also placed on the front page of the FBA’s website.

41. Judge Newman’s accomplishments regarding the civics initiative were highlighted on the floor of the House of Representatives by Congressman Mike Turner in March 2017, thus bringing additional attention to the success of the national civics initiative.

42. Fostered a collaboration with the following entities:

*The Civics Renewal Network*

Met with Ellen Iwamoto from CRN; strategizing on ways to work together on civics initiatives;

*iCivics*

Signed a memorandum of understanding in July 2017; the FBA will participate in the iCivics conference in Washington, D.C. (“Democracy at a Crossroads”) in September 2017; and

*The National Constitution Center*

Formed a collaboration with Prof. Jeff Rosen, President & CEO of NCC. FBA and NCC will be working together to promote the interactive constitution app; to encourage FBA members to visit the NCC; and to have Prof. Rosen speak on the Constitution to chapters throughout the country.

43. Worked to broaden the FBA's civics essay contest for 2017-18 by helping to facilitate an essay contest collaboration with the Federal Judges Association and also the Ninth Circuit *Courts and the Community Committee*. Worked to have the winners meet with a Supreme Court Justice. Maria Vathis will again serve as chair of this effort.

44. Court Camps Held During July 2017: Worked to promote (1) the week-long FBA/U.S. District Court Court Camp held for the second year in the Eastern District of New York (led by Judge Bianco and Dina Miller in conjunction with the FBA) and (2) the FBA/BYU/U.S. District Court Court & Leadership camp at BYU Law School, the first such residential court camp in United States. The E.D.N.Y. was highly publicized. Regarding the BYU Court Camp, two articles were published mentioning the FBA:

Pamela Manson, Salt Lake Tribune, *Law Camp at BYU Puts Teens on Trial and in the Jury: Law Camp Aims to Prepare Teens for Leadership and Service* (Aug. 3, 2017)

Braley Dodson, Daily Herald, *BYU Piloting Overnight Law Camp for Students with the Hope of It Expanding Nationally* (Aug. 1, 2017)

45. In addition to promoting civics Court Camps (via Judge Newman's president's messages in TFL and via other means), the FBA also promoted Teacher's Institutes, *i.e.*, court and FBA-sponsored events for teachers to learn more about civics and the Third Branch. In July 2017, Judge Newman co-hosted with Chief Judge Sargus the first Teacher's Institute in the U.S. District Court for the Southern District of Ohio.

46. Speeches/Remarks given by MJN as FBA President:

Cincinnati/Northern Kentucky Chapter luncheon – luncheon address.

Tri-State Conference (Idaho, Wyoming, Utah) – Sun Valley, Idaho (Oct. 2016). Luncheon keynote address discussing civics and SOLACE.

St. Louis – day-long trip to the St. Louis Federal Courthouse; meet with Chief Judge Sippel; tour the Judicial Learning Center; preside over a littering trial with students from a local elementary school (Oct. 2016).

Hawaii – Eighth Annual Litigation Conference; speak on a panel with Judge Gelpi and Matt Moschella about changes to the Federal Rules of Civil Procedure (Dec. 2016).

New York City and Charleston, South Carolina – Meet with the E.D.N.Y. judges in Central Islip and also in the Brooklyn seat of court (and meet Chief Judge Irizarry, who hosts a luncheon in my honor in Brooklyn). At

Fordham Law School, speak to international LLM students and dean about starting a student chapter. In Charleston, South Carolina, participate in Middle School and High School civics classroom events with local federal judges. Preside over Board of Directors meeting held at a local law firm.

Columbus Chapter Substance Abuse luncheon CLE – introductory remarks (Feb. 2017).

Mid-Year Meeting – Capital Hilton, Washington, D.C. Updated the National Council on my presidential year, the goals and accomplishments to date (March 2017).

Indian Law Conference – delivery introductory remarks at the conference and attend a dinner with Indian Law Section leadership.

Capitol Hill Day & Leadership Training: Delivered introductory remarks at the FBA’s Capitol Hill Day and the FBA’s national leadership conference (April 2017).

Dayton – Criminal Justice Act Seminar: Introduced Chief Judge and gave overview of the FBA’s national Civics and Service to Others initiative (May 2017).

Seventh Circuit Judicial Conference – Indianapolis: Update to the Seventh Circuit Chief Judge & Circuit Executive, A.O. Director Jim Duff, F.J.C. Director Judge Jeremy Fogel, other Judges present regarding the FBA’s national civics initiative. Present: Jim Duff, new assistant A.O. Director, and Judge Fogel (May 2017). (Subsequent meeting with Judge Fogel, Bruce Moyer, and Stacy King to encourage the FJC to include civics in the orientation for new Federal Judges.)

Minnesota Chapter: spoke at a reception to honor the Chapter’s 18-year success of its Open Doors to the Federal Courthouse civics program. Also gave remarks at the Chapter’s annual Federal Judges’ Dinner-Dance (May 2017).

Utah Litigation Conference – St. George, Utah: speech with Rob Clark, before the attendees and District of Utah Federal Judges, detailing the FBA’s national civics initiative and upcoming residential court camp/leadership program at BYU Law School – the first to be held in the United States (May 2017).

Immigration Conference – Denver, Colorado: Delivered introductory remarks as FBA President. Also served as a panelist on the topic of the intersection between federal criminal law and immigration law (May 2017).

Judicial Conference of the United States, Committee on the Judicial Branch – Washington, D.C.: Appeared before the Committee to present and discuss the FBA’s status report on its national civics initiative (May 2017).

Chicago Pro Bono Awards Ceremony: Keynote address, given in the Chicago Federal Courthouse ceremonial courtroom, on the importance of public service, at pro bono/public service awards ceremony (introduction by Chief Judge Castillo and Sheri Mecklenburg). Also gave remarks at a reception in my honor at the Chicago Bar Association later the same day.

Judges’ Chat at the National Constitution Center in Philadelphia, Pennsylvania with U.S. District Judge Cynthia Rufe (E.D. Pa.) (June 2017)

Ninth Circuit Judicial Conference, San Francisco, California - participated in a five-member panel discussion on civics along with Justice Gorsuch, Chief Judge Thomas (9<sup>th</sup> Cir.), Chief Judge Katzman (2<sup>d</sup> Cir.), and Judge Huff (S.D. Cal.) (President, Federal Judges Association).

47. Met with Chief Judge Nagle (head Administrative Law Judge for the Social Security Administration) and others to collaborate on ideas to train ALJs on ways to assist veterans who apply for S.S. disability benefits.

48. Radio show/podcast appearances and newspaper articles to promote the FBA’s national civics initiative and our veterans outreach efforts:

[https://www.youtube.com/watch?v=H\\_HJJRGYnHA&feature=youtu.be](https://www.youtube.com/watch?v=H_HJJRGYnHA&feature=youtu.be)  
Neil Haley Total Celebrity Show radio/podcast interview  
December 13, 2016

[www.blogtalkradio.com/contending4truthradio/2017/01/07/contending-4-truth-radio-presents-saturday-symposium-with-your-host-dan-wilson](http://www.blogtalkradio.com/contending4truthradio/2017/01/07/contending-4-truth-radio-presents-saturday-symposium-with-your-host-dan-wilson)  
Saturday Symposium with Gary Rumer & Dan Wilson  
January 7, 2017

<http://wgnradio.com/2017/01/25/wintrust-business-lunch-12517-the-dow-hits-20000/>  
WGN AM Radio interview  
January 25, 2017

<http://www.eliancer.com/judge-michael-newman-national-president-federal-bar-association>  
Eliances Heroes radio show  
February 2, 2017



<https://www.youtube.com/watch?v=NTWB808XEKk&feature=youtu.be>  
The New American Veteran podcast  
March 7, 2017

<https://theamericangenius.com/politics-and-news/bar-initiative-civic-kids>  
The American Genius  
April 4, 2017

<https://everydaypowerblog.com/2017/04/13/federal-bar-association-inspiring-students-improve-court-system/>  
Everyday Power Blog  
Spring 2017

<http://wvxu.org/post/federal-bar-association-bringing-civics-education-area-classrooms#stream/0>  
Cincinnati Edition Public Radio show, WVXU/WMUB  
April 17, 2017

<https://www.youtube.com/watch?v=QeTjJw3cutE>  
910 AM Superstation  
Thaddeus McCotter Show  
April 24, 2017

Interview with Judge Michael J. Newman  
Atlanta Attorney at Law Magazine  
Volume 6, Issue 3  
Spring 2017

The Only Ceremony of its Kind (describing Judge Newman's speech at the Pro Bono/Public Service Awards Ceremony)  
Chicago Daily Law Bulletin  
May 30, 2017

<http://mbradio.us/podcast/the-h-train-show-judge-newman-on-veteran-court-transition-troop-bub-pullins-and-t2t-16-marines/>  
H Train Show – Military Brotherhood Radio Show  
Hosted by Joel Hunt  
July 2017

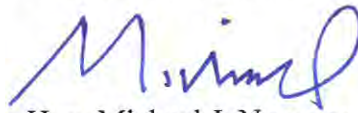
<http://wgnradio.com/2017/07/31/wintrust-business-lunch-73117-solar-cooking-federal-bar-association-twitter-dating/>  
WGN-AM Radio interview  
July 31, 2017

49. State of Ohio efforts to promote civics and meet with young people: Numerous appearances in 2016-17 in the Dayton Federal Courthouse and at local public schools (*e.g.*, Springboro Five Points Elementary School, Tippecanoe High School, and Oakwood High School) to promote civics and discuss the Third Branch of government. Also met in Dayton, Ohio with minority students enrolled in the Summer Work Experience in Law program (SWEL) and the Law and Leadership Institute (LLI).

\*\*\*

It has been my great honor, and humbling privilege, to serve the Federal Bar Association in 2016-17 as its National President. I thank the FBA for the opportunity to serve.

Respectfully submitted,



Hon. Michael J. Newman  
United States Magistrate Judge and  
Federal Bar Association President

## ATTACHMENTS

- Exhibit A: President's Pages -- To Date
- Exhibit B: Report to the Judicial Branch Committee
- Exhibit C: Profile by Kari Dahlin, Esq.



# Civics and Service to Others

by Hon. Michael Newman



*Hon. Michael Newman is FBA president and the first U.S. Magistrate Judge to hold this role. Judge Newman can be reached at Michael\_Newman@ohsd.uscourts.gov.*

It is with great excitement, and a humble heart, that I accept the significant responsibility to serve as national president of the FBA for 2016 to 2017. I thank all of the 18,000-plus members of the FBA—and all of our chapters, sections, and divisions throughout the country—for this incredible honor.

I care deeply about the FBA—an association with which I have been involved, on the local and national level, for more than 20 years—and I am quite proud of the significant contributions the FBA has made to the federal judiciary, and to the cause of justice, in our nearly 100-year history.

While there are many individuals to thank and congratulate for our recent successes, I take this opportunity to commend Karen Silberman, the executive director of both the FBA and our nonprofit Foundation—along with Stacy King, Jane Zaretskie, Sarah Perlman, and many others on the FBA staff—who have worked tirelessly to increase our national stature. Jonathan Hafen, our national membership committee chair, has done a remarkable job of increasing membership among attorneys while, at the same time, starting law student chapters in a majority of law schools throughout the United States. Bruce Moyer, counsel to the FBA's Government Relations Committee (GRC) and a friend to all on Capitol Hill—along with West Allen, head of the GRC—deserve significant praise for their joint efforts to let those in Congress know that the FBA is, and will always remain, devoted exclusively and faithfully to the federal judiciary and all who practice in federal court.

Finally, I thank Mark Vincent, the FBA's outgoing national president, and Rob Clark, the FBA's outgoing general counsel, for their respective efforts and continuing dedication to the FBA. If you know Mark and Rob, you will undoubtedly agree that these are two of the nicest and most decent people you will ever interact with. Mark serves as an assistant United States attorney in Salt Lake City, and Rob is a partner at Parr Brown in Salt Lake City. Mark and Rob gave tirelessly and selflessly to the FBA not only this past year, but for much of the past decade. Rob is the architect of the FBA's governance structure, and was the author of the FBA's constitution and bylaws—a Herculean drafting effort. Mark gave of himself in

rather incredible ways, over many years, both before and during his presidency. First, by serving with distinction on the board of directors, as treasurer, and as president-elect. Second, while president, by visiting chapters far and wide, large and small, in an effort to build relationships and broadcast the great work the FBA is doing to assist federal judges and all those in the public and private sectors who litigate daily in our federal trial and appellate courts. Mark and Rob have devoted countless volunteer hours to the benefit of the FBA, and we owe them both our thanks and sincere gratitude.

I am proud and excited to announce that this year, and in the years going forward, the FBA—while maintaining its long-standing dedication to the federal judiciary—will also be focusing on civics and service to others. To that end, the FBA will be engaged in three distinct, but related initiatives: Civics, SOLACE, and Community Service.

## Civics

The FBA plans to launch a national civics education initiative whereby we will:

- Encourage federal judges to go into middle and high schools to meet with students, teach them about the Third Branch of government and what it means to be a judge, and perform naturalization ceremonies in those schools (so the students have an opportunity to see a federal court proceeding and witness the Constitution in action);
- Encourage young people, along with their teachers, to come into federal courthouses to meet—in a “court camp” setting—with federal judges, law clerks, assistant U.S. attorneys, assistant federal public defenders, representatives from probation and pretrial, and members of law enforcement (such as the FBI, U.S. Marshals, and other agencies) to better understand how the federal court system operates; to participate in mock sentencing scenarios and other scenarios related to federal court practice; and to have an opportunity to meet and ask questions of those who work in the federal courts—in order to learn, for example, how a judge decides a case; what a probation officer does

on a daily basis; and the importance of a college education and educational opportunities thereafter;

- Help to celebrate “Constitution Day and Citizenship Day” on or close to Sept. 17 each year (it was observed on Friday, Sept. 16 this year) by encouraging federal judges to then hold naturalization ceremonies; and
- Conduct two national civics essay contests—one for middle school students, and another for high school students.

I am proud to report that these civics efforts are the result, in large part, of several brainstorming sessions FBA leadership held with officials at the Administrative Office of the United States Courts (AO). An article by James C. Duff, the AO director, follows in these pages and explains this effort in much greater detail. Suffice to say, the FBA is honored and privileged to be working together with the AO in this important, national civics effort.

To initiate the commencement of this civics effort on a nationwide basis, the FBA will be reaching out to individual judges across the country, as well as to chapter presidents and circuit vice presidents, and sharing civics materials with them. The AO has kindly granted the FBA access to the AO’s website materials on civics, and the FBA will be organizing those materials on its own website to make it easier for judges to interact with students. Accordingly, if a judge only has a half hour to meet with students, there will be materials that contain civics exercises that can be completed in a half hour. If, on the other hand, a judge has one or two hours to meet with students, there will be civics materials that can be conducted within that longer time frame. These materials will include the popular “Tell it to the Judge” sentencing scenarios written by the AO and tested by federal judges and high school students at the District of Columbia Federal Courthouse.

I asked the FBA treasurer, Maria Vathis, to assist me in leading this civics effort on a nationwide basis. Maria is a dedicated FBA member and volunteer, a natural leader, and has already spent many months working with me to get these civics programs up and running. I know she will do a wonderful job, and I thank her in advance for her commitment to the FBA. Questions concerning this civics effort can be directed to Maria at [vathism@bryancave.com](mailto:vathism@bryancave.com) or to me at [michael\\_newman@ohsd.uscourts.gov](mailto:michael_newman@ohsd.uscourts.gov). An article by Maria, explaining the need for civics education in our country and giving the background of the FBA’s two essay contests for middle and high school students, follows in these pages.

This issue also contains an article by Kate Strickland, executive director of the Ohio Center for Law-Related Education (OCLRE). OCLRE runs the middle and high school mock trial programs in Ohio—an important civics effort—in which many FBA members participate.

Given that I care strongly about civics, and I am honored that the FBA and AO are working together on this important program, I will make every effort when I visit chapters around the country this year to not only meet with local federal judges, but also to schedule a local school visit so that I can meet with middle and high school students myself, explain what it means to be a judge, and talk one-on-one with students about civics and the federal courts.

## **SOLACE**

SOLACE is an acronym for “Support of Lawyers/Legal Personnel—All Concern Encouraged.” The SOLACE program, started in New

Orleans by United States District Judge Jay Zainey, has proven incredibly successful as an effort to help those in the legal community with dire medical and other needs.

Some FBA chapters, and other bar associations, have successfully replicated the SOLACE effort in various parts of the United States.

Judge Zainey approached the FBA to ask if we would consider working with him to take the SOLACE program national. The FBA agreed, and I appointed Steve Justice—incoming chapter president of the Dayton, Ohio, chapter—to lead this effort. Steve is bright, capable, and a true leader. Like Maria Vathis, Steve has spent the last six months getting ready, figuring out the mechanics of how SOLACE will work nationally, and forming a task force of circuit vice presidents and others to assist him. If you have an interest in working with Steve or have questions regarding SOLACE, I encourage you to contact him at [justice@dunganattorney.com](mailto:justice@dunganattorney.com). I likewise take this opportunity to thank Steve, in advance, for all of his hard work on the FBA’s behalf. Under Steve’s leadership, SOLACE will be successful nationally.

## **Community Service**

Seventh Circuit Vice President Sheri Mecklenburg formed a committee last year, the Community Service Committee of the Circuit Vice Presidents, to review and summarize all of the community service and civics efforts currently being undertaken by FBA chapters, sections, and divisions. Sheri’s committee then produced a report—entitled, “Community Outreach Report”—which can be found on the FBA’s website.<sup>1</sup> I encourage you to take a moment to review this detailed and very thorough report, and I thank Sheri and her committee for their great work in undertaking this effort.

As a result of Sheri’s report, this past April the FBA undertook what it is calling a “National Community Outreach Project,” whereby chapters, sections, and divisions are encouraged to perform specific acts of community service or civics engagement. To encourage them to do so without incurring a financial burden, the FBA Foundation agreed to finance the first 16 of these efforts around the country. All 16 were quite successful.

I’m very proud of these 16 initial efforts, and I hope that during my presidential term we double this number and have 32 or more similar efforts in April 2017. To encourage the growth of this effort, and to make this effort more widely known, I have chosen this year to make the focus of my remaining President’s Message columns a discussion of these community service projects. Accordingly, in the President’s Message columns going forward, I’ll highlight one or more chapters that successfully undertook a civics or community service project this past April or in the months thereafter.

One significant aspect of community service is serving in a pro bono capacity. I frequently undertook pro bono representation when I was a partner at my former firm, Dinsmore & Shohl. I encourage all those in the FBA, who have the capacity to do so, to consider taking on such a role. I assure you—it is rewarding. Likewise, I encourage all FBA members to assist courts with access-to-justice efforts.

Community service also encompasses mentoring, and I would be remiss if I did not mention those who mentored me in the FBA—particularly in my early years of involvement in the association. I started my involvement in the Cincinnati/Northern Kentucky chapter (back when it was only the “Cincinnati” chapter), and I remain grateful to former national president Tom Schuck, Judges Jack Sherman Jr.

*continued on page 18*

- “It’s been really beneficial to obtain skills, such as speaking in front of a crowd, which will be applicable my entire life.”
- “I got to hone my speaking ability and it helped me think more analytically with case law, as well as become more open to both sides of an issue.”
- “Commitment, learning about court etiquette, and respect.”
- “During trial, whether attorney or witness, oftentimes what I prepared for the trial did not end up being what actually happened. Instead I would have to think quickly to reevaluate the line of questioning. In addition, it greatly broadened the scope of the perspective that I look at issues with.”

### Middle School Mock Trial

OCLRE’s Middle School Mock Trial program gives younger students the opportunity to learn about the law while honing their speaking and writing skills. Cases are based on literature commonly read in the middle grades, including *Roll of Thunder, Hear My Cry* by Mildred Taylor and *The Outsiders* by S.E. Hinton. Not only does this allow for collaboration among social studies and language arts teachers, but students make connections between fiction and what might happen in reality, as characters are put on trial for their actions.

### Moot Court

Moot Court is OCLRE’s newest program, with 2016 marking the third year Ohio has hosted a state competition. Like Ohio Mock Trial, Moot Court cases are crafted and edited by volunteer attorneys. In celebration of the 50th anniversary of the *Miranda v. Arizona* decision, the 2016 Ohio Moot Court case focused on a juvenile appellant’s right to the presence of an attorney during an interrogation. In addition to preparing for the oral argument portion of the competition, students must also submit a written brief, providing many with their first experience in legal writing.

### We the People

We the People<sup>2</sup> engages students in an in-depth study of the U.S. Constitution and Bill of Rights. Students learn about the philosophical and historic foundations of these documents, and they contemplate and discuss current-day application.

Take, for example, the following high school We the People questions, students’ answers to which are presented as “testimony” in the format of simulated congressional hearing:

- The jury has been defined as “the democratic branch of the judiciary power—more necessary than representatives in the leg-

islature.”<sup>3</sup> Do you agree or disagree with the opinion expressed here? Why?

- In what ways do the jury clauses of the Fifth, Sixth, and Seventh Amendments serve to ensure citizen participation in the judicial process?
- In what ways, if any, are both the grand (large) jury and the petit (trial) jury related to the principle of limited government?

There is little doubt that students who study, analyze, and debate such questions will know that James Madison is the father of the Constitution, and that, in fact, “Judge Judy” is *not* a member of the Supreme Court.

### Youth for Justice

Oftentimes, the spark of civic engagement happens at the grass-roots level. OCLRE’s Youth for Justice program centers on student empowerment and activism. Students work together to identify an issue or injustice that impacts the local community and then gather information about the problem, talk with local resource people, and propose solutions. By engaging youth directly in addressing problems that affect them, there is buy-in. Although not every Youth for Justice team project results in a policy change or the eradication of systemic problems such as bullying or intolerance, students learn the democratic process. Equally important, they learn that with rights comes responsibility.

In the words of Justice Sandra Day O’Connor, “We pay a price when we deprive children of the exposure to the values, principles, and education they need to make them good citizens.” Students who participate in OCLRE programs are beacons of hope. With continued support from educators, legal professionals, and community members, Ohio’s students will have access to programs, resources, and opportunities that engage them in the practice of active citizenship. ☺

### Endnotes

<sup>1</sup>*A Crisis in Civic Education*, AM. COUNSEL OF TRS. & ALUMNI (January 2016), available at [http://www.goacta.org/images/download/A\\_Crisis\\_in\\_Civic\\_Education.pdf](http://www.goacta.org/images/download/A_Crisis_in_Civic_Education.pdf).

<sup>2</sup>We the People is a national program of the Center for Civic Education and is administered in Ohio by the OCLRE.

<sup>3</sup>Maryland Farmer, as quoted in AKHIL REED AMAR & LES ADAMS, *THE BILL OF RIGHTS PRIMER: A CITIZEN’S GUIDEBOOK TO THE AMERICAN BILL OF RIGHTS 138* (Skyhorse Publishing) (2013).

### President’s Message *continued from page 4*

and Nathaniel R. Jones (for whom I clerked), and Sixth Circuit Court of Appeals Circuit Executive Jim Higgins, all of whom were kind to me and took me under their wing after I expressed an interest in the FBA. My personal hope is that all who read this will take a moment to think about a younger attorney they know—who may or may not be involved in the FBA—and consider mentoring him or her with the knowledge that the future of our legal profession depends on this level of dedication to those who will follow us. I now live in Dayton, Ohio, and the district judges who serve on the bench with me—Judges Thomas Rose and Walter Rice—both mentor frequently and have both joined the board of the Dayton chapter. I encourage my fellow judges,

and all attorneys in the FBA, to follow these examples.

This will be an exciting year, and I thank you for the opportunity to serve. ☺



### Endnotes

<sup>1</sup>*National Community Outreach Project*, FED. BAR ASS’N, <http://www.fedbar.org/Public-Messaging/NCOP.aspx> (last visited Sept. 7, 2016).

# The Importance of Mentoring

by Hon. Michael J. Newman



*Hon. Michael J. Newman is FBA president and the first U.S. magistrate judge to hold this role. Judge Newman can be reached at Michael\_Newman@ohsd.uscourts.gov.*

During the coming year, the FBA focuses on “Civics and Service to Others.” An important component of such service is mentoring. I was fortunate to have mentors while in law school, as a law clerk to a federal judge, and while in private practice—including, among many others, Hon. Jack Sherman Jr., Hon. Nathaniel R. Jones, Bill Williams, Cliff Kuhn, Dean Barbara Watts, Charlie Faruki, Mike Hawkins, Mark VanderLaan, and George Vincent. I am grateful to the lawyers who met with me, took me to lunch, discussed their practice, and gave me advice. I am also grateful to the two judges I clerked for, Judge Sherman and Judge Jones, both of whom were quite generous with their time and who explained the inner workings of the court to me. Collectively, these mentors made me who I am today and impressed upon me the importance of mentoring those who follow.

While clerking, teaching as an adjunct professor, in private practice, and now as a federal judge, I took every opportunity I could to mentor. I see this as an obligation—a duty, if you will—to explain to law students and college students what we do and why it is so crucial to the process of decision-making that we are fair, careful, honest, and civil with one another.

I have worked quite hard to mentor students who desire a career in the law. I impress upon high school students the need to further their education, whether they eventually attend law school, and I do my best, as permitted, to open doors for them so they can decide for themselves if a legal career is a good fit. I afford these students—as well as college and law students—opportunities to meet and network with lawyers and judges.

The Ohio Supreme Court, like a few other states, has created a formal mentoring program for new lawyers once they pass the state bar. This program, run by attorney Lori Keating, is quite effective and, given the large number of federal practitioners who



Judge Newman with some of his externs from the summer of 2016. Each summer, Judge Newman mentors ten or so high school, college and law school students, and assists them in gaining practical legal experience and exposure to courtroom proceedings. Left to right: Annie Calvert; LeighAnn Thomas; term law clerk Mike Scarpelli; Judge Newman; Alison Pierok; John Hardisky; Ebony Davenport; and Sidney Myatt.

volunteer to serve as mentors, was written about in these pages six years ago.<sup>1</sup> Recently, the Dayton, Ohio, FBA chapter—of which I am a member—created a similar mentoring program. The chapter matches the interests of mentors (i.e., experienced attorneys and judges) and mentees (i.e., newly admitted lawyers and law students). This local mentoring effort has likewise proven very successful.

This past summer, I had 10 externs in my chambers—including urban, public high school students enrolled in Ohio’s Law & Leadership Institute (LLI); a minority college student participating in the Summer Work Experience in Law program (SWEL) who is considering attending law school; a law student from Dayton’s Minority Clerkship Program; and law students from across the country (as well as one international student). I met with these students; took them to lunch or for coffee when time permitted; encouraged them to watch hearings and trials both in our federal and in the state court across the street; when counsel agreed, permitted them to sit in on mediations; and





In Scranton, Pennsylvania, U.S. Magistrate Judge Karoline Mehalchick meets with local high school students—as part of a civics ‘court camp’—to explain the workings of Federal Court. This half-day event, entitled an “Introduction to Federal Court and Federal Agencies,” proved very successful and is now being replicated in other seats of court in the Middle District of Pennsylvania as well as throughout the country.

For its inaugural community outreach project, the Middle District of Pennsylvania Chapter hosted “An Introduction to Federal Courts and Federal Agencies” program at two of the district’s court-houses with students from local schools. The half-day programs emphasized the public nature of our federal buildings and introduced students and teachers to the variety of work that takes place inside

talked to them, once court recessed, so they understood what they saw and why I ruled the way I did.

Was this time consuming? Yes, of course. Would my life have been less hectic had I not had this many externs? Again, yes, of course. But I did so because it is so very important for all of us in the federal legal community to motivate those who will follow to attend college and go to law school, to be proud of being a lawyer, to be an ethical counselor and adviser to clients, to see how hard lawyers and judges work every day to “get it right the first time,” and to inspire a passion for justice and due process.

I was touched by the thank-you notes I received from these externs who had comments such as:

- I particularly admire your work ethic, compassion, and sincere interest in helping others—these traits are inspiring.
- Your passion for the law and helping others is contagious. Your willingness to give back and mentor aspiring lawyers is something I hope to do in the future.
- I’ve learned so many things this summer, but the biggest take-away is to never sell myself short. I’m leaving this experience more confident and sure of myself and my future.
- I find it awe inspiring how much you care about people. I will never forget what I learned here.

I encourage every FBA member this year to take the time to work with and mentor one person who might follow in your footsteps. It may sound trite, but it is not: You will get back far more than you give of your time. I likewise encourage every federal judge to mentor and to participate in the FBA’s national civics initiative.

**Community Service:  
The Middle District of Pennsylvania Chapter**

Each month in the President’s Message, we will highlight chapters that have participated in the FBA’s community outreach efforts. These community outreach efforts will occur every April going forward, but we encourage chapters to do similar events throughout the year. This month, we highlight the Middle District of Pennsylvania chapter, which writes:

the buildings’ walls. This introduction went beyond simply meeting with judges and visiting courtrooms; it included presentations from lawyers, federal agents, probation officers, administrators, and others who perform myriad functions in our system of law and criminal justice. Rather than holding a single event, the chapter elected to hold multiple programs in an effort to connect with students residing in communities that are situated throughout the Middle District of Pennsylvania. The chapter will hold a similar program in Harrisburg later in 2016.

The first program was presented in April 2016 at the William J. Nealon Federal Building and U.S. Courthouse with a group of 12th grade students from Scranton High School who are studying law and civics. The chapter later put on a similar event at the Herman T. Schneckel Federal Building and U.S. Courthouse, this time with ninth grade students from the Williamsport Area High School enrolled in a “career pathways” class and who had expressed a specific interest in learning about law enforcement and criminal justice work.

During their visit to the William J. Nealon Federal Building and U.S. Courthouse, the Scranton students were welcomed by District Judge Malachy E. Mannion and Magistrate Judge Karoline Mehalchick, who discussed the role of the court and described for the students the kinds of cases that are heard in federal court. Both judges also discussed their backgrounds prior to being appointed to the bench. Assistant U.S. Attorney Bill Houser walked the students through a criminal investigation, using visual aids and examples such as search warrants, wiretaps, and other investigative tools. He further discussed grand jury practice, charging documents, and trial. Houser was joined by Assistant Federal Public Defender Leo Latella who presented the defense case and explained defense strategy both before and after defendants are charged, as well as the important role defense counsel plays during the sentencing process. Next, Mark Campetti, a probation officer specializing in sentencing issues, took the students through a mock presentence report

during which the students helped to calculate guideline ranges and possible sentencing recommendations. Sean Quinn, the agent-in-charge of the FBI's Scranton office, explained the process of applying for and obtaining work in the bureau and other federal law enforcement agencies. The Scranton program closed with a presentation by the court's jury clerk, Cindy St. Pierre, who discussed the kinds of administrative and para-professional careers available within the federal court system, and offered stories and lessons drawn from her nearly three decades with the court.

The chapter's Williamsport program took place in the courtroom of Magistrate Judge William I. Arbuckle III. Judge Arbuckle spoke to the students about his career as a lawyer in state government and private practice and his eventual appointment as a magistrate judge. The students were invited to observe two arraignments in front of Judge Arbuckle, after which the judge, Assistant U.S. Attorney Geoffrey MacArthur, and defense counsel Kyle Rude explained the nature of the proceedings and the issues involved. Middle District Chapter President E.J. Rymysza and Assistant Federal Public Defender Toni Byrd presented a multimedia overview of federal criminal defense work and the constitutional right to counsel. Kevin Hogan, a probation officer discussed the variety of services performed by probation officers at all states of criminal practice. To offer the students additional information about law enforcement work, two court security officers spoke about their careers as local and state police officers. Lori Fosnaught, a court reporter, described her work for the students and discussed the training necessary to become certified in the field. The program concluded with a presentation by Bill Pugh, a deputy U.S. marshal, who also led a behind-the-scenes tour of the federal building and the marshal's facilities.

Based on the feedback received from the students, teachers, and presenters, these programs were a resounding success for the chapter, and plans are being made to make these programs annual events with local schools. In addition to the two programs summarized above, the chapter has helped to put on similar programs with younger elementary school students and is looking for further opportunities for community engagement. The chapter expresses its appreciation and gratitude to the judges of the Middle District of Pennsylvania for their support and involvement in the programming and to the presenters who went to considerable effort to develop engaging and educational presentations for the visiting students.

### Civics

Finally, I am proud to report that our national civics and Solace efforts are well underway.

Our national civics effort, undertaken in conjunction with the Administrative Office of the U.S. Courts (AO), is up and running and doing quite well. The FBA encourages federal judges to meet with middle and high school students—in their courtrooms and also in schools—to talk to students about the importance of the Third Branch. If judges have more time, we also encourage them to participate with students in one of the “You Be the Judge” scenarios found on the FBA's website. These civics materials—all designed for

judges—were provided to the FBA by the AO and were created in the hope that, if a judge has a half-hour or more, that judge will take advantage of the multiple ways to interact with and teach students about the federal courts. I again thank Director Jim Duff, National Outreach Officer Rebecca Fanning, and all the other AO attorneys and staff members who made this nationwide civics undertaking possible.

If you are a chapter president, please take a moment to review the “Civics” page on the FBA's website ([www.fedbar.org/civics](http://www.fedbar.org/civics)), then meet with your local federal judges to see which civics effort makes the most sense in your particular seat of court. We encourage all judges to participate in this national civics program and also ask chapters to write about your civics successes. Please send your summaries and photos to Stacy King ([sking@fedbar.org](mailto:sking@fedbar.org)). We plan to highlight these civics initiatives in future pages of *The Federal Lawyer*, on the FBA's website, and in the FBA electronic newsletter.

### Solace

I am also pleased to report that Solace is doing well. Solace is a program by which those in the legal community—whether lawyers, judges, paralegals, legal assistants, or their families—are provided with assistance when they face dire medical or other needs. The following chapters are now participating in Solace: Dallas, Dayton, District of Columbia, Massachusetts, New Mexico, Orlando, Phoenix, San Diego, South Carolina, and Tampa Bay. If you would like to participate, please contact Steve Justice ([justice@dunganattorney.com](mailto:justice@dunganattorney.com)), who is leading this worthwhile and very important national effort.

To all FBA members, thanks for all you do. We are making a difference. It is my honor to serve this year as your president. ☺

Sincerely,  
Judge Michael Newman



### Endnotes

<sup>1</sup>See Hon. Terrence O'Donnell, *Federal Court Practitioners Serve as Mentors to Newly Admitted Attorneys: The Supreme Court of Ohio's Lawyer to Lawyer Mentoring Program*, *FED. LAWYER* (Aug. 2010).

### Editorial Policy

*The Federal Lawyer* is the magazine of the Federal Bar Association. It serves the needs of the association and its members, as well as those of the legal profession as a whole and the public.

*The Federal Lawyer* is edited by members of its Editorial Board, who are all members of the Federal Bar Association. Editorial and publication decisions are based on the board's judgment.

The views expressed in *The Federal Lawyer* are those of the authors and do not necessarily reflect the views of the association or of the Editorial Board. Articles and letters to the editor in response are welcome.

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

by Hon. Michael J. Newman



*Hon. Michael J. Newman is FBA president and the first U.S. magistrate judge to hold this role. Judge Newman can be reached at Michael\_Newman@ohsd.uscourts.gov.*

## The Importance of Diversity and Inclusion

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

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

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

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

## National Community Outreach Project and Civics

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

### Orlando Chapter

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



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

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

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

#### Palm Beach Chapter

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

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

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

#### Tampa Bay Chapter

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

---

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

#### Updated Magistrate Judge White Paper

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

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

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

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



## Renewing our Commitment to Professionalism

For the past several years, I have had the honor of administering an oath to the first-year entering class at the University of Dayton School of Law, a Catholic/Marianist law school in Dayton, Ohio. These oaths are administered twice a year—in the spring, when the two-year accelerated class begins its studies; and in the fall, when the three-year class begins. These oaths, called the “Oath of Professionalism,” are written by the students themselves—in small groups, and at the conclusion of their orientation week—and are selected by the dean. Of the five to 10 oaths the students prepare, one oath is chosen that best exemplifies the importance of professionalism and the important lesson that professionalism begins on the first day of law school, not years later when students sit for the bar exam. I was so impressed with this fall’s oath<sup>2</sup>—which I administered to the entering class of 1Ls—that I sought permission to reprint it here:

I am a future lawyer.

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

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

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

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

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

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

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

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

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

I am a future lawyer.

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

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

## Civics and SOLACE Update

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

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

National Civics Coordinator for all civics efforts involving judges, Joan Brady: joan\_p\_brady@ohsd.uscourts.gov

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

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

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

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

## Endnotes

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

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

### Editorial Policy

*The Federal Lawyer* is the magazine of the Federal Bar Association. It serves the needs of the association and its members, as well as those of the legal profession as a whole and the public.

*The Federal Lawyer* is edited by members of its Editorial Board, who are all members of the Federal Bar Association. Editorial and publication decisions are based on the board’s judgment.

The views expressed in *The Federal Lawyer* are those of the authors and do not necessarily reflect the views of the association or of the Editorial Board. Articles and letters to the editor in response are welcome.

# Military Veterans, Judicial Learning Centers, Civics and SOLACE, and April's National Community Outreach Project

by Hon. Michael J. Newman



*Hon. Michael J. Newman is FBA president and the first U.S. magistrate judge to hold this role. Judge Newman can be reached at Michael\_Newman@ohsd.uscourts.gov.*

## The FBA's Efforts to Assist Our Military Veterans

This special issue of *TFL* celebrates veterans—and rightfully so. The FBA, through its Veterans & Military Law Section and via its membership as a whole, is very supportive of our military veterans. The first Federal Veterans Court in the United States—affording needed medical and psychological treatment to veterans in lieu of criminal prosecution—was started in Salt Lake City by an FBA member, Judge Paul Warner. Judge Warner traveled the country advocating for additional Federal Veterans Courts, and I am proud to say that I now preside over a Federal Veterans Court in the Southern District of Ohio—the first such federal effort in the Southern District and, I understand, in the state of Ohio as well.

Presiding over this treatment court and ensuring that veterans receive needed medical treatment—along with a safe place to live—is one of the most rewarding things I do as a federal judge. I am dispensing justice and helping our military veterans, each of whom has given so much for our country.

In Dayton, we have also started a lawyer referral program for active duty military personnel stationed at nearby Wright Patterson Air Force Base, thus affording those in the military an opportunity to meet with counsel on a reduced-fee basis.

The FBA is taking the lead nationally on a number of access-to-justice initiatives for veterans. I am proud to announce that this coming November, on Veterans Day 2017, the FBA plans to hold a nationwide Wills for Veterans Day whereby FBA members around the country will write wills on a *pro bono* basis and at no cost to any veteran. If your chapter would like to participate in this national day of service, please con-



Following a recent Federal Veterans Court graduation ceremony at the Dayton Federal Courthouse, the graduating veterans (in center) stand with (l to r) Judge Michael J. Newman, Pretrial Services Officer Patrick Kennedy, Veterans Justice Outreach Coordinator Page Layman, Assistant Federal Public Defender Tom Anderson, and Assistant U.S. Attorney Dominick Gerace.

tact the FBA's executive director, Stacy King ([sking@fedbar.org](mailto:sking@fedbar.org)). We encourage all chapters to assist in this very worthwhile and most important effort.

The FBA is also looking into several other access-to-justice issues involving veterans, including the difficulty many veterans have in finding counsel and applying for disability benefits; the difficulty veterans face when trying to amend their discharge status (so a veteran can qualify for treatment at a Veterans Affairs facility); and the need for a website or other “collection point” to list all of the many local resources available to veterans on an individual basis. To that end, I have formed a Veterans Assistance Task Force, and we are working to tackle these most important concerns. I take this opportunity to thank the members of the task force: Kermit Lowery; Judge Peter Silvain; Jim Richardson; Bob DeSousa; Bridget Findley; Scott Kane; Scott McIntyre; Alise Pilson; and Upendra Patel.



Hon. Michael J. Newman, Assistant U.S. Attorney Tom Albus, and Assistant Federal Public Defender Brocca Morrison with students from Sigel Elementary School in the Thomas F. Eagleton Federal Courthouse in St. Louis prior to the start of the mock trial civics program in which the students served as prosecutors, defense counsel, and jury members.

I will keep the FBA membership posted as we make progress on these most worthwhile access-to-justice efforts to assist the veterans community.

### Idaho & Judicial Learning Centers

I recently returned from FBA trips to Idaho and St. Louis.

The 12th Annual Tri-State Seminar—run by FBA chapters in Idaho, Utah, and Wyoming—was very successful, and I am honored to have been asked to speak at the conference. The conference rotates annually among locations in the three states and, this year, was held in Sun Valley, Idaho. Federal judges and practitioners from all three states participated and heard presentations on a wide range of topics including, among others, proportionality and the new Federal Rules of Civil Procedure discovery protocols; effective and ethical trial behavior; and a review of recent Federal Land Management conflicts in the West. The three-day conference ended on Saturday morning with a judges' panel discussion moderated by Idaho Chapter President Walt Sinclair. Susie Headlee, executive director of the Idaho Chapter, did an excellent job running the conference.

In St. Louis, I had the pleasure of touring the Judicial Learning Center located in the Thomas F. Eagleton Federal Courthouse. It is an impressive facility—a “civics museum for children,” if you will—that draws more than 4,000 St. Louis schoolchildren each year. The students tour the Judicial Learning Center; meet with federal judges and court personnel; talk about the importance of further education; learn about becoming a lawyer or judge; and study basic civics concepts including the role of the courts in resolving disputes, the difference between civil and criminal cases, and the importance of jury service. The students also learn about the Bill of Rights and review landmark cases interpreting the Constitution.

As of the time of this writing, there are three such Judicial Learning Centers in U.S. courthouses—in St. Louis, Sacramento, and Oklahoma City. Judicial Learning Centers are in the planning stages at federal courthouses in Manhattan and Cincinnati, among other sites.

I was very impressed by what I saw in St. Louis. A great deal of credit goes to Chief Judge Rodney Sippel, who is a civics advocate and who serves as chair of the Judicial Conference's Committee on the Judicial Branch, which is charged with civics education in the federal courts. Credit also goes to Rachel Marshall, the public education and community outreach director of the St. Louis Judicial Learning Center. Prior to touring the Judicial Learning Center, Chief Judge Sippel and I spoke to a large group of elementary school students from the Sigel Elementary School in downtown St. Louis. We talked about the important role that lawyers, judges, and the federal courts play in our society, and we encouraged the students to stay in school and further their education. That afternoon, I had the honor of presiding over a mock criminal trial—concerning littering—held in one of the St. Louis federal courtrooms. A Sigel Elementary

student (with the aid of Tom Albus, assistant U.S. attorney and St. Louis chapter president) served as the prosecutor, and another Sigel Elementary student (with the aid of Brocca Morrison, assistant federal public defender and St. Louis chapter member) served as defense counsel. At issue was whether the defendant (played by a Sigel Elementary student) was guilty of littering in the first degree. Other students played witnesses and, following cross examination and jury instructions, the remaining 25 or so students deliberated the case and then explained to the packed courtroom the basis of their verdict.

This experience was very meaningful to me and, I believe, quite instructive to the Sigel Elementary students. I thank Chief Judge Sippel, Rachel, Tom, Brocca, and the St. Louis Chapter for inviting me to participate and judge this mock trial. I applaud the St. Louis Chapter and all of the many other FBA chapters around the country who are meeting with students, talking about the Third Branch of government, and helping the FBA and Administrative Office of the U.S. Courts (AO) to make the federal courts—and our system of justice—better understood by young people.

### Civics & SOLACE

The FBA's national civics initiative and SOLACE program are both doing quite well, and I thank the many FBA members around the country who are helping to make our Civics & Service to Others initiative so successful. I take this opportunity to personally thank the many federal judges, all of whom are very busy judicial officers, who have volunteered their time to meet with students—in classrooms and in courtrooms—to teach about the Third Branch of government. Judges, I thank you.

By the time this issue of the magazine goes to print, the FBA will have selected the winners for our middle and high school national civics essay contests. The FBA takes this opportunity to thank not only all of the students across the country who entered the essay contests, but also all of the judges who selected the winners. The selection committee included, among many others, U.S. District Judge Thomas Rose from the Southern District of Ohio; U.S. District Judge (and former national FBA president) Gustavo Gelpi from the District of Puerto Rico; and Maricopa County, Ariz., Superior Court Judge (and Circuit Vice President chair) Alison Bachus. A special thanks goes to Maria Vathis, chair of both the essay contests and the FBA's national civics teacher recognition program. Thank you, Maria. Thanks goes, as well, to Joan Brady, the FBA's national civics coordinator, who coordinates all of the judges and other civics volunteers throughout the country. Thank you, Joan.

If your chapter has not appointed a civics liaison, please reach out to Joan ([joan\\_p\\_brady@ohsd.uscourts.gov](mailto:joan_p_brady@ohsd.uscourts.gov)) and she will help you to do so. Likewise, if you have any SOLACE questions or need help appointing a SOLACE liaison for your chapter, please contact Steve

Justice (justice@dunganattorney.com). Steve is doing a great job running the national SOLACE program, and I thank him.

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

### National Community Outreach Project

Each month in the President's Message, we focus on chapters throughout the country who participate in the April FBA National Community Outreach Project and year-round national civics program. This month, we hear from two chapters: New Orleans and Chicago. Their reports follow.

#### New Orleans Chapter

The Younger Lawyers Division of the New Orleans Chapter undertook an ambitious partnership with the Crescent Leadership Academy. Crescent Leadership Academy is a public charter high school in New Orleans that offers an alternative education to its students. For many of the city's youth, Crescent Leadership Academy is the last hope for a high school diploma. The Younger Lawyers Division-Crescent Leadership Academy partnership was borne out of younger lawyers' desire to build relationships with the school's students and to share with them, for use in their own lives and communities, the kinds of conflict resolution skills that lawyers use every day.

This semester-long program began in January 2016 with members of the Younger Lawyers Division hosting a series of workshops at the school, during which time students took a crash course on being a lawyer, followed by a mock bar exam. Students were assigned a real legal case involving the First Amendment rights of students and were tasked with crafting their own closing arguments. Communication is an essential part of conflict resolution, yet many students struggled to articulate their ideas. To assist the students, two young assistant U.S. attorneys volunteered as "speaking coaches," demonstrating how to make an oral argument and offering basic advice on presentation. The workshops culminated in a day-long field trip to the federal courthouse during which students had the unique opportunity to meet privately with U.S. Attorney Kenneth Polite and his staff, representatives from the Federal Defender's office, Deputy Chief Probation Officer Lawrence Martin, and U.S. Magistrate Judge Karen Roby. Students also observed real lawyers represent real clients in motion hearings.

In addition, students separately met Calvin Duncan, a former inmate of the Angola Louisiana State Prison and project director for the Light of Justice Project. Duncan shared with students his experiences as an inmate and as an exoneree. His story served as a preface to a field trip to the Angola prison. At Angola, students met with inmate trustees, toured the facility, and discussed weighty issues including sentencing reform and the death penalty.

The Younger Lawyers Division-Crescent Leadership Academy partnership is ongoing, and its participants look forward to building on their programming in the coming school year. The meaningful relationships that were formed have the potential to grow into great things.



(l to r) Chief Judge Ruben Castillo, Judge Manish Shah, and Judge Jacqueline Cox meet with the students from Legal Prep High in the Ceremonial Courtroom in the Chicago Federal Courthouse.

Indeed, one of the program's very own "speaking coaches" will be the Crescent Leadership Academy's graduation speaker this May.

#### Chicago Chapter

Twenty-five students and their chaperones from Legal Prep Charter Academy on Chicago's west side joined FBA members at the Chicago Federal Courthouse for the fifth annual William J. Hibbler Schoolhouse to Courthouse Program, named after one of the Chicago judges who was a key motivator in starting this program just weeks before he passed away.

Over continental breakfast, the students asked questions about being a lawyer and were particularly interested in how we "choose a side." Marshals from the U.S. Marshals Service then showed the students how they operate and explained what they do. Thereafter, the students watched courtroom proceedings before Judge Matthew Kennelly, president of the Chicago FBA Chapter, where they learned that "real life" federal court proceedings are very different from those dramatized on television.

Next, the students moved on to the ceremonial courtroom where they met with Chief Judge Ruben Castillo, Judge Rebecca Pallmeyer, Judge Manish Shah, Judge Jorge Alonzo, and Judge Jacqueline Cox. The students learned an important lesson—that judges come from all walks of life.

Thereafter, the students convened in the formal dining room of the Chicago Bar Association Building, where they ate lunch and heard from Judge Arlander Keys (retired), who told them about growing up in Mississippi during the Jim Crow era and stressed to the students the importance of education.

#### Conclusion

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

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



# Indian Law, Success of the FBA's National Civics Initiative, and Hawaii

by Hon. Michael J. Newman



*Hon. Michael J. Newman is FBA president and the first U.S. magistrate judge to hold this role. Judge Newman can be reached at Michael\_Newman@ohsd.uscourts.gov.*

This month's issue of *The Federal Lawyer* celebrates Indian Law and coincides with our annual Indian Law Conference—held this April at the Talking Stick Resort in Scottsdale, Ariz. The FBA is rightfully proud of the fact that our annual Indian Law Conference is the most well-attended Indian Law seminar in the United States, and has been so for many years.

I applaud the hard work and dedication of all of our members of the Indian Law Section and Section Chair Tracy Toulou, who serves as director of the Office of Tribal Justice at the U.S. Department of Justice. I also take this opportunity to personally thank the many hundreds of attorneys and Indian Law specialists who are attending this year's conference.

## Civics Success

At my swearing-in ceremony on Constitution Day and Citizenship Day last September, I pledged to focus my time and energy—and the talents of our association and staff—to support (1) a national civics initiative, (2) the SOLACE program, and (3) efforts designed to assist all in the legal community by mentoring, engaging in *pro bono* work, helping to increase access to justice, and assisting veterans with legal concerns. We have called this effort “Civics and Service to Others”. I am focusing, in this month's President's Message, on the first of these undertakings: the FBA's national civics initiative done in conjunction with the Administrative Office of the U.S. Courts (AO).

The national civics initiative has several components:

- First, an effort to encourage federal judges all over the United States to meet with local elementary school, middle school, and high school students—in classrooms and in courtrooms—to teach students about the Third Branch of government, civil and



Civics in Ohio: Judge Michael J. Newman (far right) and his career law clerk, Mike Rhinehart, with teachers from Five Points Elementary School in Springboro, Ohio, following their presentation last fall to the third-grade classes at the school. The Southern District of Ohio, where Judge Newman sits, has reached out to a large number of school superintendents, principals, and social studies teachers as part of the FBA's national civics initiative. In 2017, more than 1,000 students—from elementary, middle, and high schools—are expected to meet with the Southern District's Federal Judges in just the Dayton seat of court alone. More information can be found at [www.fedbar.org/civics](http://www.fedbar.org/civics).

criminal cases, and what judges do every day. Judges are also being asked to engage in mock hearings, mock oral arguments, and mock trials with the students. To make this undertaking easier for federal judges, the FBA put materials (graciously loaned to us by the AO) on the civics page of the FBA's website ([www.fedbar.org/civics](http://www.fedbar.org/civics)). The materials are organized by how much time a judge has available to spend with students (from as little as 15 minutes to as long as three hours), so it is easy for judges to host programs that students will relate to and that carefully simulate how the federal courts work;

- Second, the FBA is conducting an Inaugural Civics Essay Contest—with one set of awards for middle school students, and another set of awards for high school students—and asking the students to address in their essays, “What Does an Impartial Judicial System Mean to Me?”; and



At the national social studies conference in Washington, D.C., FBA meetings manager Melissa Schettler (left) and Eighth U.S. Circuit Court of Appeals Education Specialist Rachel Marshall (right) talked with teachers about the FBA's civics teacher recognition program and student essay contest. More than 4,000 social studies teachers from across the country learned about these new FBA national civics initiatives.

- Third, the FBA is recognizing and honoring civics teachers across the country for their great work every day in schools.

### Civics Liaisons

To help implement the national civics initiative, I appointed Joan Brady, former president of the Cincinnati/Northern Kentucky chapter, to be in charge of what we are calling “civics liaisons.” Civics liaisons are FBA members, who have an interest in civics and, who agree to be the liaison between local federal judges and local schools. (In some chapters, federal judges themselves have volunteered to be the civics liaison.) The civics liaisons work with the judges to schedule events in schools and to schedule school visits to the federal courthouse. Joan has done a superb job and deserves our praise. More than 70 civics liaisons have been appointed due to her hard work.

All across the country, as a direct result of the FBA's civics initiative, federal judges are now meeting with numerous elementary school, middle school, and high school students, in classrooms and in courtrooms. All told, this national initiative will result in literally thousands of school children meeting a federal judge for the first time and visiting a federal courtroom for the first time. Judges are talking to students about a number of wide-ranging, law-related topics including, among many others, the importance of jury service; landmark cases that every citizen should know; the structure of the trial, appellate and supreme courts; federalism, and how the state and federal courts operate; the different phases of civil practice (including discovery, motions practice, and oral argument); what judges do every day; how cases are decided; how trials work; and how the mediation process operates. Judges, when asked, are also talking to students about career-related topics including what it takes to become a lawyer or judge; the importance of continuing in school and getting a further education; and different career options for those who seek to work in the federal courts, such as judges, law clerks, probation officers, pre-trial services officers, law enforcement officers, or other roles.

In the Southern District of Ohio, for example, where I sit, the judges in the Dayton seat of court wrote a letter to every school superintendent and principal in the eight Ohio counties we serve. The letter was signed by all five federal judges in our courthouse. (A copy of the letter can found at [www.fedbar.org/civics](http://www.fedbar.org/civics) under the link, “Sample Letter from Judges to Schools.”) We received, in very short order, a large number of positive responses, asking us to visit local schools to meet with students and, also, for them to come to our federal courthouse to meet with us in a courtroom. To date, we have visited multiple schools and held numerous mock criminal oral arguments in the federal courthouse—with students acting as counsel for the prosecution and counsel for the defense.

All told, in 2017, more than 1,000 students will meet and interact with a federal judge in just the Dayton seat of court on account of the FBA's civics initiative, a fact of which I am quite proud. Multiple other district courts throughout the country have likewise had similar success.

I thank all of the federal judges in the United States who have kindly given their time to this important effort. I also thank the civics liaisons—all of whom are busy lawyers and judges—who have volunteered their time to make this national civics initiative such a great success.

### Essay Contest and Civics Teacher Recognition Program

I appointed FBA Treasurer Maria Vathis to supervise both the Inaugural Civics Essay Contest and the civics teacher recognition program. Like Joan, Maria has done a wonderful job, and I thank her. We received a very large number of essays and teacher nominations, and the selection committee, under Maria's leadership, has taken its job very seriously. The winners were announced at the Mid Year Meeting in March. (In a subsequent issue of *The Federal Lawyer*, we will list all of the civics teachers honored and excerpt portions of the winning essays.) I thank not only those winners, but all of the students across the country who took the time to write civics essays. I also thank all of the civics teachers and social studies teachers who work hard every day to teach students about the important role of the federal courts. These teachers deserve our praise, and I salute them.

### Additional Civics Efforts

In addition to the civics efforts described above, the FBA has engaged this year in the following activities to promote civics throughout the United States:

**Adding a Civics Tab to the FBA's Website:** We created a civics education tab on the FBA's website ([www.fedbar.org/civics](http://www.fedbar.org/civics)) where we collected (1) materials for federal judges to use when meeting with students; (2) handouts and other documents on federal court basics for teachers to download and copy (the “Civics Toolbox”); (3) information about Court Camps; (4) information on Law Day (May 1) and Law Month (May 2017); and (5) information on Constitution Day and Citizenship Day (Sept. 18).

**Attending the National Social Studies Teachers Conference:** In December 2016, the FBA attended the largest annual gathering of middle school and high school social studies and civics teachers in the United States. More than 4,000 teachers at the National Council for the Social Studies conference in Washington, D.C., were exposed to our civics programs and civics resources when the AO and FBA met together with the large group of assembled teachers.

**Celebrating Constitution Day and Citizenship Day:** We celebrated Constitution Day and Citizenship Day 2016 by teaming with the AO to have federal judges perform naturalizations in national parks, from Ellis Island to Yosemite. (A great seven-minute video produced by the AO, entitled Constitution and Citizenship Day Across the Nation 2016, can be found here: <https://www.youtube.com/watch?v=2HITLmSFxz4>.) The FBA is doing so again this year. In 2017, Constitution Day and Citizenship Day will be celebrated by having federal judges perform naturalization ceremonies in schools. The FBA and AO, working together, are giving FBA chapters the opportunity to identify schools that want to host naturalization ceremonies presided over by federal judges during the week of Sept. 18. More information can be found in the “Constitution Day and Citizenship Day” box on the FBA’s civics education page, [www.fedbar.org/civics](http://www.fedbar.org/civics).

**Promoting Teachers Institutes:** We are promoting civics training for school teachers—seminars known as “Teachers Institutes” held around the country, typically during the summer. In many locations, these Teachers Institutes—sponsored by or otherwise connected with the FBA—involve federal judges, who instruct civics and social studies teachers on federal courts and how they work. Currently, Teachers Institutes are held in a number of locales including, among others, Seattle; Missoula, Mont.; St. Louis; New York City; and Washington, D.C. A novel approach, supported by the FBA, is occurring in Boise, Idaho, with Judge Candy Dale where the U.S. District Court, the Idaho Supreme Court, and the University of Idaho School of Law are working together to offer a Teachers Institute.

**Celebrating the Bill of Rights Anniversary on Dec. 15:** We worked with the AO to celebrate the Dec. 15 anniversary when the Bill of Rights was ratified. The AO produced a video, which we posed on the FBA’s website, and we encouraged local chapters and federal judges to discuss the importance of the Bill of Rights in their meetings with students.

**Sponsoring Court Camps:** We are promoting and sponsoring civics-based Court Camps this summer. These camps can be as short as half a day and as long as a week. Federal judges and FBA members teach high school students about civics and the federal courts; the students also learn leadership skills; and the camps often end with the students making an oral argument before a federal judge. FBA member and civics liaison U.S. District Court Judge Joseph Bianco, of the Eastern District of New York, pioneered the first court-sponsored, multi-day camp in the United States last summer and brought into the program as a partner a local law school, the Touro Law Center. Other court camps include the five-day program at the University of California, Irvine School of Law, under the leadership of Dean Erwin Chemerinsky, who has opened the doors to a future partnership between the FBA and the America Association of Law Schools. The leadership of FBA member Rob Clark from Salt Lake City (who graciously serves this year, on a *pro bono* basis, as the FBA’s outside counsel) has led to the establishment of a first-ever residential court camp. This five-day camp, with the assistance of the FBA, will be launched this summer at Brigham Young University’s J. Reuben Clark Law School.

I take this opportunity to thank Rebecca Fanning, the AO’s national outreach manager, for her dedication to civics and her willingness to work so hard this year in helping to successfully launch the FBA/AO national civics initiative. Thank you, Rebecca.



At the Eighth Annual FBA Hawaii Conference (left to right) are former National President Judge Gustavo Gelpi; general counsel Matt Moschella; National President Judge Michael Newman; Immediate Past-President Mark Vincent; and Judge Paul Warner from the District of Utah.

## Hawaii

As I write this, I have just returned from Hawaii, where I had the opportunity to speak—on amendments to the Federal Rules of Civil Procedure (along with co-panelists Hon. Gustavo Gelpi, a U.S. District Judge and former FBA national president, and Matt Moschella, the FBA’s general counsel)—at the Eighth Annual FBA Hawaii Conference. The conference was a great success due, in large part, to the talents of its organizer Howard McPherson, who did a wonderful job.

The conference included nationally known speakers such as dean Chemerinsky and the judge Jeffrey Sutton from the Sixth Circuit Court of Appeals. I take this opportunity to thank both Dean Chemerinsky and Judge Sutton. The Dean and the Judge have volunteered many times, over the years, to the FBA and both have given much of their time to the association. This past fall, for example, the dean spoke at the FBA Cleveland Convention, as a personal favor to me, despite having to go quickly back to California after his remarks. Judge Sutton, likewise, spoke in Cleveland before having to fly out west to attend a rules committee meeting. The FBA is very fortunate to have scholars and judges who are bright, talented, and committed to the continuing success of our association. Thank you, Dean, and thank you, Judge.

## Conclusion

I take this opportunity to again thank each of the 19,000-plus members of the FBA for all you do each day to help others. Our membership ranks, both professional and law student, are growing on a daily basis. I am also honored to report that our Civics and Service to Others initiative is proving to be quite successful: we are helping to educate students all over the United States via our civics work, as well as helping those in need via the SOLACE program.

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



# Immigration Law; Court Camps and Teachers Institutes; Continuing Civics Success; and My Good Friend, Richard Dellinger

by Hon. Michael J. Newman



*Hon. Michael J. Newman is FBA president and the first U.S. magistrate judge to hold this role. Judge Newman can be reached at Michael\_Newman@ohsd.uscourts.gov.*

## Immigration Law

This month's issue of *The Federal Lawyer* celebrates immigration law. The FBA is rightfully proud of its long-standing Immigration Law Section, which holds its annual conference this May in Denver. If you practice immigration law, serve as an immigration judge or on the Executive Office of Immigration Review, or are otherwise involved in this important and thriving area of the law, I encourage you to become active in the section.

I applaud the Immigration Law Section for your hard work, successful annual conference, and large section membership. I also thank Immigration Judge Lawrence Burman for your service as section chair, and Immigration Judge Robin Feder for your service on the FBA board of directors. The FBA is grateful to you both, and to all others in the Immigration Law Section.

## Court Camps, Civics in the Second Circuit, and Teachers Institutes

In last month's President's Message, I discussed the many ways the FBA and federal courts, working together, are increasing knowledge about the Third Branch of government via our national civics initiative known as Civics & Service to Others. I am very proud of the fact that the FBA board of directors has seen fit to create a permanent, standing committee for this effort (the Community Service and Outreach Committee), so that this important work will continue with the same commitment and strength for many years to come—and long after my tenure as FBA president has concluded.

I have thanked them before, but I again mention Rebecca Fanning and Jim Duff, the national outreach manager and director of the Administrative Office of



Judge Michael J. Newman, Judge Joseph Bianco, and Dina Miller at the Central Islip Courthouse in the Eastern District of New York. Judge Bianco and Dina Miller initiated the first court-sponsored, week-long civics Court Camp in a U.S. federal court this past summer. A joint initiative between the Federal Bar Association and the "Justice for All" civics initiative in the Second Circuit Court of Appeals, it was co-chaired by Second Circuit Chief Judge Robert A. Katzmann and U.S. District Judge Victor Marrero from the Southern District of New York.

the United States Courts (AO), respectively, whose commitment and vision made this significant effort possible. Thank you, Rebecca and Jim. I also thank our executive director, Stacy King, for her passion and zeal to make all of the FBA's civics and community outreach efforts succeed throughout the country.

This year, we are promoting civics in a wide variety of ways that tie in with the federal judiciary's long-standing commitment to educational outreach:

- By encouraging federal judges to meet and interact with middle and high school students, in classrooms and in courtrooms;
- By putting materials (graciously loaned to us by the AO) on the civics page of the FBA's website ([www.fedbar.org/civics](http://www.fedbar.org/civics)), so it is easy for federal judges to host programs that students will relate to



Judge Joseph Bianco meets with elementary school students and their teachers for a civics lesson in his chambers.

and that carefully simulate how the federal courts work;

- By asking every FBA chapter to appoint a civics liaison to work with local federal judges and local schools to better facilitate their interaction;
- By continuing our National Community Outreach Project efforts every April, pursuant to which many FBA chapters are devoting that month to one or more civics-related efforts (in addition to their other year-round civics engagement);
- By hosting the FBA's inaugural Civics Essay Contest—with one set of awards for middle school students, and another set of awards for high school students—that asked the students to address in their essays, “What Does an Impartial Judicial System Mean to Me?”;
- By recognizing and honoring civics teachers across the country for their great work every day; and
- By promoting to all FBA members the many well-established—as well as new and novel—civics efforts and court outreach programs now underway across the country.

Last month, in these pages, I mentioned two new, novel means now being utilized to communicate the importance of civics: Court Camps and Teachers Institutes.

### Court Camps

Court Camps provide opportunities for students to learn, in a group setting, about the federal courts and aspects of federal court practice, such as oral advocacy and trial skills; the history of the federal courts; the different roles that judges, prosecutors, and defense counsel play in the criminal process; and how civil cases move from complaint filing through discovery to summary judgment and mediation or trial. Sometimes, Court Camps take all or part of a day. A newer movement—created and spearheaded by Judge Joseph Bianco at the Central Islip Courthouse in the U.S. District Court for the Eastern District of New York—is to run a week-long Court Camp with high school students who have expressed an interest in the law.

In 2016, Judge Bianco and the Eastern District of New York Chapter, under the leadership of Dina Miller, launched the first-ever, week-long Court Camp in a U.S. federal court. In Judge Bianco's summer Court Camp—referred to as the “Justice Institute”—90 middle-school students from 20 different schools on Long Island spent five days at the federal courthouse and at the Touro Law Center across the street from the courthouse. The students learned

about oral argument and the workings of the criminal justice system, then participated in a mock trial competition on Friday, the last day of Court Camp.<sup>1</sup>

This Court Camp proved to be so rewarding for the adults, and so highly reviewed by the students, that it will become an annual event. I salute Judge Bianco and Miller for their leadership in this important arena. Similar efforts are now underway in multiple parts of the country, and the FBA is delighted and honored to be supportive and nurturing of these creative efforts to spread court-related civics information and goodwill.

The Justice Institute is part of “Justice for All: Courts and the Community,” a landmark civics education initiative launched by Second Circuit Court of Appeals Chief Judge Robert A. Katzman and co-chaired by U.S. District Court Judge Victor Marrero from the Southern District of New York. Other Second Circuit initiatives include a website ([justiceforall.ca2.uscourts.gov](http://justiceforall.ca2.uscourts.gov)), courthouse visits, civics education, student contests, reenactments of historic cases, civic ceremonies, a speakers bureau, and adult education. The FBA takes this opportunity to honor and recognize Chief Judge Katzman and Judge Marrero for their long-standing commitment to civics education and their significant leadership in this most important arena. All of us in the FBA are indebted to them and for the path they have shown, so that other courts around the country may follow.

In addition to the Justice Institute on Long Island this coming July, two other significant court camps, planned for this summer, will be at law schools: at Brigham Young University Law School (BYU) and the University of California, Irvine School of Law. I take this opportunity to congratulate FBA Outside Counsel Rob Clark for his initiative in creating the concept of a high school residential court camp on a university campus and his stellar work in starting the Civics, Law, and Leadership Youth Camp at BYU Law School. Likewise, I salute Dean Erwin Chemerinsky, who has championed the U.C. Irvine School of Law program for high school students and who has worked tirelessly for many years, in many capacities, on behalf of the FBA.

### Teachers Institutes

Another civics education effort championed and supported by the FBA is the concept of Teachers Institutes.

This year, the FBA is offering volunteers to assist federal courts with their long-standing tradition of conducting Teachers Institutes. Teachers Institutes are an opportunity for educators, judges, and practitioners to “teach to the teachers” (i.e., to teach social studies and civics teachers how the federal courts work); to explain case law and case holdings to teachers (so they, in turn, can educate their students on the law); and to afford teachers an opportunity to meet federal judges and, in some instances, U.S. Supreme Court justices. The Federal Judicial Center (FJC) has also developed, over many years, a national Summer Institute for Teachers that focuses on federal trials and great debates in U.S. history. Federal courts around the country, and the FJC, continue to refresh and develop their Teachers Institutes. Rebecca Fanning, the national outreach manager at the AO, describes the federal courts' professional development programs for teachers as follows:

Court-sponsored Teachers Institutes have long occupied a unique niche in law-related professional development for high school teachers. They are the only civics training conducted in courthouses with a faculty of judges, lawyers, and other

justice system professionals. Teachers Institutes tend to center on timely topics and a contemporary treatment of court fundamentals using court observations and debriefings; case studies that are ready for immediate classroom use; participatory courtroom simulations with judges and volunteer lawyers; and extensive, often informal, interactions with judges and other legal professionals. Teachers leave with classroom-ready content they can use for years. These resources and fully developed programming are posted on [www.uscourts.gov](http://www.uscourts.gov) under the “Educational Resources” tab.

To further develop the content and grow the numbers of these Teachers Institutes, the AO’s Office of Public Affairs established resources and best practices that will be available online to all federal courts. The resources will support, but not be limited to, the following five pillars of court literacy:

- Rule of Law and the Role of the Federal Courts
- Three Branches of Government and the Separation of Powers
- Judicial Independence and the Appellate Process
- Civil Discourse and Jury Service
- Fundamentals: Federalism and the Two-Court System

Here are just a few examples of different models of Teachers Institutes, all of which present opportunities for local FBA chapters to offer assistance:

- *Boise, Idaho.* The U.S. District Court, the Idaho Supreme Court, and the University of Idaho College of Law collaborated to conduct the 2016 Idaho Teachers Institute. The faculty included 16 federal and state court judges as well as master classroom teachers and journalists. The two-day Institute was a hands-on experience for teachers to discuss and create teaching methods on topics they engaged with during the interactive sessions. Teachers also developed strategies for bringing best practices in civics education to their home school districts with a particular emphasis on the rule of law and the role of courts.
- *Fresno, Calif.* The 2016 Summer Institute in Fresno focused on the landmark Supreme Court case *In re Endo* and its ties to California and the Japanese internment. A former internee was part of a three-hour interactive session with the teachers. Each day included a session on the courtroom roles of the solicitor general, the petitioner’s counsel, and the court. The five-day Institute allowed time every day for teachers to share teaching strategies and to develop curriculum around the case. On the last day, teachers presented their strategies and curriculum materials.
- *Seattle.* The U.S. District Court collaborates every year with the University of Seattle on a three-day Judicial Institute for High School Teachers that qualifies participants for continuing education credits. The faculty of federal judges, attorneys, law enforcement, and other justice system representatives deal with contemporary issues regarding rights and responsibilities. Every other year, the court hosts an annual, three-day iCivics Institute for junior high and middle school teachers.
- *St. Louis.* The annual Summer Teacher Workshops attracts teachers from around the state for a one-day program that is aligned with state and national social studies standards. Activities include observing and debriefing a hearing and meeting with a

## Partial List of 2017 Court-Sponsored Teachers Institutes

Please contact the coordinators to confirm dates.

---

**June 12–19: Fresno, Calif.**—Kari Kelso, Ph.D.  
([kari\\_kelso@CE09.uscourts.gov](mailto:kari_kelso@CE09.uscourts.gov))

---

**June 25–30: Washington, D.C.**—Clara Altman, J.D., Ph.D. ([clara\\_altman@fjc.gov](mailto:clara_altman@fjc.gov))

---

**July 10–12: Seattle**—Lori Landis  
([lori\\_landis@waed.uscourts.gov](mailto:lori_landis@waed.uscourts.gov)) (2017 High School Teachers; 2018 Middle School Teachers)

---

**Mid-July: Central Islip, N.Y.**—Dina Miller, J.D.  
([dina\\_miller@nyed.uscourts.gov](mailto:dina_miller@nyed.uscourts.gov))

---

**July 18-19: St. Louis**—Home School Educator Institute, Rachel Marshall ([rachel\\_e\\_marshall@CA08.uscourts.gov](mailto:rachel_e_marshall@CA08.uscourts.gov))

---

**2nd Week of October: Missoula, Mont.**—Kelsey Hanly  
([kelsey\\_hanly@mtd.uscourts.gov](mailto:kelsey_hanly@mtd.uscourts.gov))

For further information on Teachers Institutes at other federal courthouses, as well as educational outreach programs and resources, contact Rebecca Fanning, national outreach manager for the federal courts, Administrative Office of the U.S. Courts, at [rebecca\\_fanning@ao.uscourts.gov](mailto:rebecca_fanning@ao.uscourts.gov).

federal judge. Lectures and interactive aspects of the program provide models for teaching about judicial independence, differences between state and federal courts, the appellate process, and the Missouri connection in significant Supreme Court cases.

The FBA applauds these Court Camps and Teachers Institutes and reaffirms its commitment, through these and other efforts, to help educate students and teachers about civics, the important role of the federal courts, and the five pillars of court literacy.

### National Community Outreach Project and Civics

The FBA’s National Community Outreach Project, operated every April by chapters across the country, has yielded great successes. Each month in these pages, I have highlighted one or more chapters for their excellent community outreach work and civic engagement. This month, we focus on the Phoenix Chapter and the Central District of Illinois Chapter.

#### Phoenix Chapter

The Phoenix Chapter writes:

Our project dealt with the commemoration of the anniversary

of the seminal case, *Miranda v. Arizona*, which arose out of a criminal investigation in Phoenix. The Phoenix Chapter partnered with the U.S. District Court, which sponsored essay and video contests for high school students.

The kickoff event, held in March, was entitled “The Inside Story of the Landmark Case.” For the event, high school students from around Phoenix were transported to the federal courthouse for a lunchtime presentation. The program was hosted by the Phoenix Chapter and emceed by board member and U.S. Magistrate Judge Bridget S. Bade; Ninth Circuit Judge Barry Silverman and Capt. Carroll Cooley from the Phoenix Police Department (retired) were the speakers. The sold-out crowd (162 people) included over 60 high school students and their teachers, as well as federal judges, court staff, and attorneys. Capt. Cooley was the detective who interviewed and arrested Ernesto Miranda. He provided unique insight into the history of the case and exactly how the investigation unfolded, including the “voluntariness” of the interview. Judge Silverman is an expert on the *Miranda* case and interviewed Miranda numerous times. Given their numerous interactions with Miranda, both speakers provided fascinating, “inside” information on the case. Materials were circulated, including Miranda’s written confession. Everyone in the packed room enjoyed the talk, and the students left inspired to participate in the civics writing contest.

In April, submissions for the writing and video contests were due, and the chapter presented its check in a meeting with the judges of the court. The funds went to hold an event to recognize the teachers and students who participated in the contests. The Court co-sponsored the civics contest with the Ninth Circuit Court of Appeals, and the Circuit contest winners were flown to the Ninth Circuit Judicial Conference in July. The Phoenix Chapter is proud to be partnering with the court on this important project, which will hopefully spark interest and enthusiasm in civics (and local Phoenix history) in our community.

#### Central District of Illinois<sup>2</sup>

Chief Judge James Shadid, president of the Central District of Illinois Chapter, writes:

I contacted the teachers of two government classes at two local high schools, one private and one public, Peoria Notre Dame and Peoria High School. Fifteen students from each school participated. In advance, we sent them a fact pattern regarding the search of a cell phone. The facts came from *Riley v. California*, 573 U.S. \_\_\_\_ (2014). We sent them a few cases to rely on and asked them to choose four to six students from their group, and be prepared to argue either side of the issues. The issues in *Riley* centered around: the search of the cell phone without a warrant; how digital information on a cell phone differs from other physical objects; what limits does law enforcement face to protect information from being remotely “wiped” or “encrypted”; and what are the exceptions to the applicable rules.

Upon arrival, the students were served breakfast and received

a tour of my chambers. We then split them up between the schools. We gave them 15-20 minutes to organize who was going to argue, and what, and then took them to the courtroom. We opened court as we would normally, calling the case, asked the parties to introduce themselves and then proceeded with argument, switching back and forth from the government and the defendant. After arguments, we had discussion of the issues and then opened up discussion to our system and our courts.

A reporter from the *Peoria Journal Star* newspaper was present, as well as a photographer. I allowed the reporter and photographer to be present in chambers as the students were preparing as well as in court when the students were presenting. Three members of our local chapter were present, along with myself, my two law clerks, and my judicial assistant. All played a significant role in putting this program together. One of the senior status judges in the building, Hon. Michael Mihm, appeared as well.

The students were prepared, engaged, and enthusiastic. I would certainly do this again, and am not sure that I would change anything.

I applaud both the Phoenix Chapter and the Central District of Illinois Chapter for their great and inspiring work in this area.

#### Richard Dellinger

Richard Dellinger, from Orlando, is one of my favorite people. He has served on the FBA board of directors for many years and always done so with a smile. He’s a smart, talented lawyer with good instincts and a passion for the important work of the FBA. He has the mind of a good judge, and I have always hoped that he will be called to serve the judiciary during his career; we would all be fortunate to have him on the federal bench.

In the past few days, Richard wrote to tell me that, because of work and personal commitments, he will be resigning his board seat and stepping down from FBA leadership. I know this was not an easy decision for Richard, and I accepted his decision after trying to change his mind. We all owe Richard a great deal of thanks and appreciation for a job well done and for his selfless commitment to the FBA. If you have a moment, please email Richard to thank him: richard.dellinger@lowndes-law.com.

Many of us who volunteer our time to the FBA do so quietly and without fanfare. On the national level, the commitment is long-standing and for many years: after a lawyer rises up the ranks locally to become chapter president, for example, that lawyer will need to run for election and serve as a circuit vice president (CVP) for at least a two-year term before he or she can be considered to run a second election for a seat on the board of directors. (In fact, most CVPs serve for four or six years before running for a board seat.) The same lawyer will then have to serve on the board for three years or more before he or she can be considered to run for treasurer—and participate in yet another national election. It is not uncommon for an FBA leader in national office to have given two decades of volunteer time (or more) to the FBA.

I have done so because I care very deeply about this association and all of the good work we do around the country on a daily basis.

*continued on page 26*



## Judicial Profile Writers Wanted



The *Federal Lawyer* is looking to recruit current law clerks, former law clerks, and other attorneys who would be interested in writing a judicial profile of a federal judicial officer in your jurisdiction. A judicial profile is approximately 1,500–2,000 words and is usually accompanied by a formal portrait and, when possible, personal photographs of the judge. Judicial profiles do not follow a standard formula, but each profile usually addresses personal topics such as the judge's reasons for becoming a lawyer, his/her commitment to justice, how he/she has mentored lawyers and law clerks, etc. If you are interested in writing a judicial profile, we would like to hear from you. Please send an email to Sarah Perlman, managing editor, at [tfl@fedbar.org](mailto:tfl@fedbar.org).

21, 2015), <http://trac.syr.edu/immigration/reports/405> (last visited Jan. 27, 2017).

<sup>13</sup>Julia Preston, *Lawyers Back Creating New Immigration Courts*, N.Y. TIMES (Feb. 8, 2010), <http://www.nytimes.com/2010/02/09/us/09immig.html> (last visited Jan. 27, 2017).

<sup>14</sup>Molly Hennessy-Fiske, *As Immigration Judges' Working Conditions Worsen, More May Choose Retirement*, L.A. TIMES (Aug. 18, 2015), <http://www.latimes.com/nation/la-na-immigration-judges-20150818-story.html> (last visited Jan. 27, 2017).

<sup>15</sup>*Id.* (emphasis in original).

<sup>16</sup>EOIR Immigration Court Listing, DEP'T OF JUSTICE, <https://www.justice.gov/eoir/eoir-immigration-court-listing> (last visited Jan. 27, 2017).

<sup>17</sup>Immigration Court Backlog Tool, TRAC IMMIGR., [http://trac.syr.edu/phptools/immigration/court\\_backlog](http://trac.syr.edu/phptools/immigration/court_backlog) (last visited Jan. 27, 2017).

<sup>18</sup>Marks, *Now is the Time*, *supra* note 4.

<sup>19</sup>Trey Gowdy & Zoe Lofgren, Request for a GAO Study on the Costs and Cost-Effectiveness of an Article I Immigration Court (Jan. 12, 2015), <http://najib-usa.org/wp-content/uploads/2016/03/Gowdy-Lofgren-Letter-for-GAO-EOIR-Study1.12.15.pdf> (last visited Jan. 27, 2017).

<sup>20</sup>*Id.*

<sup>21</sup>Stuart Lustig et al., *Burnout and Stress Among United States Immigration Judges*, 13 BENDER'S IMMIGR. BULL. 22, 28 (Jan. 1, 2008), [http://najib-usa.org/wp-content/uploads/2014/06/Burnout-and-Stress-Among-United-States-Immigration-Judges\\_01-01-08.pdf](http://najib-usa.org/wp-content/uploads/2014/06/Burnout-and-Stress-Among-United-States-Immigration-Judges_01-01-08.pdf) (last visited Jan. 27, 2017).

<sup>22</sup>*Id.* at 29.

<sup>23</sup>Hennessy-Fiske, *supra* note 14.

---

### President's Message *continued from page 6*

We are the primary bar association for all who practice in, or are associated with, the federal courts. Our recent, rather exceptional growth is a testament to the years of hard work we have undertaken with the federal judiciary, and all those on Capitol Hill, who know the FBA does not take political positions or sides—we just work every day to make the federal courts the best they can be (and the best justice system in the world).

I applaud all who serve the FBA, whether your service is on the local or national level, or both. I particularly applaud lawyers like Richard who, while balancing all of the disparate needs of raising a family and running a successful private practice, somehow find the time to serve others, by donating time and energy and talent to the FBA.

Richard, we are honored by your service and your commitment. You are an example to all of us who seek to help others. I know I speak for the entire board and many in the FBA when I tell you we will miss you. We are grateful to you for your service.

### Conclusion

I take this opportunity to again thank each of the 19,000-plus members of the FBA for all you do each day to help others. Our membership ranks, both professional and law student, are growing on a daily basis. I am also honored to report that our Civics and

Service to Others initiative is proving to be quite successful: we are helping to educate students all over the United States via our civics work, as well as helping those in need via the SOLACE program.

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

### Endnotes

<sup>1</sup>More information on Judge Bianco's Court Camp, and an AO-produced video about the Court Camp, can be found at: <http://www.uscourts.gov/news/2017/01/12/courts-institute-teaches-students-navigate-law-and-life>.

<sup>2</sup>For more information on this federal court program, see <http://www.pjstar.com/news/20160412/class-is-now-in-session-high-school-students-try-case-in-federal-courtroom>.

# Federal Litigation Section; Promoting Civics and Service to Others; Creation of the FBA's Access to Justice Task Force; Civics Success in New York, South Carolina, and Throughout the United States; and the FBA's Multiple Efforts to Assist Veterans

by Hon. Michael J. Newman



*Hon. Michael J. Newman is FBA president and the first U.S. magistrate judge to hold this role. Judge Newman can be reached at Michael\_Newman@ohsd.uscourts.gov.*

## Federal Litigation Section

This month's issue of *The Federal Lawyer* concerns federal litigation. As a federal judge, this is a topic that I care deeply about since I preside over civil and criminal cases every day in a federal courtroom. The FBA's Federal Litigation Section (which we refer to as "Fed. Lit.") is the largest of the FBA's sections. Fed. Lit. is chaired by John McCarthy, a partner at Smith, Gambrell & Russell in New York City. John has done a great job leading the Fed. Lit. Section, and I applaud him for his long-standing service and dedication to the FBA. I take this opportunity to thank all of the FBA members who have worked with John to ensure that the Fed. Lit. Section continues to thrive and prosper. I also thank all FBA members who are engaged in federal litigation on a daily basis—whether as lawyers, judges, clerks of court, law clerks, or in other legal capacities. Working together, under the auspices of the FBA, we collectively strive to ensure that the federal courts remain the centerpiece of the best justice system in the world.

## Civics and Service to Others

This year, during my presidential term, the FBA has focused on Civics and Service to Others. One very important aspect of Service to Others, in my view, is our obligation to ensure that the federal courts remain open to all. The FBA is fulfilling that promise of openness, under my leadership, in two significant ways: first, by helping to open the doors of federal courthouses to all; second, by creating multiple access-to-justice initiatives.

## Law Day and Law Month

The FBA, as part of our national civics initiative, worked this year with the Administrative Office of the U.S. Courts (AO) to celebrate Law Day on May 1, and Law Month during the month of May. The focus of Law Day and Law Month in 2017 is Open Doors to Federal Courts. To celebrate that theme, FBA chapters throughout the country are encouraged to assist local federal judges to invite students and teachers to tour federal courthouses.

## Constitution Day and Citizenship Day

The FBA plans to work with the AO to celebrate Constitution Day and Citizenship Day again this September—the second year in a row the FBA and AO have teamed together to celebrate this important day. This year, the focus will be to encourage federal judges to hold naturalization ceremonies in schools on or about Sept. 18. More information about these efforts can be found at [www.fedbar.org/civics](http://www.fedbar.org/civics).

## Creation of the FBA Access to Justice Task Force

The FBA is also focusing this year on the important issue of access to justice. Access to justice, put simply, means that all litigants have equal access to the federal courts, and that barriers to such access are removed. To that end, I put together an Access to Justice Task Force to examine ways in which the FBA can increase access to justice. If you would like to be part of this effort, or have ideas as to how the FBA can help increase access to justice, please reach out to me. In the *pro se* arena, our task force has already identi-





Following the civics presentation in South Carolina, the FBA's executive committee and South Carolina FBA leaders thank Judge Margaret B. Seymour for her assistance. Left to right: FBA President Judge Michael J. Newman, South Carolina Chapter President Matthew Hubbell, South Carolina Civics Liaison Mary Willis, Judge Margaret B. Seymour, President-Elect Kip T. Bollin, Executive Director Stacy King, Board of Director member Christie Varnado, South Carolina Chapter Civics Liaison David Paavola, and FBA Treasurer Maria Vathis.

fied two ways in which FBA chapters can increase access to justice in the federal courts: (1) writing and distributing *pro se* handbooks; and (2) creating a list of panel attorneys willing to represent *pro se* litigants in civil cases.

### Pro Se Handbooks

Many, but certainly not all, district courts have *pro se* handbooks designed to assist unrepresented parties in navigating the complexities of the federal civil litigation process. These handbooks are invaluable in that they help to explain the importance of service of process, how the discovery process works, mediation, and how cases proceed to summary judgment and trial. For many years, the FBA has been instrumental in this effort—so much so, that many federal judges across the country have reached out to local FBA chapters and asked the chapter to write (or help the court to draft) such a handbook. I encourage all chapters to assist in this effort—by meeting with your district's chief judge to ask whether the court would like a *pro se* handbook to be drafted or, if such a handbook already exists, if the court would like the chapter to update the handbook.

### Assisting Pro Se Litigants

With regard to *pro se* representation in the civil context, many federal judges struggle with this issue every day because *pro se* plaintiffs frequently file motions for the appointment of counsel. Two barriers exist: (1) counsel appointment is not mandated in civil cases, and (2) few counsel typically express a willingness to take on such representation. Some federal courts around the country (both district courts and circuit courts) have begun assembling lists of counsel who have volunteered to assist *pro se* litigants and *pro se* appellants. (In some courts, such representation is entirely *pro bono*; in other courts, counsel are permitted to file a fee petition if they prevail at the conclusion of the case.) I encourage FBA chapters to meet with your local federal judges to ask if the chapter can assist in creating such a list of counsel willing to represent *pro se* litigants. Once those lists are created, I further encourage FBA members to consider taking such cases on a yearly or periodic basis.

Prior to becoming a judge, when I was a partner at Dinsmore & Shohl in Cincinnati, I had the great privilege of serving as lead counsel in many *pro se* and *pro bono* matters before the Sixth Circuit Court of Appeals. The Sixth Circuit, at that time, maintained a list of counsel willing to represent *pro se* appellants, and I was frequently

asked to do so. Representing those *pro se* litigants—in criminal, *habeas*, and § 1983 appeals—made me proud to be a lawyer, and it was my honor to help the Sixth Circuit by undertaking such representation.

In my community, I have volunteered to serve on the board of directors of the Greater Dayton Volunteer Lawyers Project—a worthy effort to appoint counsel in state and federal civil cases—and I encourage other FBA members to do the same.

I also encourage FBA members to assist in our upcoming FBA National Wills for Veterans Day, which will take place in conjunction with Veterans Day this coming November. For more information on assisting veterans in this way (and thus affording veterans more access to justice) or to offer to run this important effort in your FBA chapter, please contact FBA Executive Director Stacy King at [sking@fedbar.org](mailto:sking@fedbar.org). I have asked Todd Hedgepeth, from the San Antonio chapter, to be in charge of this effort, and I thank him for his fine leadership.

### Civics Success in New York and South Carolina

As I write this month's President's Message, I have just returned from a trip to New York where I visited with judges in the Eastern District of New York (EDNY) and met with Chief Judge Robert Katzman, of the Second Circuit Court of Appeals, to discuss civics. After New York, I traveled to Charleston, S.C., for the FBA's quarterly board of directors meeting. While in Charleston, a number of local federal judges and I met with students, in their schools, as part of the FBA's national civics initiative.

It was a great trip with a number of successful outcomes. I was honored to meet with many federal judges in both of the EDNY federal courthouses, which are located in Central Islip and Brooklyn. During my visit, Judge Joseph F. Bianco—who, last summer, along with FBA member and career law clerk Dina Miller, started the first week-long, federal “court camp” in the United States—hosted 50 or so local elementary school students in his chambers, where he explained to them how cases are tried and legal disputes are resolved. He is a born teacher, and the young students greatly enjoyed hearing from him. (I am told he does this once a week.) Dina graciously served as my tour guide, and we met, among other judges in Central Islip, Judge Leonard D. Wexler, Judge Arthur D. Spatt, Judge Alan S. Trust, Magistrate Judge Steven I. Locke, and Magistrate Judge A. Kathleen Tomlinson. Judge Wexler engages in civics education with law students in a novel way: He schedules multiple trials in June and has 30 local law students shadow him every day that month so they better understand civil procedure and federal trial practice.



Above left: Judge Michael J. Newman and Christie Varnado with local law students at a reception held by the South Carolina Chapter in conjunction with the FBA board meeting. Above right: Chief Judge Irizarry with Judge Newman at the Brooklyn Federal Courthouse.

In Brooklyn's Theodore Roosevelt Federal Courthouse, Chief Judge Dora L. Irizarry kindly hosted a luncheon in my honor with a large number of district judges and magistrate judges attending, all of whom are very excited to participate in the FBA/AO civics initiative and engage with local students. Thereafter, we had an opportunity to meet Chief Judge Katzman in his chambers—along with the Second Circuit's circuit executive, Karen Greve Milton, and U.S. District Judge Victor Marrero—to discuss civics in the federal courts. I take this opportunity to thank Chief Judge Irizarry and Chief Judge Katzman for their kind efforts and their continuing support of the FBA.

The significant civics effort undertaken by Chief Judge Katzman, Judge Marrero, and Judge Bianco was discussed last month in these pages, but I again take this opportunity to commend them, and also Dina Miller, for their outstanding and groundbreaking work in the civics arena. Years from now, when the history of this civics education movement in the federal courts is written about, I am confident and proud that the FBA, AO, and Second Circuit will all be acknowledged for leading this effort along with other circuit courts and district courts across the United States.

While in New York, I also had an opportunity to participate in "speed dating" at Fordham University's School of Law with 100 or so international LL.M. students in an event organized by FBA member and Fordham Law alumnus Ray Dowd. Ray did a wonderful job and is to be congratulated. The students I met came from England, Finland, Italy, Israel, and France, among other locales, and were licensed attorneys in their home countries before coming to the United States for their graduate law studies. These students have a deep respect for our system of justice, and the federal courts as an institution, and want to start an FBA law school division at Fordham. With the kind assistance of Dean Toni Jaeger-Fine, I am hopeful that will soon occur. Dean, I thank you for your passion for the FBA and for your

willingness to work with the students as they start the Fordham Law student division.

Prior to the board meeting in South Carolina, I met with a number of South Carolina federal judges from both the Columbia and Charleston federal courthouses. We traveled to two schools in Mount Pleasant, S.C., which is located just outside of Charleston. At the first school, Moultrie Middle School, we held a civics discussion and question-and-answer session with several classes of seventh and eighth grade students. FBA President-Elect Kip Bollin and FBA Treasurer Maria Vathis both served as moderators. We talked to the students about the federal courts and how they work, being selected as a federal judge, the difference between mediation and trials, district judges and magistrate judges, felony and misdemeanor criminal cases versus civil cases, how judges go about deciding difficult cases, and how judges ensure they are free from a bias. Thereafter, we went to Wando High School and met with two Advanced Placement government classes. These were great discussions, at both schools, and I know the judges enjoyed them as much as the students. I



Following their civics discussion and question-and-answer session at Moultrie Middle School in Mt. Pleasant, S.C., the students meet with Judge Norton, Judge Seymour, Judge Marchant, Judge Newman, and the FBA Executive Committee.





Following their Charleston meeting, the 2016-2017 FBA board of directors pose for a group photo. Left to right: Maria Z. Vathis, Hon. Robin Feder, Hon. Alison S. Bachus, Katherine Gonzalez-Valentín, Kip T. Bollin, Glen R. McMurry, Matthew C. Moschella, Vildan A. Teske, W. West Allen, Anh Le Kremer, Dawn E. Stern, Christie C. Varnado, Robert Clark, Jonathan Hafen, Hon. Michael J. Newman, Stacy King, David A. Goodwin, and Christian Adams.

take this opportunity to thank the many judges and FBA members who made these two school trips possible including Judge David C. Norton, Judge Margaret B. Seymour, Judge Bristow Marchant, South Carolina Chapter President Matthew Hubbel (who is doing a great job leading his chapter), FBA board of directors member Christie Varnado (who handled many logistical issues with aplomb), and chapter civics liaisons David Paavola and Mary Willis. Thanks to each of you for making these South Carolina school visits so successful and meaningful for the students.

The full-day board of directors meeting was held the next day, and we got a great deal accomplished. I take this opportunity to again thank all of the board members, who spend hours preparing for these quarterly meetings and fly across the country, during the week, to attend them. I am grateful for your dedication and service to the FBA.

During the Charleston board meeting, Membership Committee Chair Jonathan Hafen announced that the FBA is now at 19,000-plus members, our largest membership ever. The board also began the preliminary work to approve the charter of the new Vermont Chapter. Significant credit goes to Chief Judge Christina Reiss, who greatly assisted the FBA in the creation of this chapter. Thank you, Chief Judge Reiss.

### The FBA's Multiple Efforts to Assist Veterans

Another aspect of the Civics and Service to Others initiative is the FBA's commitment, during my presidential year, to assist veterans with legal concerns.

I have previously written about the importance of Veterans Courts; I am proud to have started, and preside over, the first federal Veterans Court in the state of Ohio. I encourage all of my fellow federal judges to initiate such efforts in their specific seat of court.

In this President's Message, I also wrote about the FBA's commitment to undertaking a National Wills for Veterans Day in conjunction with Veterans Day 2017. I am excited about this effort and the important impact it will have on the lives of hundreds of veterans throughout the United States. I encourage FBA members to participate in this most worthwhile event.

Recently, the FBA began a third effort to assist the veterans community: a training session to teach counsel how to assist veterans with disability claims on a *pro bono* basis. This three-hour CLE, entitled "Fundamentals of Practice Before the Department of Veterans Affairs (VA)," offered for free to counsel by the FBA and other organizations in Cincinnati, was an opportunity for Ohio lawyers to learn from David Myers, director of case management at the Veterans Consortium *Pro Bono* Program in Washington, D.C. Myers explained to counsel how to assist veterans with the disability claims process before the VA, and did a great job. I thank him. We had a large attendance, and it was a very successful event. The FBA plans to video record Myers in the next few months and place this video on the FBA's website—for free—so that other lawyers, around the country, who seek to assist veterans on a *pro bono* basis with disability claims can do so. By so acting, the FBA hopes not only to assist the veterans community, but also to increase veterans' access to justice.

I take this opportunity to thank the many FBA members who made this effort possible including Scott Kane, Scott McIntyre, Kermit Lowery, Judge Peter Silvain and many others. A number of entities were responsible for this free CLE, including the FBA's Cincinnati-Northern Kentucky and Dayton Chapters, the FBA's Senior Lawyers Division, and the Cincinnati Legal Aid Society. I sincerely thank you all.

### Conclusion

I take this opportunity to again thank each of the 19,000-plus members of the FBA for all you do each day to help others. Our membership ranks, both professional and law student, are growing on a daily basis. As noted, our Civics and Service to Others initiative is proving to be quite successful: we are helping to educate students all over the United States via our civics work, helping those in need via the SOLACE program, and increasing access to justice.

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

# Civics Update, Labor & Employment Law, Mentoring, and FBA Leadership

by Hon. Michael J. Newman



*Hon. Michael J. Newman is FBA president and the first U.S. magistrate judge to hold this role. Judge Newman can be reached at Michael\_Newman@ohsd.uscourts.gov.*

## What I Learned From the FBA's National Civics Program

I have spent the last two years devoted full-time to the FBA's national civics initiative. The first year, before I was sworn in as FBA president, was spent working with Jim Duff, director of the Administrative Office of the U.S. Courts (AO), and Rebecca Fanning, the AO's outreach manager for civics, getting ready to launch our civics website ([www.fedbar.org/civcs](http://www.fedbar.org/civcs)), and making sure we had a national plan in place. The second year, while serving as president, I have been coordinating with FBA national civics liaison coordinator Joan Brady to ensure we have a civics liaison in every chapter; meeting with federal judges and students around the country to help implement the civics initiative; and working with FBA Treasurer Maria Vathis, whom I placed in charge of the FBA's inaugural civics essay contest and civics teacher recognition program.

I am grateful to, and appreciative of, the many federal judges across the country who have volunteered their time to meet with students in classrooms and courtrooms this year to talk about the Third Branch of government. So many federal judges have done so, in fact—and have liked the experience meeting with students, and want to do it again—that I believe there is a genuine civics movement occurring in the federal courts. My hope is that this civics movement will continue to strengthen and grow in the years to come. The FBA is pleased to help lead this civics movement and, to that end, we intend to work collaboratively with the AO and the federal judiciary long into the future.

I learned a great deal in launching and leading the civics initiative: that it is possible, if you care enough and work hard enough, to build a national program from scratch; that elementary school, middle school, and high school students really do want to learn about the federal courts, how the courts work, and what judges do every day; that these students have a very real and very significant interest in the dispute resolution process (both civil and criminal); and that students, no matter their age, rightfully take serious-

ly the need for judges to be free from bias, to follow the law, and to be fair and impartial.

This experience has given me great hope that the legal community has nothing to fear going forward. Having now met with far more than 1,000 young people all across the country, and having engaged with them in serious civics discussions, it is my firm belief that the next generation cares about the federal courts, cares about case resolution, and has a serious, abiding interest in the rule of law. I am very proud that, with the FBA's help and as a result of our national civics initiative done in conjunction with the AO, we are raising a generation of young people who will want to attend law school and will want to become involved with the federal legal community and the federal courts. Based on my personal experience these past two years, I know we are in good hands.

## Essay Contest Winners

This spring, the FBA announced its six winners of its inaugural civics essay contest—three winners from middle schools across the country, and three winners from high school. The first-place winning essayists—Alexander Ashman, a seventh grade student at the Phoenix, Arizona Country Day School; and Isabelle Scott, a senior at Ward Melville High School in East Setauket, N.Y.—were both flown (with a parent) to Washington, D.C. to meet with the FBA board of directors, be honored by the FBA National Council, and tour the U.S. Supreme Court. As part of their Washington trip, Alexander and Isabelle also met with Jim Duff and Rebecca Fanning.

I was very impressed with Alexander and Isabelle, and found their essays inspiring. Both discussed the rule of law and the importance of the federal courts to right wrongs and apply the law fairly and impartially. Although just in his early teenage years, Alexander speaks multiple languages, has already accomplished a great deal, and clearly has a bright future ahead of him. Isabelle has, rather amazingly, already published a book of poetry. In the fall, she will be attending Brown University as an undergraduate. These are remarkable students and future leaders, and I am honored to know them.



The FBA board of directors and FBA civics essay winners in front of the United States Supreme Court in March 2017 (l-r): Matt Moschella; Bruce Moyer; Vildan Teske; Judge Robin Feder; Rob Clark; Anh Le Kremer; Sharon O'Grady; Judge Michal J. Newman and his wife, Rachel, and their daughters Anna, Brigid, and Clare; Judge Alison Bachus; Dr. Randolph Scott, father of high school essay contest winner Isabelle Scott; Dave Goodwin; high school winner Isabelle Scott; Dawn Stern; West Allen; middle school essay contest winner Alexander Ashman and his father, Dr. Jonathan Ashman; Christian Adams; Glen McMurry; Kip Bolin; Judge Elizabeth Kronk Warner; Jonathan Hafen; Stacy King; Maria Vathis; and Katherine Gonzales-Valentin.

I take this opportunity to thank the many individuals who helped make the FBA's inaugural civics essay contest such a great success. This list includes, among many others, Maria Vathis, who chaired the selection committee and spent many hours reading the nearly 200 essays we received; all of the selection committee members (Judge Alison Bachus, Brett Barfield, Geoff Cheshire, Judge Gustavo Gelpi, Judge Diane Marcus, Matthew McGhie, Judge Thomas Rose, and Judge Peter Silvain, Jr.); Sharon O'Grady, president of the FBA Foundation, who supported the idea of the essay contest and who championed its financial support within the Foundation; and Stacy King, the FBA's executive director, who worked for many months with Maria and me to ensure the essay contest's success.

I hope this is just the beginning of many successful FBA civics essay contests in the years to come.

### Civics Teacher Recognition

In conjunction with the FBA's national civics initiative, we invited students and schools to nominate civics teachers around the

country—civics teachers who are the very best at what they do. I am honored to report that Maria Vathis and her committee selected 21 civics teachers deserving of this high honor.<sup>1</sup> Each teacher received a proclamation from the FBA, and each teacher's school will be notified of this significant accomplishment.

The civics teachers meriting recognition are as follows:

#### Second Circuit

David A. Scott, Northport-East Northport School District  
Douglas Elliot, Paul J. Gelinas Junior High School

#### Third Circuit

Lisa Carney, St. Bernadette of Lourdes School<sup>2</sup>

#### Fourth Circuit

Susan Boroughs, Granby High School  
Nicholas McDaniels, Mergenthaler Vocational-Technical High School  
Bob Knight, Bull Run Middle School

#### Fifth Circuit

Christine McCrory, Lafayette High School  
Dawn Blake, Allen High School

#### Sixth Circuit

Joe Foster, Hardin Northern High School  
Erica Griggs, L&N STEM Academy  
Jennifer Forshey, Rocky River High School  
David Volkman, Loveland High School  
Fred Cole, Marquette Senior High School  
Eric Hanna, Olentangy Shanahan Middle School  
Tyler Johnson, Ohio Connections Academy

#### Seventh Circuit

Shannon Arko, Jefferson Middle School  
Rebecca Daen, Legal Prep Charter Academy



At the United States Supreme Court, West Conference Room (l to r): FBA Treasurer Maria Vathis; civics essay contest winner Alexander Ashman; AO Director Jim Duff; FBA President Judge Newman; civics essay contest winner Isabelle Scott; and FBA Foundation President Sharon O'Grady.





Left: In Upper Darby, Pa., fourth grade civics teacher Lisa Carney, from the St. Bernadette of Lourdes School, receives her Civics Teacher Recognition Award. L to r: Rep. Jamie Santora, Pennsylvania House of Representatives; Mayor Thomas N. Micozzie, Upper Darby Township; Frank J. McGovern, FBA Third Circuit vice president and civics liaison for the FBA's Eastern District of Pennsylvania Chapter; Lisa Carney, teacher and award recipient; Robert J. DeSousa, state director for Sen. Patrick Toomey, past national president of the FBA, and chair of the FBA's Veterans and Military Law Section; Rev. Christopher J. Papa, pastor, St. Bernadette Parish; and Dr. Thomas Tobin, principal, St. Bernadette of Lourdes School.

### Eighth Circuit

Derek Bridges, John S. Clark Elementary School

### Ninth Circuit

Dr. Homee F. Shroff, BASIS Tucson North High School  
Jon Labrousse, Ridgeline Montessori

### Eleventh Circuit

Karen Wozniak, West Laurens High School

I congratulate all of the civics teachers, and take this opportunity to thank each teacher for the important work that you do in the classroom every day. On my own behalf, and on behalf of the 19,000-plus members of the FBA, thank you for your service.

### Labor & Employment Law

This month's issue of *The Federal Lawyer* concerns labor and employment law. This area of the law is near and dear to me since I worked, for many years, as a law firm partner handling labor and employment matters on a daily basis.

My practice was unusual in that I had an opportunity to represent both plaintiffs and defendants. This permitted me to better see both sides of employment discrimination disputes, and was beneficial to me when I became a federal judge—as I now routinely hear, try, and mediate employment discrimination cases.

As I write this, I have just returned from San Antonio, where I had an opportunity to speak at the FBA's Seventh Biennial Labor & Employment Law Conference. The Conference was well run, well attended, and a great success. I take this opportunity to thank Labor & Employment Law Section Chair Corie Tarara, who did a wonderful job, as well as the Conference Planning Committee Co-Chairs, Phillip Kitzer and Brian Rochel.

While at the Conference, I met and spoke with EEOC Commissioner Charlotte Burrows. Commissioner Burrows was very gracious in traveling to San Antonio to speak at the Conference, and the FBA is appreciative of her kind efforts on our behalf.

I salute all leaders of the Labor & Employment Law Section, and thank them for their service to the FBA. I also express gratitude to the many members of the Section who give their time and talent to the FBA.

### San Antonio Chapter

As part of my Texas trip, I spoke to the San Antonio Chapter, of which I have been a big fan for many years because a large number of my long-standing FBA friends, each of whom has volunteered for many years on the national level, started their service locally in the San Antonio Chapter.

I think, in particular, of Hon. Craig Gargotta, now a U.S. bankruptcy judge in the Western District of Texas. Judge Gargotta—then an assistant U.S. attorney—was *The Federal Lawyer* editor in chief for many years, and he ran the magazine well. (I served under him on the editorial board.) I will never forget one of our monthly editorial board conference calls, in July, with Judge Gargotta taking the call despite being on vacation at a Texas Boy Scout camp with his sons. He told us the temperature was 100 degrees, and he was standing under a tree looking for shade. We volunteered to end the call early but, being dedicated to the FBA, Judge Gargotta insisted that we continue and address all of the scheduled items on the call's agenda.

Susan Kilgore has spent years volunteering with the FBA, with the Pentagon Chapter when she lived in D.C.; the San Antonio Chapter when she moved to Texas; and on the national level, when she and I co-chaired the FBA's Professional Ethics Committee more than



At the FBA's seventh Biennial Labor & Employment Law Conference in San Antonio (l to r): Planning Committee Co-Chair Phillip Kitzer; EEOC Commissioner Charlotte Burrows; FBA President Judge Michael Newman; and Employment Law Section Chair Corie Tarara.





Top left: At the Tarlton Law Library at the University of Texas School of Law (l to r), Michael Sivore, Judge Michael J. Newman, and professor Carly Toepke. Bottom left: San Antonio Chapter: (l to r) Bud Paulissen, FBA board member; Soledad Valenciano, treasurer; John Dulske, president elect; Susan Kilgore; Gary Anderson, president; Melanie Fry, immediate past president; Mike Villarreal, board member and past president; Sean O'Connell, membership chair and board member; and Jay Hulings, board member.

10 years ago. I have always admired Susan for her can-do attitude and her devotion to the FBA.

Another good friend from San Antonio, Beth Smith, worked with me on the FBA board of directors for many years and in her role as chair of Constitution and Bylaws Committee. Beth and her husband, David, frequently travel together to FBA conventions every fall. When I was sworn in as a magistrate judge many years ago, and learned that the “baby judge’s school” would be held in San Antonio, Beth and David called me immediately to offer to be my tour guides of the city. Their mutual love of San Antonio (and love for each other) is contagious, and my wife Rachel and I have been fortunate for many years to call them both friends.

Matt and Kelle Acock, both members of the San Antonio Chapter, have served on the FBA’s national board of directors with distinction. I value their service and dedication to the FBA.

While in San Antonio, AUSA Gary Anderson graciously served as my host, introduced me to everyone at the U.S. Attorney’s Office, and arranged a dinner so I could get to know the current chapter leaders. Gary was kind to do so, and I thank him.

### Mentoring

As part of our “Civics and Service to Others” initiative this year, the FBA has done a lot of work around the country to promote the SOLACE program, *pro bono* work, assistance to veterans, and mentoring. I have previously written in these President’s Messages about the importance of mentoring, particularly when a federal judge has an opportunity to mentor law students and those seeking to enter law school.

I frequently mentor local law students, and I consider it an honor to do so.

Several years ago, I had the opportunity to mentor, and take on as a summer extern, a University of Dayton Law School (UDSL) student, Michael Sivore, who was in the two-year accelerated program at UDSL. I have stayed in touch with Michael, as I do many students, and on my recent trip to Texas, I had a chance to catch up with him in Austin, where he now lives.

I am very proud of Michael. After completing his J.D. studies and graduating at the top of his class, he went on to the University of Texas School of Law (Texas Law) where he received an L.L.M. with a specialty in oil and gas law. He now works for an energy company in Austin.

As a law student at UDSL, Michael held multiple leadership roles in the FBA’s law student division and, at Texas Law, he worked diligently with the school’s administration to lay the groundwork for a law student division there.

I am sure I played, at most, a small part in Michael’s success. Nevertheless, I take great pride in the fact that he has done so well, and I know the time that he spent with me in federal court in Ohio—watching hearings and trials, sitting in on mediations, and talking to me about cases once they were concluded—was meaningful and helped him formulate a better understanding of how federal judges work, how difficult our work is, and how cases are fairly and properly decided. Michael has a great future ahead of him, and I look forward to being updated on the next chapter of his life.

I encourage all members of the FBA—and, in particular, all fellow federal judges—to take one person “under your wing” this year and mentor him or her. Trust me: you will get back far more than you will give.

### Sixth Circuit Vice President Tom McNeill

Tom McNeill, a newly elected Sixth Circuit vice president (CVP) and partner at the Dickinson Wright firm in Detroit, is, quite frankly, a dynamo. Like many CVPs, Tom loves what he does for the FBA—and he is passionate about increasing membership and growing chapters.

This winter, Tom traveled from Detroit to Dayton, Ohio, to arrange a group dinner with all of the Ohio-based chapter presidents and presidents-elect. Attendees included Tony Vegh from the Northern District of Ohio Chapter; Steve Justice and Erin Rhinehart from the Dayton Chapter; Sommer Sheely from the Columbus Chapter; and Scott McIntyre and Dan Donnellon from the Cincinnati/Northern Kentucky Chapter. Tom is now scheduling similar events in Knoxville, Nashville, and Cincinnati. Knowing Tom as I do, all three events will be equally successful.

Tom is a busy law firm partner, but finds the time to do meaningful work on behalf of the FBA. I am honored to know Tom, and I

*continued on page 22*

choose evaluators, mediators, or arbitrators who understand the technology at stake and are far better able than laypersons to resolve disputes objectively and with an eye toward the outcome that will be most productive for everyone.

Tech companies have another problem with the judicial process—its public character. Disputes about intellectual property matters can make highly confidential business information a part of the public record. Even with the most stringent protective orders, going to court can mean revealing a vital trade secret.

Finally, going to ADR can avoid the often intractable jurisdictional disputes that can accompany disputes arising from international business relationships. When the parties pick their own dispute resolution process, they can avoid these jurisdictional fights. And the risk of such jurisdictional problems in foreign courts may only increase if Brexit signals the beginning of a breakdown in international legal cooperation.

Of course, getting these advantages means having a careful and deliberate approach to ADR. Tech companies should have a plan for what kinds of ADR tribunals they want to work with, and they should make sure that their contracts provide for dispute resolution by those tribunals. Moreover, tech companies should also make sure that they find well-qualified tribunals, ones that understand the technical aspects of the high-tech industry. For example, the Silicon Valley Arbitration & Mediation Center publishes an annual “Tech List” identifying the top arbitrators and mediators in Silicon Valley and around the globe who have a deep understanding of the tech business world. The benefits of arbitration or mediation will be nonexistent if the arbitrators or mediators lack the expertise and orientation that tech companies seek. ☉

*Beyond Alternative* is a column of the ADR Section, for the promotion of ADR as an integral and necessary part of dispute resolution. It includes practice tips, issues, case discussions, commentaries, and answers to questions for all things ADR. We welcome your thoughts on this topic and any other ADR matter. Send us your information, pieces, points of view, and comments—or let us know if you wish to present at one of our open meetings—to [fedbaradr@gmail.com](mailto:fedbaradr@gmail.com).

## Endnotes

<sup>1</sup>Adopted September 2005 by the American Arbitration Association, the American Bar Association and the Association for Conflict Resolution.

<sup>2</sup>See *Mediation*, DEP’T OF JUSTICE, [www.justice.gov/oarm/mediation](http://www.justice.gov/oarm/mediation) (last visited Mar. 29, 2017).

<sup>3</sup>See *Questions and Answers About Mediation*, EQUAL EMP’T OPPORTUNITY COMM’N, [www.eeoc.gov/eeoc/mediation/qanda.cfm](http://www.eeoc.gov/eeoc/mediation/qanda.cfm) (last visited Mar. 29, 2017).

<sup>4</sup>See *Mediation Overview*, FIN. INDUS. REGULATORY AUTH. INC., [www.finra.org/arbitration-and-mediation/mediation-overview](http://www.finra.org/arbitration-and-mediation/mediation-overview) (last visited Mar. 29, 2017).

<sup>5</sup>See *Early Resolution of EEO Complaints (EREC) Program*, DEP’T OF LABOR, [www.dol.gov/oasam/programs/crc/crc-internal/erec.htm](http://www.dol.gov/oasam/programs/crc/crc-internal/erec.htm) (last visited Mar. 29, 2017).

<sup>6</sup>See *Mediation Defined*, JAMS, [www.jamsadr.com/mediation-defined](http://www.jamsadr.com/mediation-defined) (last visited Mar. 29, 2017).

---

## President’s Message *continued from page 6*

greatly appreciate the passion and energy he shows for the Association. Thank you, Tom.

## Conclusion

I take this opportunity to again thank each of the 19,000-plus members of the FBA for all you do each day to help others. Our membership ranks, both professional and law student, are growing on a daily basis. As noted, our “Civics and Service to Others” initiative is proving to be quite successful: we are helping to educate students all over the United States via our civics work, helping those in need via the SOLACE program, increasing access to justice, and promoting the importance of mentoring and diversity/inclusion.

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

## Endnotes

<sup>1</sup>Professor Jonathan Entin, from Case Western Law School, was also recognized as deserving special recognition on account of his long-standing, national civics work.

<sup>2</sup>Ms. Carney was honored by a Philadelphia news station when receiving her award. See *Local Teacher Gets National Recognition*, ABC 6 (Mar. 28, 2017), <http://6abc.com/society/local-teacher-gets-national-recognition/1822757>.

---

## At Sidebar *continued from page 7*

those who need it, and celebrate our differences. An employer who marches to this beat should not likely run afoul of the ADA. ☉

## Endnotes

<sup>1</sup>42 U.S.C. § 12101 *et seq.*

<sup>2</sup>42 U.S.C. § 12102(1); 29 C.F.R. § 1630.2(g); *see also Harris v. Reston Hosp. Ctr. LLC*, 2013 U.S. App. LEXIS 8323, \*18-19 (4th Cir. 2013).

<sup>3</sup>*Cash v. Magic City Motor Corp.*, No. 7:16-CV-00192 (W.D. Va. Jan. 20, 2017).

# Welcome to Atlanta, New FBA Initiatives, Civics and Service to Others, and Thank You

by Hon. Michael J. Newman



Hon. Michael J. Newman is FBA president and the first U.S. magistrate judge to hold this role. Judge Newman can be reached at Michael\_Newman@ohsd.uscourts.gov.

This month's issue of *The Federal Lawyer* celebrates the Atlanta Convention. I welcome everyone to Atlanta, and know this year's national convention will be a resounding success. I take this opportunity to recognize and thank all of the Atlanta Convention Committee members (Derek Bauer, Christina Baugh, Ben Cheesbro, Jim Hatten, John Jett, Robert Khayat, Joyce Kitchens, Tom Lacy, Henry Quillian, Eric Schroeder, Andy Tuck, Amy Weil, Kevin Weimer, and Noelle Whitmire) and, in particular, Convention Committee Chair Kevin Maxim. Everyone did an outstanding job.

One of the personal highlights of the Atlanta Convention, for me, will be the Saturday evening banquet when Kip Bollin will be sworn in as president, Maria Vathis will be sworn in as president-elect, and Christian Adams will be sworn in as treasurer. Although that evening will undoubtedly be personally bittersweet, in that it marks the end of my tenure as president, I take great pride in the fact that three of my very good and trusted friends whom I admire very much will be taking over FBA leadership. I know they will each do an outstanding job, and I wish all three of them great success.

## FBA Collaborating With the National Constitution Center

I am very pleased to announce that, as an outgrowth of our national civics initiative, the FBA will be collaborating with the National Constitution Center in Philadelphia, a nonpartisan museum established by Congress to educate everyone about the importance and significance of the United States Constitution.

This is an exciting development, and I am honored to make this important announcement. An email detailing this collaboration was sent to all FBA members in July.

The National Constitution Center is led by its president and CEO, professor Jeffrey Rosen, from George Washington University Law School. Those of you who attended the Midyear meeting had an opportunity to meet and hear from professor Rosen when he served as our Saturday luncheon keynote speaker. He is a constitutional scholar known throughout the country,

and is frequently heard on television, radio, and on podcasts. He has been published in *The New York Times*, *The Wall Street Journal*, and many other newspapers and publications. He has a passion for the Constitution and a passion for educating young people about civics—a passion we both share.

As professor Rosen discussed during his luncheon address at the Midyear Meeting, the National Constitution Center has developed a civics mobile app, the Interactive Constitution, which explains, from different points of view, all of the constitutional clauses and provisions. The mobile app also provides a discussion of the Declaration of Independence and Bill of Rights, and helps explain why all three founding documents are so important. Among many other ways of collaborating with the National Constitution Center, the FBA will be helping to inform young people across the country of the availability of this mobile app. The National Constitution Center, in turn, will be working with the FBA to hold future “judge’s chats” at the museum to promote Teachers Institutes throughout the country and to provide professor Rosen an opportunity to meet with FBA members.

## Creation of the Special Committee on Diversity and the Appellate Law Task Force

I am very proud to announce that, at my urging, the FBA created a Special Committee on Diversity. This committee will look at ways the FBA can be more diverse and inclusive, and it will continue to foster and promote the significant diversity efforts that the association has proudly undertaken for many years. As many of you know, diversity and inclusion efforts are very important to me personally, and I take this responsibility seriously, as does the FBA. If you would like to serve on this committee, please contact the FBA's executive director, Stacy King, at [sking@fedbar.org](mailto:sking@fedbar.org).

I am also proud to announce that the FBA has created an Appellate Law Task Force to study ways the association can better assist, and work with, the federal circuit courts. This task force will continue into Kip Bollin's presidential term; Kip and I, working together, have appointed Ray Dowd to chair this effort.





Minnesota Chapter and Board members and their families. L to R top row after Judge Newman is me, then Adam Hansen (tall guy in back), Adam Schlessinger (short guy in front of him), Dave Goodwin, Dan Hedlund, Vildan Teske, Tim Scobie (husband of Rachel Zimmerman Scobie), Rachel Zimmerman Scobie, Kelly Laudon. Then in front row is Elsa Bullard, her husband Mike Bullard is right behind her, then to their right is Rachna Sullivan.

I know Ray will bring great energy and enthusiasm to this important task as the FBA seeks to strengthen its already significant relationships with the federal appellate courts and circuit judges throughout the county.

### **Seventh Circuit Judicial Conference, Minneapolis, Utah, Denver, Judicial Branch Committee, and Chicago**

I wrote this President's Message in late May. As all former FBA presidents will tell you, spring is always the busiest time of the year for travel to chapters, circuit conferences, and federal judicial meetings. This spring, I met with federal judges and lawyers all across the country to ensure that our national "Civics and Service to Others" initiative is up and running, and working well.

In the past six weeks, I have traveled to Indianapolis for the Seventh Circuit Judicial Conference; to Minneapolis and Saint Paul, to meet with Minnesota Chapter leaders and local federal judges and participate in a civics mock trial at an inner city high school; to St. George, Utah, to speak about civics at the 10th Annual Southern Utah Federal Law Symposium; to Denver for the FBA's Immigration Law Conference; to Washington, D.C., twice—to appear before the Judicial Branch Committee of the Judicial Conference of the United States, and to assist with the FBA's Younger Lawyers Division swearing-in at the U.S. Supreme Court; and, finally, to Chicago, to deliver the keynote address at the 18th Annual Awards for Excellence in Pro Bono and Public Interest Service.

At the Seventh Circuit Judicial Conference, I was honored to meet Justice Elena Kagan and to update federal judges within the Seventh Circuit about our civics work (and to encourage their civics participation). I had the opportunity to chat with, among many others, Administrative Office of the U.S. Courts (AO) Director Jim Duff, Federal Judicial Center Director Judge Fogel, Seventh Circuit Chief Judge Diane Wood, and Circuit Executive Collins Fitzpatrick.

I was greatly impressed with the Minnesota Chapter and its long list of civic accomplishments and community outreach efforts (including, among others, the Pro Se Project to secure counsel for *pro se* litigants and the long-standing Open Doors to the Federal Courts program). Tara Norgard is a fantastic chapter president, and all of us in national leadership owe her a great deal. She was a gracious and most kind host during my visit. Chief Judge John R. Tunheim, Judge Donovan Frank, Judge Ann Montgomery, Judge Susan Richard Nelson, Judge Steven E. Rau, and Judge Becky R. Thorson, along with many other Minnesota federal judges, have given years of service to the FBA (locally and nationally), and we are indebted to them. I was very

impressed with the collegiality and kindness of the Minnesota federal practicing bar, and I greatly enjoyed the civics mock trial that Judge Nelson and I participated in with students from Roosevelt High School in Minneapolis.

Jonathan Hafen, who serves as the FBA's national membership chair, did his usual outstanding job when he organized this year's Southern Utah Federal Law Symposium in St. George, Utah. It was an honor to speak to the attendees about civics and FBA outreach with FBA outside counsel Rob Clark, from Parr Brown Gee & Loveless, whom I hold in very high regard. It was also great to catch up with Judge Dee Benson, Judge Dale A. Kimball, Judge Paul Warner, and former national president Mark Vincent, all of whom I think highly of. I am very proud that the FBA was afforded the gracious opportunity, in July 2017, to partner with Brigham Young University's J. Reuben Clark Law School and the U.S. District Court for the District of Utah to offer the first residential civics and leadership court camp in the United States.

In Denver, I spoke at the FBA's Immigration Law Conference on a panel discussion about the intersection between federal criminal law and federal immigration law. The conference was well attended, and I was honored to be asked to participate.

It was also a great honor and privilege to speak to the Judicial Branch Committee of the Judicial Conference in Washington, D.C., earlier this month. I was accompanied to the committee meeting by FBA Executive Director Stacy King and Government Relations Committee counsel Bruce Moyer. I commend Chief Judge Rodney W. Sippel, the committee's chair, and Second Circuit Chief Judge Robert Katzman, who serves on the committee, for their significant, nationwide civics work of great importance. I was privileged to give the committee an update on the FBA's civics work to date. A copy of the FBA's report, written by FBA national civics liaison Joan Brady, can be found on the home page of the FBA website, [www.fedbar.org](http://www.fedbar.org). I encourage all FBA members to read it, and I further encourage all FBA members to participate in the FBA's national civics initiative.

While in D.C., I had the great pleasure to attend the Capitol Hill Chapter's Annual Supreme Court Luncheon and sit next to Justice Samuel Alito. He was gracious, kind, and well versed in Supreme Court history.

At the federal courthouse in Chicago, I was honored to present the keynote address at the annual Awards for Excellence in *Pro Bono* and Public Service to a large group of local lawyers honored by the U.S. District Court for their *pro bono* service assisting *pro se* parties. I was quite impressed: one attorney volunteered more than 700 hours in his case; other attorneys represented multiple parties *pro bono* (not just a single plaintiff); and, in some instances, whole teams of lawyers worked *pro bono* on behalf of clients. It was an honor to be introduced and welcomed by Chief Judge Ruben Castillo, whom I admire very much, and by my good friend and Chicago Chapter President Sheri Mecklenburg, who has given so much of her time to help guarantee the success of the FBA's National Community Outreach Project every April. It was meaningful to me to have the

opportunity to recognize the significant time and dedication each of these Northern District of Illinois lawyers has given to their clients, and to the cause of justice, by volunteering in this manner. Under my leadership this year, as part of the Civics and Service to Others initiative, the FBA has been encouraging such *pro bono* volunteer service. To that end, I applaud each of the lawyers recognized during the ceremony. I also hope other federal courts around the country will see this ceremony as a model to be replicated, and as an event of significance which can be held in other seats of court.

### Civics and Service to Others

The Civics and Service to Others undertaking—encompassing the FBA's national civics initiative with the AO; taking the SOLACE program national; and engaging in multiple, national efforts to help others (including legal assistance to veterans, updating the *Magistrate Judge White Paper*, encouraging mentoring and the undertaking of *pro bono* work, focusing on diversity and inclusion, and creating an Access to Justice Task Force, among other acts)—has been very well received all over the United States.

### Civics Success

In prior President's Messages, I have gone into great detail about the FBA/AO national civics initiative, which grows and expands on a monthly basis. As mentioned above, I had the great and humbling honor to appear for a second time before the Judicial Branch Committee of the Judicial Conference of the United States to update the committee on all of our civics efforts around the country this past year. As I advised the committee, the FBA anticipates federal judges this year will meet with 10,000 young people, in federal courtrooms and school classrooms, as a direct result of the FBA's civics initiative. This is, quite frankly, a remarkable achievement—for the FBA, for the federal judges involved, and for the young people who learn so much. I thank all involved for the humbling honor of helping to start this effort and lead it throughout the United States.

### SOLACE Success

SOLACE has, likewise, been very successful this year. I thank Judge Jay C. Zainey for his compassion and hard work co-founding SOLACE, and for his faith in the FBA when he asked us to help him take the program to a national audience. I also thank Steve Justice for his two years of volunteer work leading this effort—one year planning how to take Judge Zainey's program national; and, this year, implementing that work. Steve writes:

SOLACE stands for "Support of Lawyers/Legal Personnel—All Concern Encouraged." SOLACE provides a way for the FBA legal community to reach out in small, but meaningful and compassionate ways, to FBA members and those related to them in the legal community who experience a death, or some catastrophic event, illness, sickness, injury, or other personal crisis. Judge Zainey and Mark Surprenant, in connection with the Louisiana State Bar Association, originally developed SOLACE.

At the Cleveland annual meeting in September 2016, the National Council voted to approve the formation of a new



standing committee of the FBA called the "Community Service & Outreach Committee." SOLACE is one of the programs that functions as a subcommittee of this committee. In October 2016, President Newman appointed six FBA members, who had been involved in the formation/implementation of SOLACE in the FBA, to be members of this committee: Steve Justice, Jonathan Lasken, John Stellakis, Steve Miller, Joe Leventhal, and Christine Varnado.

The SOLACE Subcommittee comprises some of the FBA members who served on the original SOLACE formation committee during 2015-16: Christine Varnado, Diana Wielocha, Elizabeth Pugh, Jonathan Lasken, Joe Leventhal, Hon. Karoline Mehalchick, Steve Miller, and Steve Justice.

Thus far, 17 FBA chapters have decided to offer SOLACE as a benefit to their members since the program went live in October 2016. The current participating FBA chapters and their appointed SOLACE liaisons are as follows:

John W. Peck Cincinnati-Northern Kentucky Chapter:  
Margaret Castro  
Eastern District of New York Chapter: John Stellakis  
Dayton Chapter: Jeremy Smith  
Idaho Chapter: Katie Ball and Susi Headlee  
Northern District of Ohio Chapter: Rob Chudakoff  
San Diego Chapter: Liz Favret  
Tampa Bay Chapter: Jacqueline Simms-Petredis  
Orlando Chapter: Taylor Ford  
Dallas Chapter: Lisa Lambert  
Massachusetts Chapter: Patrick Curran  
Southern District of Texas Chapter: LaVerne Chang  
New Orleans Chapter: C.C. Kahr  
District of Columbia Chapter: Brian Murphy  
New Mexico Chapter: Monica Garcia  
Minnesota Chapter: Kirstin Kanski and Molly Thornton  
Memphis/Mid-South Chapter: Ben Scott  
Knoxville Chapter: Regina Koho

Thanks to Steve, Judge Zainey, and their large group of trusted SOLACE volunteers, this year the FBA's SOLACE program has had many successes. A few illustrations of these successes, as explained by Steve, follow:

A Southern California attorney, a single mother with two children, was battling a severe form of cancer that had progressed to stage 4. Due to substantial medical bills, she was struggling to meet her family's daily living expenses. She requested gift cards to Walmart, Target, and other stores along with Hilton Points to cover her hotel cost when she traveled to Los Angeles for cancer treatment.

*Result:* SOLACE volunteers stepped up to help her.

An FBA member is married to a police officer. The officer was involved in a shooting incident with a suspect in a stolen vehicle. As part of the routine investigation that followed, the officer was placed on administrative leave, and the family turned to SOLACE for help with their meals.

*Result:* The local FBA chapter arranged for meals to be provided to the family.

A member of the legal community lost his wife, leaving him a widower. He sought grief counseling but did not qualify for counseling through his employee assistance plan.

*Result:* Local SOLACE liaisons found a counselor willing to provide grief counseling sessions on a *pro bono* basis.

A refugee family, who had performed work on behalf of the United States in Afghanistan, faced an urgent housing crisis, and was unable to find affordable housing in the Washington, D.C., area. Friends of the family turned to SOLACE.

*Result:* Local SOLACE members were able to secure safe housing for the family at a significantly reduced rent.

Alison, the daughter of an attorney, was 26 weeks pregnant when she found out that her unborn child had esophageal atresia, an extremely rare condition wherein the baby's esophagus does not connect to its stomach. This condition is treatable but requires multiple surgeries to correct after the baby is born. Alison lived in New Orleans, but needed to deliver the baby and have the surgeries performed by specialists at Children's Hospital in Boston. She obtained housing through the hospital to start near her due date (when she planned to move to Boston), but because her fluid levels were much higher than they should have been at that time due to the baby's condition, her doctors advised her to relocate to Boston immediately to ensure that she was there when the baby was born. The problem was that the hospital's housing program did not have any openings at the earlier time. She asked the SOLACE program to help her find a place where she and a family member (her husband or mother) could stay.

*Result:* SOLACE secured her appropriate housing. Alison's contact person stated, "I am so happy to report that I received numerous suggestions and helpful information, and Alison has already secured a place to stay for those few weeks! SOLACE is truly an amazing program, and we have such an incredibly kind and supportive legal community! Thanks again to our SOLACE members for everything."

These are just a few examples of the many SOLACE successes this year across the United States. I take this opportunity to thank Judge Zainey, Steve Justice, and all of the many SOLACE commit-

tee members and volunteers who have worked so hard to make the SOLACE effort so successful on a national basis. Thanks to all.

I am very pleased to report that the FBA plans for the SOLACE program to successfully continue for many years to come. If you or someone in the legal community needs SOLACE assistance, please visit [www.fedbar.org/solace](http://www.fedbar.org/solace).

### **Thank You**

As my presidential year comes to a close, there are many to thank. I am grateful to Stacy King and the FBA staff for the outstanding work they do every day. It was my honor to work closely with Stacy this year during her first year as FBA executive director. She has done an outstanding job, and the great success of the FBA's national Civics and Service to Others initiative could not have happened without her significant efforts and great enthusiasm. Bruce Moyer and West Allen, with the FBA's Government Relations Committee, were also both quite supportive of this initiative, and I likewise thank them.

I also take this opportunity to again thank Jim Duff and Rebecca Fanning for encouraging the FBA to take on the important national work of civics in the federal courts. The civics idea came from Jim, and he deserves all of the credit. Rebecca is always full of civics suggestions, and it was a delight brainstorming with her and implementing creative civics concepts, many for the first time in the United States. Joan Brady deserves a great deal of credit for serving as the FBA's national civics liaison coordinator and doing a truly outstanding job. It fell to Joan to find the best way to implement our civics ideas, and her dedication and thorough approach helped the FBA to connect federal judges throughout the United States with thousands of school children, in classrooms and courtrooms. Maria Vathis deserves great praise and thanks for being in charge of two national civics programs undertaken this year by the FBA: (1) the essay contest for middle and high school students, and (2) the civics teacher recognition program. Both were great successes and, I am glad to report, will be repeated going forward.

Other work besides civics merits attention; as noted above, the SOLACE effort has also proven quite successful around the country. I am indebted to Judge Zainey in New Orleans for creating SOLACE, and to Steve Justice for doing all of the work necessary to take this important program to a national audience.

I also thank my judicial assistant, Diane Marcus, and my career law clerk, Mike Rhinehart, who both worked so hard this year in our chambers to help me to do two full-time jobs: serving as a federal judge with a full docket and serving as FBA president. I made the decision long ago that I would continue my regular civil and criminal docket and not ask for any case reduction while serving as president. Mike and Diane worked with me every day—frequently six (and sometimes seven) days a week—to help me make sure that the cases on my docket were decided timely, properly, and fairly under the law. I thank them for their service and their dedication to the cause of justice. Judges Thomas Rose, Walter Rice, Sharon Ovington, and Michael Merz, all of whom sit with me in Dayton, also deserve thanks.

Finally, I wish to thank my family: my wife, Rachel, and our 10-year-old triplets, Anna, Brigid, and Clare. Each of them made real and tangible sacrifices this year for the FBA. Rachel, who has a passion for teaching middle and high school students, did not teach this year on account of my travel and other work for the FBA. Much of the responsibilities at our home fell to her and, on account of my

*continued on page 22*



in federal courtrooms to teach them about the federal court system. Students also meet with assistant U.S. attorneys, assistant federal public defenders, representatives from probation and pre-trial, and representatives from federal law enforcement agencies. Students have the opportunity to participate in mock court proceedings, to ask questions about how the court system works, and to learn about what type of training and education is necessary to work in the court system. In Dayton, over 1,000 students will participate in court camp this year, “which is awesome,” the judge says. The civics program also includes essay competitions for middle and high school students. The top prize in the middle and high school essay contests is a trip to the Supreme Court.

Under Judge Newman’s leadership, the FBA also took the SO-

LACE program nationwide. SOLACE stands for “Support of Lawyers/ Legal Personnel-All Concern Encouraged” and provides a means for the FBA community to provide practical assistance to members and those related to them who experience a death, catastrophic event, illness, injury, or other personal crisis.

When Judge Newman thinks about his parents encouraging him to be a problem solver, he says that as a younger person he “wasn’t even aware those dots connected in a way that is so obvious looking back.” But, 30 years later, he credits his upbringing with inspiring him to want to be a judge and to live a life of service to others. Judge Newman’s passion and energy for helping others is an immeasurable asset to our courts and to the FBA. ☺

---

### President’s Message *continued from page 6*

court and FBA responsibilities, I was frequently absent—either in the office working six or (more likely) seven days a week to keep the docket current, or traveling outside Ohio meeting with federal judges and chapter leaders to make sure our Civics and Service to Others initiative would succeed. I missed my family often, and I love them very much.

### Conclusion

I take this opportunity to again thank each of the 19,000-plus members of the FBA for all you do each day to help others. Our membership ranks, both professional and law student, are growing on a daily

basis. As noted, our Civics and Service to Others initiative is proving to be quite successful: We are helping to educate students all over the United States via our civics work; helping those in need via the SOLACE program; helping veterans; encouraging mentoring and *pro bono* service; promoting the importance of diversity and inclusiveness; and increasing access to justice.

It has been my great honor to lead the FBA this year in these important efforts. Thank you for the opportunity to serve. ☺



- ATLANTA
- AUGUSTA
- CHARLOTTE
- DALLAS
- DENVER
- LOS ANGELES
- NEW YORK
- RALEIGH
- SAN DIEGO
- SAN FRANCISCO
- SEATTLE
- SHANGHAI
- SILICON VALLEY
- STOCKHOLM
- TOKYO
- WALNUT CREEK
- WASHINGTON D.C.
- WINSTON-SALEM

# Building Community

Kilpatrick Townsend is proud to sponsor the 2017 Federal Bar Association Annual Meeting and Convention.

[www.kilpatricktownsend.com](http://www.kilpatricktownsend.com)  
© 2017 Kilpatrick Townsend & Stockton LLP



**Federal Bar  
Association**

**REPORT TO THE  
JUDICIAL CONFERENCE OF THE UNITED STATES  
COMMITTEE ON THE JUDICIAL BRANCH**

**Hon. Michael J. Newman**  
United States Magistrate Judge &  
President, Federal Bar Association  
michael\_newman@ohsd.uscourts.gov • (937) 512-1640

Report Prepared by  
**Joan P. Brady, Esq.**  
FBA National Civics Coordinator

**MAY 2017**

**THE FBA CIVICS INITIATIVE**  
**A Six-Month Progress Report as of March 31, 2017**  
**By Joan P. Brady, FBA National Civics Coordinator<sup>1</sup>**

**Background and Scope of Report**

In October 2016, the Federal Bar Association announced a new national Civics Initiative, undertaken with the support of the Administrative Office of the U.S. Courts (“AO”). The Civics Initiative has three components:

1. Encouraging Federal Judges throughout the United States to meet with elementary school, middle school, and high school students -- in classrooms and in courtrooms -- utilizing the AO’s civics materials for Federal Judges found on the Federal Bar Association’s website ([www.fedbar.org/civics](http://www.fedbar.org/civics));
2. Conducting a national civics essay contest for middle and high school students on the topic, “What Does an Impartial Judicial System Mean to Me?”; selecting a total of six winning essays (three from middle school and three from high school); and providing a trip to Washington, D.C. for the top middle school and high school essayists and a parent;<sup>2</sup> and
3. Honoring the best social studies and civics teachers in the United States for their work teaching about the Third Branch of Government.

Part I of this report briefly describes the structure of the FBA to provide context. Part II explains the genesis and development of the Civics Initiative, including collaboration with the AO. Part III discusses the strategic launch and marketing of the Civics Initiative to date, including its web-based resources and multi-faceted components.

A short survey was used to gather data for this report. Based on survey responses and other analytical data, Parts IV and V discuss measurable results of several components of the Civics Initiative. Specifically, Part IV summarizes the results of the Essay Contest and Teacher Recognition programs. Part V focuses on the implementation of the Civics Initiative at the local Chapter level, where activities are primarily supported by Chapter Civics Liaisons. Based upon the referenced data and analysis, Part VI concludes that the Civics Initiative is, and will continue to be, a resounding success.

---

<sup>1</sup> Joan P. Brady is past president of the FBA’s Cincinnati/Northern Kentucky Chapter and a career law clerk with the U.S. District Court for the Southern District of Ohio, in Cincinnati.

<sup>2</sup> The FBA acknowledges and thanks the Federal Bar Association Foundation for its financial assistance in this regard. Generous funding from the Foundation, a 501(c)(3) entity, provided cash prizes and travel expenses for the student winners.

## **I. General Structure of the FBA**

Established in 1920, the Federal Bar Association (“FBA”) is the premier national bar association for the federal practitioner and federal judiciary. As of the date of this report, the FBA is comprised of more than 19,000 members, including more than 1,500 federal judges, who work together to promote the sound administration of justice and the integrity, quality, and independence of the federal judiciary. The FBA also provides opportunities for scholarship and for judges and lawyers to professionally and socially interact.<sup>3</sup>

Under the umbrella of national leadership, the FBA is made up of approximately 100 Chapters, organized geographically within the twelve Federal Judicial Circuits. Vice Presidents appointed for each Circuit form an integral part of the national structure.<sup>4</sup> The Mission Statement of the Federal Bar Association is as follows:

The Mission of the Association is to strengthen the federal legal system and administration of justice by serving the interests and the needs of the federal practitioner, both public and private, the federal judiciary and the public they serve.

## **II. Development of the FBA’s Civics Initiative**

On October 1, 2016, National President and United States Magistrate Judge Michael J. Newman announced that the FBA’s Civics Initiative would be a core initiative among three major focuses of his presidency.<sup>5</sup>

The objective of the Civics Initiative is to increase civics engagement and education across the country, a goal that is closely aligned with the FBA’s mission statement.<sup>6</sup> Through

---

<sup>3</sup> See <http://www.fedbar.org/About-Us/What-is-The-FBA.aspx>.

<sup>4</sup> See <http://www.fedbar.org/About-Us/Organizational-Structure.aspx>.

<sup>5</sup> The focus of Judge Newman’s FBA presidential year is “Civics and Service to Others.” The national Civics Initiative is described in detail in this report. The “service to others” effort has multiple prongs including the promotion of mentoring, supporting diversity and inclusion, increasing access to justice, providing legal access to veterans, and helping those in need via the SOLACE program. SOLACE, an acronym for “Support of Lawyers/Legal Personnel -- All Concern Encouraged,” was created by Judge Jay Zainey in New Orleans and is a program that provides a way for FBA members to provide support to anyone in the legal community who experiences a catastrophic event, illness, injury, death, or personal crisis. After its successful operation for many years in Louisiana, Judge Zainey asked the FBA to make the program national in scope. Under Judge Newman’s leadership, the FBA did so; attorney Steve Justice, from the Dungan & LeFevre firm in Troy, Ohio, chairs SOLACE. The FBA’s efforts to assist the veterans community includes, among other work, the promotion of Federal Veterans Courts in District Courts throughout the country, and a national *pro bono* day of service (called “Wills for Veterans”) in which FBA lawyers, from Chapters all over the United States, will draft wills for veterans in conjunction with Veterans Day 2017.

close collaboration with the AO,<sup>7</sup> the FBA provides support and guidance to judges, lawyers, and teachers to accomplish this objective.

Although publicly announced when Judge Newman was sworn in as National President, the groundwork for the Civics Initiative was one year in the making. Thus, as President-elect, Judge Newman worked closely with the AO, and with the FBA Board of Directors and its professional staff, to plan the launch of the Civics Initiative.

The Civics Initiative was an outgrowth in part from groundbreaking work performed by the Community Outreach Committee, an *ad hoc* committee comprised of five Circuit Vice Presidents, which began work in September 2014.<sup>8</sup> In recognition of the many shared goals of that work and the national initiatives announced by Judge Newman, the FBA amended its national Bylaws in September 2016 to establish the Community Service and Outreach Committee as a permanent standing committee. This standing committee allows an organizational structure for the ongoing work of the Civics Initiative, the community outreach project (undertaken by Chapters on an annual basis each April), and the related national community service program known as SOLACE.<sup>9</sup>

In conjunction with the creation of the standing committee and the particular focus of the Civics Initiative, Judge Newman appointed both a National Civics Coordinator (Joan Brady, from the U.S. District Court in Cincinnati), and a Chair of a new Essay Contest and Teacher Recognition program (Maria Vathis, from the Bryan Cave firm in Chicago).

## **II. Promotion and Web-Based Resources of the Civics Initiative**

### **A. Promotion of Discrete Components and Public Relations Efforts**

Following the public announcement of the Civics Initiative at the FBA's National Convention, in October 2016, Judge Newman emailed Chapter leaders around the country to request that each local Chapter appoint a Civics Liaison. The same month, Judge Newman emailed and wrote letters to Chief Judges throughout the federal courts to advise them of the Civics Initiative and to invite the participation of all judges on their respective courts.

---

<sup>6</sup> The FBA expresses its sincere appreciation to Chief Judge Robert Katzmann of the United States Court of Appeals for the Second Circuit. Chief Judge Katzmann's civics education program titled, "Justice for All: Courts and the Community Project," served as a significant inspiration for the FBA's nationwide Civics Initiative. "Justice for All: Courts and the Community" is a landmark civics education initiative launched by Chief Judge Robert A. Katzman and co-chaired by U.S. District Court Judge Victor Marrero from the Southern District of New York. Other Second Circuit initiatives include a website ([justiceforall.ca2.uscourts.gov](http://justiceforall.ca2.uscourts.gov)), courthouse visits, civics education, student contests, reenactments of historic cases, civic ceremonies, a speakers bureau, and adult education. The FBA takes this opportunity to honor and recognize Chief Judge Katzman and Judge Marrero for their long-standing commitment to civics education and their significant leadership in this most important arena. All of us in the FBA are indebted to them and for the path they have shown, so that other courts around the country may follow.

<sup>7</sup>In particular, the FBA expresses its deep gratitude to James C. Duff, the AO's Director, and Rebecca Fanning, the AO's National Outreach Manager.

<sup>8</sup>For a full report on the work of that Committee *see* the August 14, 2015 Federal Bar Association Community Outreach Report posted at [www.fedbar.org](http://www.fedbar.org).

<sup>9</sup> For a description of the SOLACE program, *see supra* note 5.

Throughout October and November 2016, Judge Newman, FBA staff, and the National Civics Coordinator and Essay/Teacher Recognition Chair worked closely on strategic plans to maximize the first year impact of the Civics Initiative.

Because most of the work of civics education and engagement is intended to be performed at a local level, the National Civics Coordinator and Circuit Vice Presidents concentrated on educating chapters about the basics of the Civics Initiative and the need for each Chapter to appoint one or more Civics Liaisons to facilitate local programming.

Simultaneous with the push for the appointment of Chapter Civics Liaisons, the Chair of the Civics Essay Contest and the Teacher Recognition Program, working with Judge Newman, the AO, and national staff, developed strategies to publicize the new civics essay contest and *Excellence in Civics Education Award* to be awarded to civics/social studies teachers throughout the United States. Because the deadline for the annual essay submission and teacher nominations was little more than three months after the launch of the Civics Initiative, publicizing these discrete components of the Civics Initiative was a major undertaking.

Beginning in October 2016, the FBA also began publicizing Civics activities on its Facebook page, in media publications including *The Federal Lawyer* magazine and the FBA electronic newsletter, and through related publications, including a newly established FBA blog (<https://fedbarblog.wordpress.org>).

In addition to press releases and similar promotional materials disseminated about the Civics Initiative and its components, AO and FBA staff jointly attended the December 2016 National Conference of Social Studies Teachers in Washington, D.C. There, the FBA and AO emphasized to the 4,000 or so teacher attendees several aspects of the Civics Initiative including the essay contest and teacher recognition program, the FBA's promotion of the December 15<sup>th</sup> anniversary of the ratification of the Bill of Rights, and ways for schools to host or view a Naturalization Ceremony in connection with Constitution Day and Citizenship Day in September 2017.

Well beyond these initial communications, Judge Newman has continued to reach out to members of the federal judiciary, FBA members, and the public at large on an ongoing basis to promote the Civics Initiative. These efforts include, among others, Judge Newman's multiple radio and podcast interviews, his President's Messages in *The Federal Lawyer* on the topic of civics, and email to all 19,000-plus FBA members to promote AO civics videos.

## **B. Establishing Web-based Resources**

In connection with the long-term commitment to the Civics Initiative, the FBA immediately established an "Outreach" link on its homepage to host civics materials. See [www.fedbar.org/civics](http://www.fedbar.org/civics). As part of the close collaboration with the AO, the FBA's national staff uploaded a multitude of resources designed by the AO for use by Federal Judges and teachers, which materials were accessible beginning October 2016.

Additionally, the FBA developed and posted a "job description" for the Civics Liaisons and a "How To" guide. The latter document contains a month-by-month breakdown of recommended civics activities, with appropriate references to key resources.



“Plug and Play” materials uploaded to the FBA’s civics web page were initially organized by the time that a Judge may have for the available audience, ranging from 15 minutes to three hours. While retaining this user-friendly structure, new materials have been continually uploaded to the FBA’s website over the past six months to provide even greater resources and flexibility for participating Chapters and Judges. Though many of the additional resources originate from the AO, others have been created by the FBA in response to the specific needs of its members. Supplemental resources now include but are not limited to: (1) Civics Toolbox; Multimedia Resources; (2) Pathways to the Bench; (3) Elementary School Resources; (4) Court Camp Resources; (5) Law Day/Law Month May 2017; and (6) Constitution Day and Citizenship Day.

### **III. Results of Essay Contest and Teacher Recognition Components**

The push to get the word out about the FBA’s first annual essay contest for both middle and high school students proved extremely effective. Hundreds of students throughout the country submitted essays based upon the prompt: “What Does an Impartial Judicial System Mean to Me?” The inspiring essays of first, second, and third place winners for each category (middle school and high school) have been posted on the FBA’s website. <http://www.fedbar.org/civicsessay.aspx>. In addition, in March 2017, the first place winners were honored at a formal luncheon at the FBA’s midyear meeting in Washington, D.C. The students also toured the United States Supreme Court.

The Teacher Recognition program was equally successful. In all, 22 teachers, nominated by their students and colleagues, received the FBA’s inaugural “Excellence in Civics Education Award.” The names of award-winning teachers also are listed by Circuit at <http://www.fedbar.org/civicsessay.aspx>.

### **IV. The Ongoing Chapter Activities Component of the Civics Initiative**

#### **A. Action Items: Implementation in the First Six Months**

Beginning October 1, 2016, a critical first action item was to promote the appointment of Civics Liaisons, a new position in the structure of the individual FBA chapters. Since most Chapters undergo annual changes in local leadership in October, in sync with the change in National leadership, new Chapter leaders were asked to embrace the Civics Initiative at the same time that they were assuming their own new responsibilities.

Fortunately, both Chapter leaders and the federal judiciary rose to the task and embraced the Civics Initiative with enthusiasm. Half-way through the first year of the Civics Initiative, 88 members of the FBA have committed to serve as Civics Liaisons, representing the participation of a majority of Chapters across nearly all Circuits.

The next action item was to set up quarterly telephonic conferences to support the work of the newly appointed Civics Liaisons and to provide an additional forum for information-sharing. The National FBA Coordinator, Judge Newman, Rebecca Fanning of the AO, and national FBA staff participate on the calls. The first call in December 2016 introduced Liaisons and leaders to all available resources (both human and electronic), and included a discussion of specific goals and deadlines. For instance, we highlighted materials to support celebrations of

the December 15 anniversary of the Bill of Rights, the January deadlines for the essay contest and Teacher Award nominations, and broader month-by-month goals.

Follow-up written communications focused on May (for Law Day and Open Doors to Federal Courts activities) and September (for Constitution Day and Citizenship Day).

On February 28, 2017, a second conference call focused on practical tips for those interested in conducting three specific programs: (1) a mock trial; (2) an “Open Doors to Federal Courts” program (in May or thereafter); and (3) Court Camps. Two Chapter leaders from St. Louis and Philadelphia spoke in detail about their past successful programs. Rebecca Fanning spoke about the third type of sample program, including both residential and day camp versions of “Court Camp.”

A third action item was to take advantage of opportunities to provide education and training to Chapter leaders at the midyear National FBA meeting on March 18, 2017. The midyear meeting emphasized the Civics Initiative in myriad ways. In addition to formal recognition of the Essay Contest and Teacher Awards and a keynote luncheon speaker who focused on civics education (Professor Jeffrey Rosen, President of the National Constitution Center in Philadelphia), the FBA offered a panel discussion of a one-week Court Camp summer program in the Eastern District of New York, and an upcoming Court Camp program being hosted by Brigham Young University. (Both the EDNY and BYU court camps are being held in conjunction with the FBA.) Rebecca Fanning also staffed a table with civics materials that conference attendees could take with them, and she, national staff, and Judge Newman continued to promote the Civics Initiative throughout the conference.

A fourth action item, also executed in March 2017, involved connecting teachers who had expressed interest at the December 2016 NSSC Conference in hosting Naturalization Ceremonies at their schools with their local Chapter Liaisons. This item was accomplished through individually tailored letters, co-signed by the FBA’s Civics Coordinator and the National Outreach Manager for the AO, that were sent via email to more than twenty teachers around the country and their respective locally matched FBA Chapter Civics Liaisons. By providing introductions and contact information to the teachers and their local Civics Liaisons, as well as links to and copies of relevant Naturalization materials, the FBA and AO were able to provide critical support to increase the number of Naturalization ceremonies to be held in school settings in recognition of Constitution and Citizenship Day in September 2017.

Many civics-related events were scheduled to take place in April 2017, both in connection with grants obtained from the FBA Foundation for National Community Outreach Project and as free-standing projects undertaken through the Civics Initiative.

In connection with the traditional celebration of Law Day on May 1, the month of May emphasizes “Open Doors to Federal Courts” activities. In these last few months before the end of the school year, the FBA is also continuing to promote Naturalization Ceremonies in school settings as part of the focus on Constitution Day and Citizenship Day in September, shortly after the beginning of the next school year. At this writing, Rebecca Fanning and the National Coordinator are preparing to send another joint letter to paired teachers and their local Chapter Liaisons.

Last but not least, through multiple communications aimed at Chapter leaders and Liaisons, we continue to encourage FBA Chapters not only to consider additional activities for May and September this year, but to think more critically about their plans for the second year of the Civics Initiative, October 1, 2017-September 30, 2018.

## **B. Numerical Results and Analysis**

By the end of the first thirty days of the Civics Initiative, just a handful of Civics Liaisons had been appointed. By the end of November, the list had grown to 25. As of the date of this report, 88 individuals have volunteered to serve as Civics Liaisons,<sup>10</sup> including ten members of the federal judiciary and a Clerk of Court.<sup>11</sup> The establishment of such significant infrastructure at the Chapter level of the FBA bodes well for the future success of the Initiative.

In order to more effectively gauge the number and types of programs being undertaken at the Chapter level, the FBA surveyed all chapters who had appointed liaisons in late February 2016. Forty-five Liaisons submitted responses to the survey, representing slightly fewer than half of participating Chapters (see attached). Respondents were asked to report on whether they had held, or planned to hold, any of the following specific events promoted through the Civics Initiative, including: (1) a Bill of Rights Anniversary event; (2) a Naturalization Ceremony held at a school or university; (3) an Open Doors to Federal Courts event; (4) a Federal Judges Go to School event; or (5) Court Camp. Respondents were also asked to record the month of their scheduled events, up through September 30, 2017.

Aside from the limitations inherent to sample size and the timing of the survey just five months after the launch of the Initiative, the survey design resulted in some underreporting. Notably, the survey recorded the type of event and the month in which the event occurred, but did not account for multiple events hosted by a Chapter in a single month. Thus, if a Chapter hosted multiple events in the same category within the same month, the duplicate events were collectively grouped and recorded as a single event.<sup>12</sup> Despite these limitations, the reported data represents truly remarkable evidence of the success of the Civics Initiative during its first six months.<sup>13</sup>

---

<sup>10</sup>Because most chapters report only the identity of their primary Liaison, the total number of designated Liaisons is unknown and may well be higher than 88.

<sup>11</sup>Serving directly as Liaisons are: U.S. District Judge Joseph F. Bianco, E.D.N.Y.; U.S. Chief District Judge Frances Tydingco-Gatewood (Guam); U.S. Magistrate Judge Karoline Mehalchick, M.D. Pa; U.S. Magistrate Judge Jeffrey L. Cureton, N.D. Tx (Fort Worth Chapter), U.S. Bankruptcy Judge Sandra Klein, C.D.Ca. (Los Angeles Chapter); U.S. Magistrate Judge Jolie A. Russo, D. Or. (Oregon Chapter), Hon. Alison Bachus, Superior Court of Arizona, (Phoenix Chapter); U.S. Magistrate Judge Katherine P. Nelson, S.D. Al.; U.S. Magistrate Judge Sherry R. Fallon (Del.); and Tom Gould, Clerk of Court, W.D. Tenn. (Memphis, Mid-South Chapter). Additionally, U.S. Bankruptcy Judge Laurie Selber Silverstein serves on the Civics Committee for the Delaware Chapter.

<sup>12</sup>By way of illustration, the San Diego Chapter's Civics Liaison reported that the Southern District of California will host 34 events, reaching more than 3,000 participants, within the first year of the Civics Initiative. However, the survey format captured only 24 events, due to multiple events in the same category occurring on different days in the same month. The Dayton Chapter also provided a detailed report that reflected multiple events occurring each month.

<sup>13</sup>While beyond the scope of this report, the supplemental reports of the Dayton Chapter and the Central District of California Chapter help illustrate the broad scope and depth of the impact of the programs promoted through the Civics Initiative. Those reports are appended as exhibits to this report.

By the end of February, 55 Naturalization Ceremonies had been planned at schools,<sup>14</sup> including nine planned to commemorate Citizenship and Naturalization Day in September 2017. Though not specifically surveyed, the author is aware - both from narrative survey responses and other reports - of additional Ceremonies attended by groups of schoolchildren who travel to the courthouse to witness those events. Based upon the early survey response date and subsequent correspondence, including outreach to 22 individual teachers and their local Liaisons, it is highly likely the number of off-site Ceremonies at schools will continue to grow prior to September 2017.

Six events were planned to commemorate the 225th Anniversary of the Bill of Rights, which occurred on December 15, 2016.

Forty-four “Open Doors to Federal Courts” events have been planned, in which schoolchildren visit federal courts.

Thirty-six “Federal Judges Go to School” events have been planned, in which local federal judges travel to school settings.

Twenty-two Court Camps have been planned, ranging from half-day events to full week programs.

In total, more than 163 scheduled events corresponding to the five referenced categories were recorded by Liaisons through the end of February. Even though the surveyed events represent a relatively small sample of the ongoing work of the Civics Initiative, the sample captured interactions with many thousands of students. For example, the Dayton Chapter alone reported planned meetings with over 1,000 students, and San Diego Chapter events involve more than 3,000 participants. The accompanying narrative comments submitted by the responding Chapters underscore that the numeric report of 163 events represents only a fraction of the actual number of events. Extrapolating from those reports, the author estimates that the sample size likely translates to 400-500 events being undertaken within this first year by participating Chapters, with an anticipated impact on well over ten thousand participants.<sup>15</sup>

Many Chapters responded that, while they were not able to report firm dates by the survey response deadline, their Boards and Liaison Committees hoped to have dates calendared in the near future. These responses correspond with the numerical data, which reflects a sharp upward trend in the volume and type of events over time.

Beyond the five events targeted by the survey, other Chapters reported that the local FBA was working to provide resources and expand existing programs put on by other bar associations. These programs typically did not fall within the five listed categories captured numerically by the survey. For example, the Idaho Chapter reported collaborative work between the District of Idaho, the Idaho Supreme Court and the University of Idaho on a two-day Teachers’ Institute for

---

<sup>14</sup>Initial survey results reflect 47 scheduled events. However, the author corrected an inadvertent under-reporting by the Cincinnati/Northern Kentucky Chapter, where judges have scheduled a total of 9 Ceremonies to be held off-site at schools and universities during the relevant period.

<sup>15</sup>See also note 7, explaining the collective grouping of duplicate events held within the same month as if they constituted a single recorded event.

high school civics teachers. Through the Civics Initiative, the FBA has learned of similar collaborative events throughout the country.<sup>16</sup>

Other Chapters reported a variety of events that also fell outside the defined parameters of the events listed on the survey. For example, the Southern District of Georgia Chapter Liaison was able to “travel” to a public school several hours away using Skype, and similar videoconferencing technology was employed to facilitate classroom “visits” by South Carolina judges. The Delaware Chapter reported a six-week summer fellowship program planned for high school students to work in chambers, as well as participation in the “Judge Chats” program at the National Constitution Center in Philadelphia. Multiple Chapters reported on mock trial programs for both grade school and high school students.

Many Chapters also reported on local essay contests independent of the national FBA contest. The Ninth Circuit has a particularly well-established essay and video contest, in which virtually all Chapters within that Circuit participate.

In keeping with the broad goals of the Civics Initiative, some Chapters reported crafting unique programs based upon local interests. One example of this type of locally tailored programming is the reenactment of the trial of Minuro Yasui, planned for May 2017 by the Northern District of California Chapter.

## **V. Conclusion**

Six months after the launch of the Civics Initiative, the FBA has accomplished much. Organizationally, National leaders, Committee members, and staff have designed infrastructure and developed resources to support the Initiative. Close collaboration with the AO has proven central to the success of the Civics Initiative.

Among those successes are a new national essay contest for middle and high school students, as well as a national Teacher Recognition program for civics educators. We developed a grassroots network of Chapter Civics Liaisons, which continues to grow. By conservative estimates, those Chapter Liaisons will have spearheaded Chapter participation in hundreds of civics outreach events, interacting with more than ten thousand students and teachers, in this first year alone.

### Attachments:

- Survey Results (Ex. A)
- Dayton Chapter Report (Ex. B)
- Central District of California Reports (Ex. C)

---

<sup>16</sup>For more information on similar Teachers’ Institutes, see *The Federal Lawyer* (April 2017).

# **EXHIBIT A**



Chapter Name	October 2016	November 2016	December 2016	January 2017	February 2017	March 2017	April 2017	May 2017	June 2017	July 2017	August 2017	September 2017	N/A
Alaska Chapter													
Baton Rouge Chapter						X	X	X				X	
Broward County Chapter													N/A
D.C. Chapter													N/A
Dallas Chapter													
Dayton Chapter													
DC Chapter													
Delaware Chapter													N/A
Eastern District of Michigan Chapter													
Eastern District of New York Chapter													
Eastern District of Pennsylvania Chapter													
El Paso Chapter													
Fort Worth Chapter													
Hon. Raymond L. Acosta Puerto Rico Chapter													
Idaho Chapter													
Inland Empire Chapter													N/A
Jacksonville Chapter			X										
John W. Peck Cincinnati/Northern Kentucky Chapter													N/A
Kansas and Western District of Missouri Chapter													N/A
Lafayette Acadiana Chapter												X	
Middle District of North Carolina Chapter													N/A
Montana Chapter													
Montgomery Chapter												X	
Nebraska Chapter													
New Mexico Chapter													
New Orleans Chapter													N/A
North Central Florida Chapter								X					
Northern District of California Chapter													
Northern District of Ohio Chapter													N/A
Oregon Chapter													N/A
Orlando Chapter													
Phoenix Chapter													N/A
Rhode Island Chapter													N/A
Roanoke Chapter													
Sacramento Chapter													
San Antonio Chapter													
San Diego Chapter													
South Carolina Chapter													
South Florida Chapter													N/A
Southern District of Georgia Chapter													
Southern District of New York Chapter													N/A
St Louis Chapter													
Tampa Bay Chapter													
US District Court S.D. Alabama (Mobile)													
William D. Browning Tucson Chapter													N/A

Chapter Name	October 2016	November 2016	December 2016	January 2017	February 2017	March 2017	April 2017	May 2017	June 2017	July 2017	August 2017	September 2017	N/A
Alaska Chapter													N/A
Baton Rouge Chapter													N/A
Broward County Chapter													N/A
D.C. Chapter													N/A
Dallas Chapter													
Dayton Chapter									X				
DC Chapter													
Delaware Chapter													N/A
Eastern District of Michigan Chapter													
Eastern District of New York Chapter										X			
Eastern District of Pennsylvania Chapter					X	X	X	X					
El Paso Chapter													
Fort Worth Chapter												X	
Hon. Raymond L. Acosta Puerto Rico Chapter													
Idaho Chapter													
Inland Empire Chapter													N/A
Jacksonville Chapter													
John W. Peck Cincinnati/Northern Kentucky Chapter							X						
Kansas and Western District of Missouri Chapter													N/A
Lafayette Acadiana Chapter													N/A
Middle District of North Carolina Chapter													N/A
Montana Chapter													
Montgomery Chapter													N/A
Nebraska Chapter													
New Mexico Chapter													
New Orleans Chapter	X	X	X	X	X	X	X	X	X	X	X	X	
North Central Florida Chapter									X				
Northern District of California Chapter													
Northern District of Ohio Chapter													N/A
Oregon Chapter													
Orlando Chapter													
Phoenix Chapter													N/A
Rhode Island Chapter													N/A
Roanoke Chapter													
Sacramento Chapter													
San Antonio Chapter													
San Diego Chapter													
South Carolina Chapter													
South Florida Chapter													
Southern District of Georgia Chapter													
Southern District of New York Chapter													N/A
St Louis Chapter	X												
Tampa Bay Chapter													
US District Court S.D. Alabama (Mobile)													
William D. Browning Tucson Chapter													N/A

Chapter Name	October 2016	November 2016	December 2016	January 2017	February 2017	March 2017	April 2017	May 2017	June 2017	July 2017	August 2017	September 2017	N/A
Alaska Chapter													
Baton Rouge Chapter													N/A
Broward County Chapter													
D.C. Chapter							X						
Dallas Chapter						X							
Dayton Chapter	X					X	X						
DC Chapter							X						
Delaware Chapter													N/A
Eastern District of Michigan Chapter							X						
Eastern District of New York Chapter							X						
Eastern District of Pennsylvania Chapter													
El Paso Chapter													
Fort Worth Chapter													
Hon. Raymond L. Acosta Puerto Rico Chapter													
Idaho Chapter													
Inland Empire Chapter								X					
Jacksonville Chapter													
John W. Peck Cincinnati/Northern Kentucky Chapter				X									
Kansas and Western District of Missouri Chapter												X	
Lafayette Acadiana Chapter								X					
Middle District of North Carolina Chapter								X					
Montana Chapter													
Montgomery Chapter												X	
Nebraska Chapter													
New Mexico Chapter													
New Orleans Chapter								X					
North Central Florida Chapter							X						
Northern District of California Chapter													
Northern District of Ohio Chapter												X	
Oregon Chapter							X	X					
Orlando Chapter													
Phoenix Chapter													N/A
Rhode Island Chapter													N/A
Roanoke Chapter													
Sacramento Chapter					X								
San Antonio Chapter													
San Diego Chapter	X	X	X	X	X	X	X	X	X	X	X	X	
South Carolina Chapter				X									
South Florida Chapter													
Southern District of Georgia Chapter													
Southern District of New York Chapter												X	
St Louis Chapter	X												
Tampa Bay Chapter													
US District Court S.D. Alabama (Mobile)								X					
William D. Browning Tucson Chapter													N/A

Chapter Name	October 2016	November 2016	December 2016	January 2017	February 2017	March 2017	April 2017	May 2017	June 2017	July 2017	August 2017	September 2017	N/A
Alaska Chapter				X									
Baton Rouge Chapter								X					
Broward County Chapter	X	X	X	X	X	X	X	X	X	X	X	X	
D.C. Chapter								X					
Dallas Chapter													
Dayton Chapter													
DC Chapter													
Delaware Chapter													N/A
Eastern District of Michigan Chapter													
Eastern District of New York Chapter												X	
Eastern District of Pennsylvania Chapter													
El Paso Chapter													
Fort Worth Chapter													
Hon. Raymond L. Acosta Puerto Rico Chapter													
Idaho Chapter													
Inland Empire Chapter												X	
Jacksonville Chapter	X	X		X	X		X	X	X				
John W. Peck Cincinnati/Northern Kentucky Chapter				X									
Kansas and Western District of Missouri Chapter													N/A
Lafayette Acadiana Chapter												X	
Middle District of North Carolina Chapter													N/A
Montana Chapter												X	
Montgomery Chapter												X	
Nebraska Chapter													
New Mexico Chapter													
New Orleans Chapter													N/A
North Central Florida Chapter								X					
Northern District of California Chapter													
Northern District of Ohio Chapter													N/A
Oregon Chapter												X	
Orlando Chapter													
Phoenix Chapter													N/A
Rhode Island Chapter													N/A
Roanoke Chapter													N/A
Sacramento Chapter													
San Antonio Chapter													
San Diego Chapter	X	X	X	X	X	X	X	X	X	X	X	X	
South Carolina Chapter												X	
South Florida Chapter								X					
Southern District of Georgia Chapter													
Southern District of New York Chapter													N/A
St Louis Chapter					X								
Tampa Bay Chapter													
US District Court S.D. Alabama (Mobile)			X					X					
William D. Browning Tucson Chapter													N/A

Chapter Name	October 2016	November 2016	December 2016	January 2017	February 2017	March 2017	April 2017	May 2017	June 2017	July 2017	August 2017	September 2017	N/A
Alaska Chapter													
Baton Rouge Chapter								X					
Broward County Chapter				X									
D.C. Chapter							X						
Dallas Chapter							X						
Dayton Chapter				X	X	X	X			X			
DC Chapter							X						
Delaware Chapter													N/A
Eastern District of Michigan Chapter						X		X					
Eastern District of New York Chapter					X		X		X				
Eastern District of Pennsylvania Chapter					X	X	X	X					
El Paso Chapter													
Fort Worth Chapter												X	
Hon. Raymond L. Acosta Puerto Rico Chapter													
Idaho Chapter													
Inland Empire Chapter								X					
Jacksonville Chapter													
John W. Peck Cincinnati/Northern Kentucky Chapter					X		X						
Kansas and Western District of Missouri Chapter									X				
Lafayette Acadiana Chapter							X						
Middle District of North Carolina Chapter							X	X					
Montana Chapter													
Montgomery Chapter												X	
Nebraska Chapter													
New Mexico Chapter	X									X			
New Orleans Chapter							X						
North Central Florida Chapter							X						
Northern District of California Chapter													
Northern District of Ohio Chapter								X				X	
Oregon Chapter							X						
Orlando Chapter	X				X			X					
Phoenix Chapter													N/A
Rhode Island Chapter													N/A
Roanoke Chapter													
Sacramento Chapter						X							
San Antonio Chapter													
San Diego Chapter						X							
South Carolina Chapter	X						X						
South Florida Chapter								X					
Southern District of Georgia Chapter													
Southern District of New York Chapter													N/A
St Louis Chapter	X												
Tampa Bay Chapter													
US District Court S.D. Alabama (Mobile)													
William D. Browning Tucson Chapter													N/A



Chapter Name	Other Civics Activities
Alaska Chapter	We are promoting the Ninth Circuit's civics essay and video competition. <a href="http://cdn.ca9.uscourts.gov/datastore/ce9/2017/01/17/R_Ninth_Circuit_Civics_Contest.pdf">http://cdn.ca9.uscourts.gov/datastore/ce9/2017/01/17/R_Ninth_Circuit_Civics_Contest.pdf</a> We are working on scheduling judge visits to school. Also we are working on some outreach programs to both law scho universities in town. We may be coordinating a program with one of the schools to assist veterans with legal issues. We're working on a plan for the year. Hoping to have more by the next report.
Baton Rouge Chapter	Law Day (anticipated) - May 2017
Broward County Chapter	We continue to support the national and local Solace efforts. We have facilitated the circulation of a number of Solace requests to the National FBA and local FBA Chapter members. We have announced the Solace efforts at the monthly U.S. District Court Admissions ceremony and at the monthly D.C. Bar Meeting of the Voluntary Bar Associations. Several DC Chapter, FBA members participate on the National FBA Solace Subcommittee.
D.C. Chapter	The March 2017 Federla Judges Go to School is actually a trip to the local law school, so not sure that it counts as a civics event. The April 2017 visit to the courthouse will be for junior high students from a local school in West Dallas. They will tour the courthouse and meet with a couple of our federal judges.
Dallas Chapter	In December 2016, I visited a local high school with a Pretrial Services Officer to discuss differences between state and federal criminal cases. In January 2016, we had a group of students attend a Naturalization Ceremony at the US Courthouse.
Dayton Chapter	Naturalization ceremony at usdct dc may 2017.
DC Chapter	The Delaware Chapter of the Federal Bar Association is excited to be launching its Civics Committee in early 2017. The Delaware Chapter's Civics Liaisons are Kate Mowery and Brian Biggs. The Civics Committee also comprises the Honorable Sherry R. Fallon, the Honorable Laurie Selber Silverstein, and Delaware practitioners Kate Mowery, Steve Brauerman, Pilar Kraman, and Karen Owens. While we are still in the early planning stages, we have some fun and interesting programs in development: 1. We are working toward a Constitution Day 2017 event for local high school students with an interest in the law. The current framework of the plan is to invite students into the courthouse for a presentation by the District Court and Bankruptcy Judges and prominent local practitioners. 2. We are developing an essay contest for local high school students regarding the U.S. Constitution. The essay contest would culminate with an awards ceremony that may coincide with the other Constitution Day Activities. 3. We are developing a program to invite local high school students to Naturalization Ceremonies in Delaware. The program would involve a presentation by the Judges and/or local practitioners to discuss the naturalization procedure and the importance of these events. We are excited to work with the other FBA Chapter Civics Liaisons to make these programs a success. The Civics Committee's programs will complement the District of Delaware's and the Delaware Chapter's important and significant civics-minded programs, including but not limited to: 1. The High School Fellowship Program: a six-week program for high school students to work in chambers with Judges of the District Court and/or with other federal employees who work with the Court. These Fellows also have the opportunity to observe District Court proceedings and meet leaders in the Delaware legal system. Throughout the Fellows' time in the program, lasting from late June until early August, they will gain first-hand experience working in a court system and a better understanding of the legal system as a whole. 2. The District Court's Re-Entry Court: a voluntary federal re-entry program for Delaware residents on supervised release who present a significant risk of recidivism. Once selected for inclusion in the program, participants in Re-Entry Court appear before a United States Magistrate Judge every two weeks, to discuss their progress on supervision, and receive intensive supervision and mentoring by the Probation Office, while also receiving priority services in job training, job placement/retention, education, housing, treatment, and free civil legal services. After participants successfully complete 52 weeks in REC, they participate in a graduation ceremony and are eligible for a reduction of up to one year of their term of federal supervised release. 3. The Federal Trial Practice Seminar: a multi-week instructional trial practice program for lawyers with less than 10 years of practice experience who have an interest in regularly litigating in the District Court. The Seminar has two primary goals. First, it seeks to provide the participants with a venue in which they can practice federal trial skills and learn from experienced practitioners in order to hone those skills. Second, it offers an opportunity for the Court to educate the participants as to what is expected of those who practice in federal court in the District. 4. Judge Chats: In the past year, Judges of the District Court have participated in the "Judge Chats" program at the National Constitution Center (NCC) in Philadelphia. The Judge Chats allow students and judges to engage in an open and informative dialogue about judging and the judicial system. Judges talk to students and teachers about interpreting law and the implications of the Constitution on everyday life. 5. Mock Trials: In May of 2016, Chief Judge Leonard Stark welcomed fourth, fifth and sixth grade students from First State Montessori Academy Charter School to visit his chambers to perform a mock trial in the cases of "Dogs v. Cats" and "Muffins v. Cupcakes." In addition Judge Stark and the U.S. Marshals took the students on tours of the courthouse and discussed the role of the federal courts.
Delaware Chapter	On March, 30, 2017 our Chapter will participate in an affinity bar event, The Michael K. Lee Celebration of Our Diverse Bar. The event brings together members of the legal community and community at large and celebrates diversity in all forms. Proceeds benefit a local charity; this year proceeds will go to a charity providing assistance to Detroit's school age children. Also in March our Chapter's Diversity Committee will be opening the doors of the Courthouse to welcome local law school students to come take a tour, hear a panel discussion, and enjoy a lunch and networking opportunities with members of the bench and bar. Finally, we will once again host a Law Day at the Courthouse. In addition to members from the community who attend, we anticipate having several high school students come and enjoy the event. The event features a tour, panel discussions on the Law Day theme, display tables from multiple federal agencies, bomb sniffing dogs, and an Ask the Lawyer panel staffed with members who offer advice to pro se litigants.
Eastern District of Michigan Chapter	The EDNY Chapter in partnership with Chief Judge Katzmann's Committee on Public Engagement and Civic Education will also be hosting a special schoolhouse to courthouse trip in April for disabled children. In addition, in an effort to expand our community outreach, Judge Bianco will be lecturing at a library this summer for a group of senior citizens. Finally, the EDNY is also sponsoring a mentor moot court competition in the fall.
Eastern District of New York Chapter	We nominated a teacher for the excellence in civics award
Eastern District of Pennsylvania Chapter	We are planning an essay contest & meet & greet for the winners around Law Day, May 2017. We are also planning a few other court/HS visits during the fall 2017 timeframe.
El Paso Chapter	Planned a brief program at the federal court house for the High School Mock Trial teams next Fall (maybe September or October) to go over some civics basics before they begin their preparation for the competition. Hope to gain federal judge participation. To be held in conjunction with the Tarrant County Bar Association. Planning will begin after current school year in advance of new year. Expected date September or October 2017.
Fort Worth Chapter	For the Constitution's anniversary, the Chapter president wrote a column that was published in Puerto Rico's leading newspaper about the U.S. Constitution. The Puerto Rico Chapter has given three talks to high school age students in alternative education programs at three different centers in Puerto Rico: of one of Puerto Rico's major nonprofit institutions. The topics of the talks were the legal system, the legal profession and fundamental rights. Another talk will be given next month to such students on internet use, sexting, bullying, etc., in coordination with the Federal Public Defender. More talks are planned at other organizations such as the Boy Scouts. We are also planning a visit to the United States District Court in April by high school students.
Hon. Raymond L. Acosta Puerto Rico Chapter	While I do not have information for activities within the specific months as requested above, our FBA Chapter is partnering with the Attorneys for Civics Education (ACE) program in Idaho so as to not duplicate or compete with the local organizations who have been conducting work in civics education for some time. The Federal court in Idaho has partnered with the Idaho Supreme Court and the University of Idaho to put on a civics program for high school civics teachers (Teachers' Institute). The Attorneys' for Civics education (ACE) has several activities, one of which is to take judges and practitioners into the classroom. Several of our Federal Judges ad hoc go into limited classrooms.
Idaho Chapter	
Inland Empire Chapter	
Jacksonville Chapter	We've hosted an event based on Implicit Bias and Racial Prejudice and we have an upcoming 1/2 day seminar focusing on federal practice and procedure
John W. Peck Cincinnati/Northern Kentucky Chapter	John W. Peck Cincinnati/Northern Kentucky Chapter
Kansas and Western District of Missouri Chapter	We are organizing an event at the courthouse for secondary teachers in June 2017 and hope to later set up visits to schools from judges.
Lafayette Acadiana Chapter	
Middle District of North Carolina Chapter	
Montana Chapter	
Montgomery Chapter	I'm new to this position but am trying to work on adding more events in our area.
Nebraska Chapter	Our Chapter will formulate a civics activity plan at our next meeting, in March 2017. We will explore the Open Doors to Federal Courts and/or Federal Judges Go to School options.
New Mexico Chapter	
New Orleans Chapter	The Chapter's YLD continues its partnership with New Orleans' Crescent Leadership Academy ( <a href="http://www.crescentleadershipacademy.com">www.crescentleadershipacademy.com</a> ). The school is an alternative public middle and high school. For many of its students, it is their last hope for a high school diploma. Now in its second year, the YLD's programming includes a year-long series of classes on landmark cases. The classes, which are bi-monthly, coincide with the school's American History curriculum and focus on constitutional rights. The YLD prepared a workbook to guide instruction; young lawyers, using the workbook, lead classroom discussion. The classes are designed not only to teach students about our nation and its laws, but to encourage debate. As they learn to communicate their ideas, the students gain confidence that might assist them in other areas of their life. In addition to bi-monthly classes, the YLD sponsors field trips. For instance, after the students studied Korematsu v. United States, they spent a day at the WWII Museum. The students will visit the Angola Louisiana State Penitentiary in March, following a series of classes on landmark cases affecting the rights of the accused. A day at the federal courthouse is being planned for April.
North Central Florida Chapter	Law Week presentations to public/private schools during first week of May, 2017 Town Hall regarding newly adopted immigration policies
Northern District of California Chapter	Beginning on February 1, 2017 the Ninth Circuit began accepting essay submissions for its civics contest regarding legal lessons of Japanese American internment. In remembrance of the mass incarceration of Japanese Americans in WWII, on Tuesday May 16, 2017 The Northern District of California FBA will host a re-enactment of the trial of Minuro Ysui.
Northern District of Ohio Chapter	Kip Bolin, former chapter president and national president-elect will be speaking to grade school students while in South Carolina for the national board meeting.
Oregon Chapter	Civics essay contest. District wide open to all high school students (9-12th grades). Top three contestants in both written essay and 3 minute video will be recognized at our Annual FBA District Dinner and then move forward to compete in the Ninth Circuit Civics contest.
Orlando Chapter	We are having a school group come to the courthouse in April to view a hearing, ask questions of a judge, take a tour, hear about jury procedures, and listen to a panel discuss careers connected with the federal courts. We also oversee a pro se clinic held weekly at the Orlando Division federal courthouse, in conjunction with our local legal services organization.
Phoenix Chapter	
Rhode Island Chapter	While we do not yet have any events planned, our chapter board has begun to discuss some proposals that we will then bring to the Court for consideration.
Roanoke Chapter	
Sacramento Chapter	
San Antonio Chapter	The San Antonio Chapter of the Federal Bar Association ("FBA") sponsors an interactive luncheon to encourage young men and women to consider a career in the legal field. This is a casual lunch for young adults attending the Fox Tech Law and Research Magnet Program. The purpose of the lunch is to provide students with the opportunity to discuss legal career options with men who work in legal professions. The luncheon will commence with inspiring speakers from different legal career fields who will address the whole group, telling their "career story."
San Diego Chapter	Our judges preside over Naturalization ceremonies every month, but they are not held at a school. They are held in very large venues that hold around 1000 people. Also, from October, 2016 - September, 2017 we have hosted or are currently scheduled to host 34 events for approximately 3,000 participants. Additionally we have 5 judges who participate in going to local classrooms each month to read to students.
South Carolina Chapter	
South Florida Chapter	
Southern District of Georgia Chapter	Civics Essay Contest
Southern District of New York Chapter	CLE: Civil Rights Update for the Practitioner, February 2017
St. Louis Chapter	I checked a number of boxes to cover our mock trial outing at the Federal Courthouse this fall. President Mike Newman and Judge John Ross (FBA St. Louis judicial liaison) and the FBA St. Louis hosted 60 students of an inner city school and gave them a courthouse tour, lunch and a mock trial in the federal courtrooms.
Tampa Bay Chapter	Civics Outreach program at Tampa federal courthouse on Thursday, April 27, 2017. Approximately 30 high school students who are involved in mock trials or civics studies will observe an actual sentencing and hear a morning of presentations from a U.S. District Judge, U.S. Magistrate Judges, and lawyers on the operation of the federal courts and our nation's judicial system in general.
US District Court S.D. Alabama (Mobile)	
William D. Browning Tucson Chapter	

# **EXHIBIT B**

**FEDERAL BAR ASSOCIATION  
DAYTON CHAPTER  
DAYTON, OHIO**

**CIVICS OUTREACH REPORT  
(2016-2017 Academic Year)**

Prepared By:

Michael N. Rhinehart, Esq.  
Dayton Chapter Civics Liaison  
200 West Second Street, Room 505  
Dayton, Ohio 45402  
(937) 512-1640  
[michael\\_rhinehart@ohsd.uscourts.gov](mailto:michael_rhinehart@ohsd.uscourts.gov)

## **The National Civics Initiative Takes Flight in Dayton**

The National Civics Initiative undertaken by the Federal Bar Association (“FBA”) -- and specifically spearheaded by the FBA’s National President and the Dayton Chapter’s own Honorable Michael J. Newman -- launched to great success in Dayton. As set forth in more detail herein, the Dayton Chapter’s civics outreach efforts officially kicked off in October when Judge Newman and Michael Rhinehart (Judge Newman’s career law clerk and Dayton Chapter Civics Liaison) travelled to Five Points Elementary School in Springboro, Ohio to meet with approximately two hundred third grade students to discuss the three branches of government and, specifically, the role of the court.

Thereafter, the Judges in Dayton sent an invitation to all public school superintendents and high school principals in Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble, and Shelby counties in Ohio. That invitation, attached to this report, let all schools know of the Court’s willingness to visit students in their schools and encouraged all schools to visit Dayton’s federal courthouse. Within weeks of that invitation being sent, over a dozen schools responded seeking opportunities for their students to meet with the Judges and to learn more about the federal court system.

As of the end of February, approximately 200 students from four high schools have visited the courthouse in 2017. In addition, the Court has scheduled visits -- either in the courthouse or in classrooms -- with approximately 600 more students from seven different area schools. More visits are currently in the scheduling process. In all, during the 2016-17 academic year, Judges with the District Court in Dayton anticipate meeting with over 1,000 students in the courthouse or in classrooms across the Southern District of Ohio and, specifically, within the Dayton region of the Court.

### Five Points Elementary School

On October 31, 2016, Judge Newman and Michael Rhinehart met with third grade students at Five Points Elementary School in Springboro, Ohio. During the visit, Judge Newman and Michael discussed the three branches of government and, specifically, the role of the court.

Based upon the Big Bad Wolf's destruction of property in the Three Little Pigs fairy tale (and altering the tale by omitting the Wolf's eating of the Pigs), Judge Newman and Michael discussed the various roles each branch of government would play in the Big Bad Wolf's prosecution for the destruction of property -- *i.e.*, the legislative branch drafted the law the Wolf allegedly violated, the executive branch would initiate the prosecution, and the judicial branch would hear the evidence and determine whether the Wolf's conduct violated the law.

Judge Newman and Michael also discussed the types of relief the Three Little Pigs could seek from the courts in a civil action against the Big Bad Wolf.



(Judge Michael J. Newman (L) and Michael Rhinehart (R) pose with Ms. Bailey Loch and Ms. Emily Pope. Ms. Loch and Ms. Pope are 3rd grade teachers at Five Points Elementary in Springboro, Ohio)





### Northmont High School

On December 9, 2016, Pretrial Services Officer Kelvin Gover and Michael Rhinehart met with a Criminal Studies class at Northmont High School in Englewood, Ohio. Kelvin and Michael discussed the role of Pretrial Services in the criminal justice system, the differences between state and federal courts (e.g., with regard to cases, potential penalties and sentencing), as well as the different types of motions brought before courts in criminal cases. Michael discussed the 225th Anniversary of the Bill of Rights and, specifically, discussed the prevalence of Fourth Amendment issues in criminal pretrial proceedings, such as motions to suppress evidence based upon alleged violations of the Fourth Amendment.

### Thurgood Marshall High School

On January 19, 2017, a group of 10 students visited the Federal Courthouse in Dayton, Ohio to attend a Naturalization Ceremony. The students had the opportunity to see 50 people become new citizens of the United States. The new citizens were from a total of 32 countries from across the globe. In addition to seeing the Naturalization Ceremony, the students were able to meet District Judges Thomas M. Rose and Walter H. Rice, as well as Magistrate Judge Sharon L. Ovington. The Judges all explained the Naturalization process that the new citizens all completed over a lengthy period of time prior to the ceremony, and how much each Judge enjoyed presiding over such ceremonies numerous times each year.

### Eaton High School

Over two days (January 25 and 26, 2017), a total of approximately 90 juniors and seniors from Eaton High School in Eaton, Ohio visited the Federal Courthouse. The students, who are all taking a government course at Eaton High, visited the Courthouse three hours each day and had the opportunity to meet four Federal Judges (District Judges Thomas M. Rose and Walter H. Rice; Magistrate Judges Sharon L. Ovington and Michael R. Merz).

During the visit, Michael Rhinehart discussed the facts, procedural history, and disposition of the United States Supreme Court’s decision in *Elonis v. United States* and presented the students with a hypothetical factual scenario to consider.<sup>1</sup> With the assistance of Judge Ovington, as well as law clerks Lisa Woodward, Michael McShea and James Smerbeck, a group of volunteer students developed arguments based upon their understanding of *Elonis* and presented those arguments to a panel of the Judges over approximately 30 minutes. After students presented their arguments, their peers -- serving as “jurors” -- debated the issues and discussed how they would decide the dispute.



(Judges Thomas M. Rose, Michael R. Merz and Walter H. Rice pose with teachers and the principal of Eaton High School on January 26, 2017)

---

<sup>1</sup> The materials for this activity are available on the Federal Bar Association’s website. See Federal Bar Association, <http://www.fedbar.org/Outreach/Civics/If-You-Have-2-to-3-Hours-with-a-Group.aspx> (last visited Feb. 21, 2017); see also United States Courts, <http://www.uscourts.gov/educational-resources/educational-activities/elonis-v-us> (last visited Feb. 21, 2017).



### Fort Loramie High School

On February 13, 2017, a group of approximately 50 juniors and seniors at Fort Loramie High School visited the Courthouse and met with Judges Walter Rice, Sharon Ovington, and Michael Newman. Again, the Court used the *Elonis* program materials available on the FBA's Civics webpage, as well as the U.S. Court's Educational Resources webpage.

Michael Rhinehart discussed the facts, procedural history and disposition of the United States Supreme Court's decision in *Elonis* and presented the students with a hypothetical factual scenario to consider. With the assistance of attorneys and FBA members Glen McMurry and Nadia Klarr, a group of volunteer students developed arguments based upon their understanding of *Elonis* and presented those arguments to Judges Rice and Ovington over approximately 30 minutes. After students presented their arguments, their peers -- serving as "jurors" -- debated the issues and discussed how they would decide the dispute.



(Judge Michael J. Newman addresses students from Fort Loramie High School during their visit to the U.S. Courthouse in Dayton, Ohio)



(Judge Michael J. Newman addresses students from Fort Loramie High School during their visit to the U.S. Courthouse in Dayton, Ohio on February 13, 2017)



(Fort Loramie High School students, coached by attorney and FBA member Nadia Klarr, present arguments to Judges Walter H. Rice and Sharon L. Ovington during their visit to the U.S. Courthouse on February 13, 2017)





(A Fort Loramie High School student, coached by Nadia Klarr, presents arguments to Judges Walter H. Rice and Sharon L. Ovington during a visit to the U.S. Courthouse on February 13, 2017)



(A Fort Loramie High School student, coached by attorney and FBA Member Glen McMurry, presents arguments to Judges Walter H. Rice and Sharon L. Ovington during their visit to the U.S. Courthouse on February 13, 2017)





(A Fort Loramie High School student, coached by Glen McMurry, presents arguments to Judges Walter H. Rice and Sharon L. Ovington during their visit to the U.S. Courthouse on February 13, 2017)



(Fort Loramie High School Students conference with Glen McMurry to prepare a rebuttal argument during their visit to the U.S. Courthouse on February 13, 2017)

### West Liberty-Salem High School

On February 16, 2017, a group of approximately 38 students from West Liberty-Salem High School visited the Courthouse and met with Judges Walter Rice and Michael Newman. Again, the Court used the *Elonis* program materials available on the FBA's Civics webpage, as well as the U.S. Court's Educational Resources webpage.

Michael Rhinehart discussed the facts, procedural history and disposition of the United States Supreme Court's decision in *Elonis* and presented the students with a hypothetical factual scenario to consider. With the assistance of law clerks Michael McShea and Chelsea Glassmann, a group of volunteer students developed arguments based upon their understanding of *Elonis* and presented those arguments to Judge Newman over approximately 30 minutes. After students presented their arguments, their peers -- serving as "jurors" -- debated the issues and discussed how they would decide the dispute.



(Students from West Liberty-Salem High School, coached by law clerk Michael McShea, make arguments to Judge Michael J. Newman during their visit to the U.S. Courthouse on February 16, 2017)





(Students from West Liberty-Salem High School, coached by law clerk Chelsea Glassmann, make arguments to Judge Michael J. Newman during their visit to the U.S. Courthouse on February 16, 2017)



(Students from West Liberty-Salem High School, coached by Chelsea Glassmann, make arguments to Judge Michael J. Newman during their visit to the U.S. Courthouse on February 16, 2017)



(Students from West Liberty-Salem High School, coached by Michael McShea, make arguments to Judge Michael J. Newman during their visit to the U.S. Courthouse on February 16, 2017)

### Other Scheduled Events

**March 1, 2017:** Students from National Trail High School in New Paris, Ohio will visit the U.S. Courthouse in Dayton, Ohio.

**March 14, 2017:** Approximately 100 students from Butler High School in Vandalia, Ohio will visit the U.S. Courthouse in Dayton, Ohio.

**March 3, 2017:** Approximately 80 fourth grade students from Indian Riffle Elementary School in Kettering, Ohio will visit the U.S. Courthouse in Dayton, Ohio.

**March 24, 2017:** Judge Michael J. Newman will speak to an assembly of approximately 200 students at Oakwood High School in Dayton, Ohio.

**March 28, 2017:** Approximately 50 students from Fairmont High School in Kettering, Ohio will visit the U.S. Courthouse in Dayton, Ohio.

**April 10, 2017:** Judge Thomas M. Rose will meet with approximately 70 students at Beavercreek High School in Beavercreek, Ohio.

**April 20, 2017:** Judge Walter H. Rice will meet with students at Botkins High School in Botkins, Ohio.

**June 2017:** The U.S. District Court for the Southern District of Ohio will host students participating in the Montgomery County, Ohio Court Camp.

Other School Visits Anticipated (In Courtrooms or Classrooms)

Bethel High School  
Fairborn High School  
Greenview High School  
Tippecanoe High School  
Troy High School  
West Carrollton High School



# United States District Court

Southern District of Ohio  
Federal Building & United States Courthouse  
200 West Second Street  
Dayton, Ohio 45402

December 5, 2016

## Re: Invitation

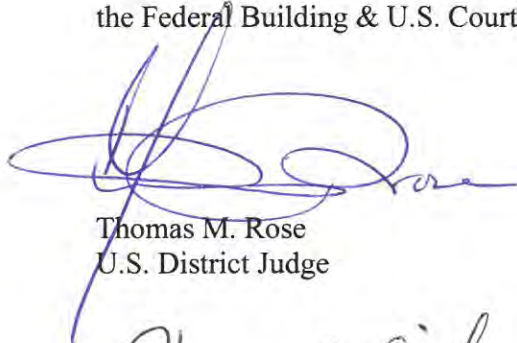
Dear Superintendents, Principals, and Teachers,

All of the Judges of the U.S District Court in Dayton write to invite your students to the Federal Building and United States Courthouse to learn more about our court, the American judicial system and its role in the overall fabric of our system of government. In addition, we would welcome any and all opportunities for one or more of us to visit with your students at your schools.

Our court is among many courts throughout the country spearheading a national civics outreach initiative. For years, our court has participated in outreach efforts with young high school and college students, opening their eyes to the inner workings of the courts, how cases proceed through the courts, and how cases are ultimately decided by judges or juries. The judges, lawyers, and staff of our court and our federal bar cherish and value each opportunity to teach and mentor students about the American justice system, and we very much welcome the opportunity to meet your students in our courtrooms or in your classrooms throughout the school year.

Please consider our invitation and forward it to any and all administrators or teachers who you believe would be interested. All administrators or teachers interested in bringing a class to the federal court are encouraged to contact **Michael Rhinehart**, an attorney with our court in charge of coordinating civics outreach efforts with schools. Michael can be contacted by phone at **(937) 512-1643** or by email at **michael\_rhinehart@ohsd.uscourts.gov**. Michael will be happy to discuss the opportunity with you, answer any questions that you may have, and arrange a time for your classes to visit the court or for us to visit your school.

On behalf of all of us at the U.S. District Court in Dayton, we are excited to welcome you to the Federal Building & U.S. Courthouse, and hope to see you and your students soon.

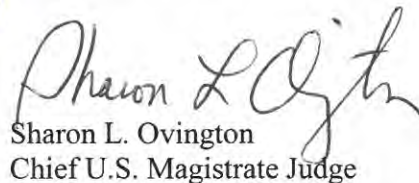


Thomas M. Rose  
U.S. District Judge

Most sincerely,



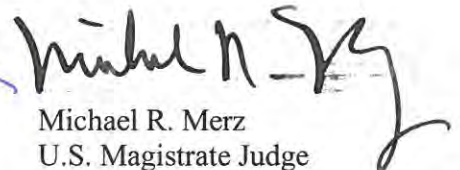
Walter H. Rice  
U.S. District Judge



Sharon L. Ovington  
Chief U.S. Magistrate Judge



Michael J. Newman  
U.S. Magistrate Judge



Michael R. Merz  
U.S. Magistrate Judge

# **EXHIBIT C**

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**Community Outreach Events and Activities from October 1, 2016 through September 30, 2017**

<b>EVENT</b>	<b>DATES</b>	<b>DESCRIPTION</b>
Mock Trial	4/13/2017	A Courtroom to the Classroom session is selected for one judge, two attorneys and middle school/high school students. The judge/attorney teams use PowerPoint-driven lessons with students that deal with the history of the Constitution and engage them in an application activity of the content through a moot court, using a real Supreme Court case. The judge and attorneys interact with the students to present content, help them prepare for the moot court activity, and answer questions.
International Visitors Council of Los Angeles	12/02/2016, 12/07/2016, 3/13/2017, 3/28/2017	The IVCLA's mission is to create international understanding and cooperation between the Los Angeles region and the rest of the world. IVCLA works to accomplish this mission through the professional meetings and cultural activities we arrange for emerging international leaders who are individually selected by U.S. embassies throughout the world and sponsored by other public and private organizations.
Just the Beginning	June 21, 2017	Just The Beginning – offers pipeline programs directly aimed at inspiring young students and increasing diversity in

<p>the legal profession and judiciary. These programs include the Middle School and High School Summer Legal Institutes, an Advanced Summer Legal Institute, law student externships, law student scholarships, programming in schools that target under-served and minority high school and college students, and biennial conferences that bring together diverse legal leaders of local communities.</p>		<p>the legal profession and judiciary. These programs include the Middle School and High School Summer Legal Institutes, an Advanced Summer Legal Institute, law student externships, law student scholarships, programming in schools that target under-served and minority high school and college students, and biennial conferences that bring together diverse legal leaders of local communities.</p>
<p>Korean Observation Program</p>	<p>2/16/2017</p>	<p>This observation program allows young judges from Korea to see first-hand how our system works. These judges study law in America for one year. A crucial part of their studies is observing the American court system at work. To assist in this effort, the Committee solicits placement for them in a Federal court to observe a trial or interact with our federal judges and other court personnel. These judges are relatively young and new in their fields and have stated that they have benefitted greatly from interaction with judges, clerks, attorneys, and courthouse staff. For most of these judges, it is the high point of their studies while here in America.</p>
<p>Naturalization Ceremonies</p>	<p>10/18/16, 9/22/16, 11/8/16, 11/15/16, 11/16/16, 12/13/16, 1/18/17, 2/15//17, 3/15/17, 4/18/17, 5/23/17, 6/13/17, 6/20/17, 6/22/17, 7/18/17, 8/22/17, 9/20/17</p>	<p>Judges preside over naturalization ceremonies throughout the district.</p>
<p>Meet the Federal Court</p>	<p>2/01/17, 2/02/17, 3/03/17</p>	<p>Teachers and students (7<sup>th</sup> grade - 12<sup>th</sup></p>

<p>grade) are cordially invited to attend this program that includes presentations by a federal judge, representatives from various federal agencies including United States Attorney's Office, Office of the Federal Public Defender, United States Probation, United States Marshals Service and Interpreter Services.</p>		
<p>This FBA Los Angeles program is designed to aid both new admittees and attorneys with limited experience in federal court in the practical aspects of civil litigation in federal court. This program takes place at the federal court and includes a district and magistrate judge.</p>	<p>Date T.B.D.</p>	
<p>The program is intended to provide high school teachers with a foundation for discussions on how the legal system is involved in an evolving issue and the factors that are considered by the U.S. Attorney's Office in deciding whether or not to prosecute such cases. The interactive program is hosted by the Honorable Consuelo B. Marshall, and will include presentations by attorney panelists, discussion sessions, and teacher debates. Question and answer sessions will be interspersed throughout the program, and written materials are provided. Each year the topic is provided by the Administrative Office in Washington, DC.</p>	<p>10/25/2016</p>	
<p>Local law schools will sometimes utilize</p>	<p>Date T.B.D.</p>	<p>Trial Competitions</p>



<p>We the Students</p>	<p>the courtrooms for trial competitions.</p> <p>The three stages of the program:</p> <ol style="list-style-type: none"> <li>1) Attorneys visit the students during class, introduce the program: mock trial and essay contest, including Q/A session about what it's like to be a lawyer, schooling, education.</li> <li>2) Mock trial: attorneys come back to the school to conduct a "mock trial" - a mock appellate argument. The students will serve as attorneys for the plaintiff, defendant or jury members. Each attorney will argue a specific point for their side and the judges will ask questions that attorneys are expected to answer. After arguments are completed, the jurors are divided into group to deliberate and then vote on who they think should prevail. The juries each select a jury "foreperson" to speak for each group and state the jury's finding. The attorneys will review the essays and select the 3-4 winners.</li> <li>3) Court visit/essay contest winners announced. A few weeks after the mock trial, the students will visit the United States District Court in downtown Los Angeles. Afterwards, the winners of the essay contest are announced and they are asked to read their essays aloud.</li> </ol>
	<p>Date T.B.D.</p>

**United States Bankruptcy Court  
Central District of California  
Community Outreach Events and Activities from October 1, 2016 through September 30, 2017**

<b>Event</b>	<b>Dates</b>	<b>Description</b>
Girl Scout Visits	10/7/16, 12/19/16, 12/28/16, 3/17/17	Girl Scouts of all ages visit the Courthouse as part of the <a href="#">Justice Patch Program</a> . The girls meet with a judge to learn about the impact of laws and the role of the judiciary and lawyers in the community.
Naturalization Ceremonies	10/18/16, 9/22/16, 11/8/16, 11/15/16, 11/16/16, 12/13/16, 1/18/17, 2/15/17, 3/15/17, 4/18/17, 5/23/17, 6/13/17, 6/20/17, 6/22/17, 7/18/17, 8/22/17, 9/20/17	Judges preside over naturalization ceremonies throughout the district.
It's Never Too Late	11/3/16, 4/6/17	Court employees speak about a range of issues including pursuing higher education later in life, self-improvement, and facing and overcoming personal and professional challenges.
Power Lunch	11/9/16, 5/9/17,	High school students visit the Courthouse to have lunch with judges, lawyers and other professionals and to discuss the law and legal profession.
Courthouse Visits	2/15/17	50 law students visit the Courthouse to observe courtroom proceedings and meet with a judge to discuss the legal profession.
Federal Career Fair	3/10/17	Representatives from more than 35 federal agencies discuss careers in the federal workforce. More than 400 high school and college students are expected to attend.

Law Day	3/28/17	In conjunction with the Ninth Circuit Court Civics Contest, the Ninth Circuit Court of Appeals, the District Court, and the Bankruptcy Court, will welcome more than 100 high school students to the 9 <sup>th</sup> Circuit Courthouse in Pasadena, CA. The theme of the Law Day event is "Not to be Forgotten: Legal Lessons of the Japanese Internment." Speakers will share their personal and families' stories regarding the internment, the impact that it had on their lives and the lessons that can be learned from the past.
FED Day	4/17 (date TBD)	High school students, most of whom live in foster homes, will visit the Courthouse to have lunch with judges, lawyers and other professionals and to learn about the legal profession. Guest speakers will discuss the importance of education, dreaming big, and never giving up and will share insights gained from their own career paths.
Mock Trials	4/27/17, 6/6/17	Elementary school students visit the Courthouse to participate in mock trials. Students play all parts and a judge helps explain the trial process.
Civics Contest Award Reception	6/7/17	Local winners of the <a href="#">Ninth Circuit Civics Contest</a> will be honored by judges and members of the bar. The featured speaker, a now retired rocket scientist, was interned as a child.

# The Genesis of a Life of Public Service: A Conversation With Hon. Michael J. Newman

by Kari M. Dahlin

*Kari M. Dahlin is an associate at Bassford Remele, P.A., in Minneapolis, where she practices in the areas of employment law and business litigation. She clerked for Judge Kenneth L. Ryskamp of the U.S. District Court for the Southern District of Florida and for Judge Jill Flaskamp Halbrooks of the Minnesota Court of Appeals.*

Hon. Michael J. Newman, U.S. magistrate judge for the Southern District of Ohio, Dayton, and 2016-17 Federal Bar Association president, is a lifelong public servant committed to kindness, justice, and service to others. Judge Newman's selflessness and intentional focus on public service are demonstrated in his continued and tireless work to solve problems and to help others, both as a judge and as FBA president.

In May of this year, Judge Newman made time in his busy schedule to visit the Twin Cities to participate in the Minnesota Chapter's Open Doors to Federal Courts program, a national initiative in which federal judges introduce high school students to the federal courts and encourage them to pursue careers in the justice system.

Judge Newman's record of public service is extraordinary. His past service to the FBA includes service as president of both the Cincinnati and Dayton chapters, Sixth Circuit vice president, and membership on the national board of directors. He has served as a Red Cross volunteer, a volunteer Big Brother, and has been involved in extensive homeless outreach through the Cincinnati/Northern Kentucky Chapter in conjunction with the nonprofit organization Tender Mercies. Judge Newman has been recognized by the Black Lawyers of Cincinnati and the Summer Work Experience in Law program and sits on the statewide board of directors for the Law & Leadership Institute. In 2009, he was one of only two lawyers in private practice in the nation selected for the FBA's Task Force on Diversity. The task force was chaired by Hon. Donovan W. Frank, senior U.S. district judge for the District of Minnesota. Judge Newman and Judge Frank have worked together on FBA initiatives for many years, and Judge Newman admires Judge Frank very much. In 2010, Judge Newman was honored to receive the Elaine R. "Boots" Fisher National Public Service Award, given annually to one lawyer in the country for "exemplary community, public, and charitable service."

The judge's commitment to justice and to helping others began in early childhood. His parents taught him from the time he was a kindergartner that if he



saw a problem, he should be a problem solver. "Those seeds were planted early about justice and wanting to fix problems and wanting to help people, and that's a noble thing to do." He also recalls witnessing obvious instances of racial prejudice while growing up in a small town in New Jersey, which bothered him terribly. "It just drove me crazy," he remembers.

Judge Newman has a long relationship with the federal judiciary. After graduating with honors from Washington College of Law at American University in 1989, he served as a career law clerk for Magistrate Judge Jack Sherman Jr. of the U.S. District Court for the Southern District of Ohio, Cincinnati. Judge Sherman impressed on Judge Newman the importance of carrying oneself with integrity, both at work and in daily life. "I live my life so that whatever I do could be on the front page of the paper," Judge Sherman would say. Judge Newman took that advice seriously and knew that, as a law clerk, he was a representative of the court whenever he was out in public, even for ordinary tasks like mowing the lawn or going to the grocery store. Working for the court was a great responsibility. Judge Sherman stressed the need to "get

it right the first time,” and Judge Newman reflects that “I don’t think we realize how much work it is if you’re doing a good job and you’re conscientious. It’s incredible.” After clerking for Judge Sherman, Judge Newman clerked for one year for Judge Nathaniel R. Jones on the Sixth Circuit Court of Appeals. Judge Newman counts both Judge Sherman and Judge Jones two of his greatest mentors and friends.

In 2003, Judge Newman embarked on a successful private practice career at the Cincinnati office of Dinsmore & Shohl LLP, where he represented both plaintiffs and defendants and practiced labor and employment law, business litigation, and appellate litigation. He chaired the firm’s labor and employment appellate practice group, founded and ran the firm’s Sixth Circuit pro bono appellate program, and served on the firm’s diversity committee. While at Dinsmore, he was designated both an “Ohio Super Lawyer” and one of the “Best Lawyers in America in Labor & Employment Law.”

Judge Newman returned to the federal courts in 2011, when he was appointed as a magistrate judge for the Southern District of Ohio, Dayton. When Judge Newman was reintroduced to the federal courts, he learned that its use of technology had changed a great deal since his years as a law clerk. Judge Newman stopped clerking in 2003, when all work occurred on paper, and when courts had only begun to accept filings via email. Writing an opinion on a discovery motion that contained numerous discovery requests “took forever,” he remembers. Now, the judge says, “people email you constantly” and “the pace is much more intense.” He receives emails early in the morning, late at night, and, every day at midnight, an update on everything filed that day in his cases. It’s “just like a law firm,” he says. Given the dramatic change in the speed of federal litigation, the Southern District of Ohio adopted a local rule that requires attorneys filing motions for extensions of time to contact opposing counsel to see if they agree or disagree with the motion. Routine, unopposed motions for extensions of time are granted within minutes.

Judge Newman is highly aware of the speed and cost of litigation and has adopted his own practice for quick resolution of discovery disputes. He hears all discovery disputes via telephone and does not require attorneys to file motions to compel. If the dispute cannot be resolved in a phone conference, only then does he initiate discussion about a briefing schedule for a motion.

The judge also pays special attention to making sure that all parties appearing before him know that they have been heard. Whenever he holds a hearing, either in person or over the phone, he keeps a list of all parties appearing at the hearing. When a party speaks, he circles the party’s name. At the end of the hearing, he goes through the list to make sure that each party has had an opportunity to be heard, even if their specific arguments have already been addressed by another party. He places no time limits on hearings.

The burgeoning federal docket notwithstanding, Judge Newman still steps up to be a problem solver. In 2015, he took on the considerable task of creating and presiding over Ohio’s first Veterans Court. The Dayton area, home to the Wright-Patterson Air Force Base and the Dayton Veterans Affairs Medical Center (DVAMC), boasts a large population of veterans. Judge Newman noticed that he repeatedly saw the same veterans before him on misdemeanor disorderly conduct charges and that most of the alleged disorderly conduct amounted to nothing more than “some kind of outburst” triggered by post-traumatic stress disorder (PTSD). The misdemeanor charges carried the severe penalty of up to six months’ imprisonment.

Realizing that the most effective way to help these veterans rebuild their lives was ensuring that they received proper medical treatment, Judge Newman consulted with the creator of the first Veterans Court in the country, Hon. Paul M. Warner, U.S. magistrate judge for the District of Utah, about establishing a Veterans Court in the Dayton area. Judge Newman took his idea to the district judges in the Southern District of Ohio, who eagerly encouraged his efforts to start the program. Judge Newman then worked with the Federal Public Defender, the U.S. Attorney’s Office, and the DVAMC to establish a program in Dayton.

The goal of the Veterans Court is “taking people with PTSD and getting them the treatment” they need. The DVAMC loans a social worker to the program who serves as a veterans justice outreach coordinator and acts as a caseworker and mentor to help each veteran in the program obtain medical treatment, housing, and employment. To graduate from the six-month program, the veteran must keep all medical appointments and must not reoffend. Upon graduation, the misdemeanor charges are frequently dismissed. The judge describes the program as a way of “thanking veterans for their service to the country, but you’re also telling them that they have worth as a person, and many veterans have said to me in open court, ‘I didn’t feel like I have worth as a person.’”

Judge Newman receives monthly status reports on the veterans’ progress and talks each month with each veteran in the program. Not every participant is an immediate success story, and a veteran can often experience both good and bad months. If a veteran is struggling, Judge Newman encourages the veteran and ensures that any practical needs are met to allow the veteran to succeed. Judge Newman recounts a story of one PTSD-stricken veteran who also suffered from addiction. The outreach coordinator advised the judge that the veteran’s life would be at risk if he did not receive immediate treatment for addiction. Judge Newman explained to the veteran “from one human being to another” the importance of entering treatment. The veteran “kind of broke down” and confided that he was hesitant to enter treatment because he was concerned about finding a place for his service dog. Judge Newman asked in open court about making arrangements for the dog, and the assistant U.S. attorney instantly offered to find a place for the dog. As it turned out, the veteran had found his own way of caring for the dog, but when it was apparent that there was a need, the entire system was on board “to find a way to make this all work” so that the veteran could receive treatment.

The Veterans Court has been highly successful. Even though it has only been operational for less than two years, it has already graduated 20 veterans, and several more are currently in the program. The founding of the Veterans Court has also fostered a cooperative effort between veterans and the police in the Dayton area. The police are now working with veterans, and fewer veterans are being charged with crimes. “You’re really trying to help people,” the judge says. “To me that’s a wonderful thing. That’s how the system should work.”

Judge Newman also orchestrated two sizeable undertakings as FBA president. Jim Duff, director of the Administrative Office of the U.S. Courts (AO), asked the FBA if it would consider initiating a national civics program to educate students about the federal courts. Judge Newman launched the program, called Civics and Service to Others, which allows elementary, middle, and high school students to learn about the federal courts system. Offered in conjunction with the AO, one of the components of the program is a “court camp” in which federal judges meet with students in school classrooms and



in federal courtrooms to teach them about the federal court system. Students also meet with assistant U.S. attorneys, assistant federal public defenders, representatives from probation and pre-trial, and representatives from federal law enforcement agencies. Students have the opportunity to participate in mock court proceedings, to ask questions about how the court system works, and to learn about what type of training and education is necessary to work in the court system. In Dayton, over 1,000 students will participate in court camp this year, “which is awesome,” the judge says. The civics program also includes essay competitions for middle and high school students. The top prize in the middle and high school essay contests is a trip to the Supreme Court.

Under Judge Newman’s leadership, the FBA also took the SO-

LACE program nationwide. SOLACE stands for “Support of Lawyers/ Legal Personnel-All Concern Encouraged” and provides a means for the FBA community to provide practical assistance to members and those related to them who experience a death, catastrophic event, illness, injury, or other personal crisis.

When Judge Newman thinks about his parents encouraging him to be a problem solver, he says that as a younger person he “wasn’t even aware those dots connected in a way that is so obvious looking back.” But, 30 years later, he credits his upbringing with inspiring him to want to be a judge and to live a life of service to others. Judge Newman’s passion and energy for helping others is an immeasurable asset to our courts and to the FBA. ☺

---

### President’s Message *continued from page 6*

court and FBA responsibilities, I was frequently absent—either in the office working six or (more likely) seven days a week to keep the docket current, or traveling outside Ohio meeting with federal judges and chapter leaders to make sure our Civics and Service to Others initiative would succeed. I missed my family often, and I love them very much.

### Conclusion

I take this opportunity to again thank each of the 19,000-plus members of the FBA for all you do each day to help others. Our membership ranks, both professional and law student, are growing on a daily

basis. As noted, our Civics and Service to Others initiative is proving to be quite successful: We are helping to educate students all over the United States via our civics work; helping those in need via the SOLACE program; helping veterans; encouraging mentoring and *pro bono* service; promoting the importance of diversity and inclusiveness; and increasing access to justice.

It has been my great honor to lead the FBA this year in these important efforts. Thank you for the opportunity to serve. ☺



- ATLANTA
- AUGUSTA
- CHARLOTTE
- DALLAS
- DENVER
- LOS ANGELES
- NEW YORK
- RALEIGH
- SAN DIEGO
- SAN FRANCISCO
- SEATTLE
- SHANGHAI
- SILICON VALLEY
- STOCKHOLM
- TOKYO
- WALNUT CREEK
- WASHINGTON D.C.
- WINSTON-SALEM

# Building Community

Kilpatrick Townsend is proud to sponsor the 2017 Federal Bar Association Annual Meeting and Convention.

[www.kilpatricktownsend.com](http://www.kilpatricktownsend.com)  
© 2017 Kilpatrick Townsend & Stockton LLP



# Federal Bar Association

## ACTIONS OF THE BOARD OF DIRECTORS FY2017

### September 15, 2016 Meeting

- Adopted a resolution that authorizes and empowers the Executive Director, President, and Treasurer 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, 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 FY2017 committee appointments

### December 21, 2016 Meeting

- Approved the Securities Law Section's request to donate \$25,000 of section funds to the SEC Historical Society

### January 27, 2017 Meeting

- Approved the minutes from the September 15, 2016 board meeting
- Approved the appointment of Anh Kremer as director to fulfill the term of Richard Dellinger upon his resignation
- Approved the honorary membership for Dean Erwin Chemerinksy
- Approved the FY2017 Budget Reforecast
- Approved the Labor and Employment Law Section's Bylaw amendments
- Approved the International Law Section's dues increase to \$15
- Approved the Securities Law Section's request to donate \$15,000 of section funds to Columbia University's Annual Securities Law Conference
- Approved the Central Louisiana Chapter's charter
- Approved the creation of and appointments to the Task Force on Obtaining U.N. Consultative Status
- Approved Policy 1-13: Standards for Professional Ethics and Conduct
- Approved extending Policy 1-7: Conflict of Interest to all FBA leaders
- Established the Chapter Community Service Award
- Established the Outstanding Leader Awards to recognize one circuit vice president, one section or division chair, and up to three chapter leaders each year at annual meeting

### **February 14, 2017 Meeting**

- Approved the Vermont Chapter Charter

### **February 16, 2017 Meeting**

- Adopted the Statement of the Federal Bar Association Board of Directors on Judicial Independence:

Judicial independence, free of external pressure or political intimidation, lies at the foundation of our constitutional democracy. An independent judiciary needs to remain free of undue influence from the legislative and executive branches and to remain beholden only to the maintenance of the rule of law and the protection of individual rights and personal liberties. We affirm the right to challenge a judge's ruling for reasons based in fact, law or policy. However, when robust criticism of the federal judiciary crosses into personal attacks or intimidation, it threatens to undermine public confidence in the fairness of our courts, the constitutional checks and balances underlying our government and the preservation of liberty.

-----

The Federal Bar Association is comprised of over 19,000 public and private sector lawyers practicing in our federal courts, hailing from all fifty states and the U.S. Territories. The Federal Bar Association is a non-partisan professional organization created to promote the sound administration of justice and integrity, quality and independence of the judiciary.

### **March 16-17, 2017 Meeting**

- Approved minutes from the January 27, February 14, and February 16, 2017 meetings
- Approved the transfer of \$100,000 from the operating account to the Reserve Fund
- Approved the report of the Audit Committee and the September 30, 2016 Year-end Financials
- Approved the revised Employee Handbook
- Approved Policy 5-1: Social Media as amended to include an anti-harassment statement
- Approved the recommendation and of the Constitution Bylaws, Rules and Resolution Committee regarding a constitutional amendment to clarify the definition of the leadership position of Circuit Vice Presidents
- Approved the application to seek UN Consultative Status for the FBA
- Approved the appointment of the Appellate Courts Task Force

### **May 17, 2017 Electronic Vote**

- Ratified the presidential appointment of Karleen Green to the Board of Directors to fill a director vacancy (current or former Section or Division Chair) for the remainder of the term that expires on September 30, 2018.

**June 23, 2017 Meeting**

- Approved minutes from the March 16-17, 2017 meeting
- Approved the creation of the Special Committee on Diversity
- Approved the creation of the Access to Justice Task Force
- Approved the amended Policy 9-3: Terms of Office for Section and Division Chairs (now Officers)
- Approved the FY2018 Budget
- Approved the Securities Law Section's request to fund the Irv Pollack Prize at Georgetown University in the amount of \$25,000
- Accepted the Government Relations Committee's recommendation for Issues Agenda nominations
- Accepted the recommendation of the Constitution, Bylaws, Rules, and Resolutions Committee to add language to the Constitution that establishes a Clerk of Court Associate membership category.
- Approved the creation of a zero-dollar active member and associate member dues category for Clerks of Court.
- Approved the creation of the Task Force on Nominations and Elections

**July 10, 2017 Electronic Vote**

- Approved the request of the Oklahoma City Chapter to elect the Clerk of Court for the Western District of Oklahoma for Honorary Membership

# FY 2018 National Election Results

On July 1, 2017, ballots were counted and verified for the FBA FY 2018 national officers. Their terms will begin Oct. 1, 2017. The president-elect and treasurer will serve one-year terms, which expire Sept. 30, 2018; directors (groups 1–4) will serve three-year terms, which expire Sept. 30, 2020; and vice presidents for the circuits and the ABA delegate will serve two-year terms, which expire Sept. 30, 2019. Congratulations to these leaders who will serve the association next year!

## **National Officers**

### **President-elect**

Maria Z. Vathis

### **Treasurer**

Christian K. Adams

## **Board of Directors**

### **Group 1 \* Director**

Andrew K. Clark

### **Group 2 \*\* Director**

Kelly Titus Scalise

### **Group 3 \*\*\* Director**

Joseph S. Leventhal

### **Group 4 \*\*\*\* Director**

Hon. Alison S. Bachus

\*One FBA member in good standing and a current or former FBA vice president of a circuit.

\*\*One FBA member in good standing and a current or former chair of an FBA section or division.

\*\*\*One FBA member in good standing and a current or former FBA chapter president.

\*\*\*\*One FBA member in good standing and who has served as an FBA chapter officer, a national FBA YLD officer or board member, or as an FBA chapter leader with YLD responsibilities. In addition, at the time of election, the person must be age 40 or younger.

## **ABA Delegate**

### **Delegate to the ABA**

Ashley L. Belleau

## **Vice Presidents for the Circuits**

### **First Circuit**

Oreste R. Ramos

### **Second Circuit**

Olivera Medenica

### **Third Circuit**

Hon. Karoline Mehalchick

### **Fourth Circuit**

Kacy L. Hunt

### **Fifth Circuit**

Marc W. Taubenfeld

### **Sixth Circuit**

Katharine M. Gardner

### **Seventh Circuit**

Kevin G. Desharnais

### **Eighth Circuit**

Daniel C. Hedlund

### **Ninth Circuit**

Darrel Gardner

### **Tenth Circuit**

Christopher M. Stephens

### **Eleventh Circuit**

Brett A. Barfield

### **D.C. Circuit**

Steven R. Miller



# TAB C

Report from the Treasurer

Financial Update as of June 30, 2017

**Federal Bar Association**  
**Statement of Financial Position**  
**July 2017 and 2016**

	2017	2016
<b>Assets</b>		
<b>Current Assets</b>		
Cash and cash equivalents	\$ 586,935	\$ 534,224
Short-term Investments	529,281	446,408
Long-term Investments	1,934,194	1,796,736
Accounts Receivable	89,637	107,078
Inventory	14,383	17,023
Prepaid expenses	62,512	99,516
Due from related entities		
<b>Total Current Assets</b>	<b>3,216,942</b>	<b>3,000,985</b>
<b>Other Assets</b>		
Furniture and fixtures	186,201	186,201
Computer equipment and software	568,172	523,865
<b>Total Property and Equipment before Acc Depr</b>	<b>754,373</b>	<b>710,066</b>
Accumulated depreciation	(628,511)	(589,524)
<b>Net Property and Equipment</b>	<b>125,862</b>	<b>120,542</b>
<b>Total Assets</b>	<b>\$ 3,342,804</b>	<b>\$ 3,121,527</b>
<b>Liabilities</b>		
<b>Current Liabilities</b>		
Accounts payable	\$ 16,895	\$ 78,011
Accrued annual leave	41,085	41,849
Equipment Lease Liability	50,414	-
Deferred membership dues	111,998	109,993
Deferred convention	1,038	243
Due to related entities	2,732	1,272
Other	36,530	255,258
<b>Total Current Liabilities</b>	<b>260,692</b>	<b>486,626</b>
<b>Net Assets</b>		
<b>Board-designated net assets</b>		
Sections/divisions	886,650	887,360
Operational reserve	350,000	350,000
Furniture and new fixtures reserve	63,466	63,466
Chapter assistance	36,204	36,204
Future activity reserve	20,000	20,000
<b>Total Board-designated net assets</b>	<b>1,356,320</b>	<b>1,357,030</b>
General Operating	1,725,792	1,277,868
<b>Total Net Assets</b>	<b>3,082,112</b>	<b>2,634,898</b>
<b>Total Liabilities and Net Assets</b>	<b>\$ 3,342,804</b>	<b>\$ 3,121,527</b>

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 Ten Months Ended July 31, 2017**

	FY 2017 YTD	FY 2016 YTD	FY 2017 Budget	Percent of Budget
<b>Support and Revenue:</b>				
(1) National dues	\$ 1,698,562	\$ 1,622,463	\$ 2,156,405	79%
(2) Sustaining dues	611,211	584,158	768,000	80%
(3) Section/division dues	171,745	168,032	205,000	84%
(4) Conferences	1,018,047	986,480	1,199,000	85%
(5) Co-sponsored conferences	-	50,000	50,000	0%
(6) Sections/divisions activities	83,842	67,370	80,000	105%
(7) Administrative and other revenues (Schedule I)	339,134	282,208	355,000	96%
In-Kind Contribution Revenues	325,063	273,423	390,075	83%
<b>Total support and revenue</b>	<b>4,247,604</b>	<b>4,034,134</b>	<b>5,203,480</b>	<b>82%</b>
Expenses:				
(8) Activity expenses (Schedule II)	2,104,682	2,023,894	2,693,750	78%
(9) General and overhead expenses (Schedule III)	1,800,252	1,747,474	2,451,575	73%
<b>Total expenses</b>	<b>3,904,934</b>	<b>3,771,368</b>	<b>5,145,325</b>	<b>76%</b>
Change in net assets before other Income (Expense)	342,670	262,766		
<b>Other Income (Expense)</b>				
Unrealized Gain/(Loss) on Investments	70,309	145,687		
Realized Gain/ (Loss) on Investments	21,726	( 23,519 )		
<b>Total Other Income (Expense)</b>	<b>92,035</b>	<b>122,168</b>		
Change in Net Assets	434,705	384,934		
Net Assets, beginning of year	2,647,407	2,249,964		
Current Net Assets	<u>\$ 3,082,112</u>	<u>\$ 2,634,898</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.

**Federal Bar Association**  
**SCHEDULE OF ADMINISTRATIVE AND OTHER REVENUES**  
**Schedule I**  
**For the Ten Months Ended July 31, 2017**

	FY 2017	FY 2016	FY 2017	Percent
	YTD	YTD	Budget	of Budget
<b>Schedule of Revenues</b>				
(7.02) Administrative Fees (FFBA)	\$ 23,750	\$ 22,500	\$ 28,500	83%
(7.03) Administrative Fees (Sections&Divisions)	85,936	55,188	86,000	100%
(7.04) Interest/Dividend Income	39,045	45,050	-	
(7.05) FBA Need an Attorney	13,825	16,125	20,500	67%
(7.06) The Federal Lawyer & Publications	19,889	21,951	32,000	62%
(7.07) Royalty Income	5,440	2,532	4,000	136%
(7.09) Job Board	4,640	1,901	2,000	232%
(7.10) Webinars	134,244	102,506	170,000	79%
(7.11) List Sales	733	3,878	4,000	18%
(7.12) Miscellaneous Income	11,632	10,577	8,000	145%
<hr style="border-top: 1px dashed black;"/>				
<b>Total Administrative and Other Revenues</b>	<b>\$ 339,134</b>	<b>\$ 282,208</b>	<b>\$ 355,000</b>	<b>96%</b>

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**  
**SCHEDULE OF ACTIVITY EXPENSES**  
**Schedule II**  
**For the Ten Months Ended July 31, 2017**

	FY 2017 YTD	FY 2016 YTD	FY 2017 Budget	Percent of Budget
<b>Schedule of Activity Expenses</b>				
<b>Activity Expenses</b>				
(8.01) President & BOD	\$ 98,973	\$ 87,464	\$ 162,500	61%
(8.02) National Council	3,170	-	8,000	40%
(8.03) Circuit Vice Presidents	13,165	22,769	50,000	26%
(8.04) NC Appointees	2,838	3,235	10,000	28%
(8.05) Past Presidents	3,121	2,474	10,000	31%
(8.06) Gov. Committees & Board	77	30	500	15%
(8.07) National Elections	8,255	11,748	12,000	69%
(8.08) Government Relations	62,848	66,880	80,000	79%
(8.09) Chapter Delegate	15,926	14,401	45,000	35%
(8.10) Chapter Leadership Training	80,947	72,407	80,000	101%
(8.11) Chapter Activity Fund	11,050	12,225	20,000	55%
(8.12) Chapter Rebates	386,504	364,314	541,000	71%
(8.13) Chapter Services	5,052	8,608	16,000	32%
(8.14) Membership Services	74,138	49,792	80,000	93%
(8.15) Membership Programs	8,900	860	24,000	37%
(8.16) The Federal Lawyer & Publications	226,388	192,353	275,000	82%
(8.17) FBA Conferences	752,081	847,315	870,000	86%
(8.18) Membership Marketing	9,195	7,906	20,000	46%
(8.19) Meetings Marketing	13,771	13,511	22,000	63%
(8.20) Webinar CLE Fees	11,073	13,144	20,000	55%
<b>Subtotal Activity Expenses</b>	<b>1,787,472</b>	<b>1,791,436</b>	<b>2,346,000</b>	<b>76%</b>
(8.21) Section and Divisions	271,075	202,624	285,000	95%
(8.22) FBA Funded Divisions	42,309	27,389	52,750	80%
(8.23) Section Council	3,826	2,445	5,000	77%
(8.24) Section Activity Fund			5,000	0%
<b>Subtotal Section &amp; Division Activity Expense</b>	<b>317,210</b>	<b>232,458</b>	<b>347,750</b>	<b>91%</b>
<b>Total Activity Expenses</b>	<b>\$ 2,104,682</b>	<b>\$ 2,023,894</b>	<b>\$ 2,693,750</b>	<b>78%</b>

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**  
**SCHEDULE OF ADMINISTRATIVE EXPENSES**  
**Schedule III**  
**For the Ten Months Ended July 31, 2017**

	FY 2017 YTD	FY 2016 YTD	FY 2017 Budget	Percent of Budget
<b>Schedule of Administrative Expenses</b>				
<b>Administrative Expenses</b>				
(9.01) Salaries	\$ 796,773	\$ 863,937	\$ 1,125,000	71%
(9.02) Payroll taxes	67,304	68,605	90,000	75%
(9.03) Employee Insurance	73,655	63,884	95,000	78%
(9.04) Employee Retirement	33,949	35,135	52,000	65%
(9.05) Employee Training	3,854	4,290	10,000	39%
(9.06) Management Travel	2,944	3,921	6,000	49%
(9.07) Outsourced Services	141,176	131,151	195,000	72%
(9.08) Dues and subscriptions	3,267	2,899	5,000	65%
(9.09) Leased Equipment	12,219	21,017	16,000	76%
(9.10) Repairs and maintenance	700	800	2,000	35%
(9.11) Rent	375,063	323,423	450,075	83%
(9.12) Insurance	15,614	14,911	20,000	78%
(9.13) Personal property taxes	3,563	3,351	5,000	71%
(9.14) Professional fees	16,169	15,270	15,500	104%
(9.15) Supplies	3,376	4,731	13,500	25%
(9.16) Computer/Internet Services	123,450	57,539	160,000	77%
(9.17) Telephone	19,851	20,636	26,000	76%
(9.18) Postage	-	1,940	8,500	0%
(9.19) Depreciation-Furniture & Fixtures	4,985	4,985	6,000	83%
(9.20) Depreciation-Computer Equipment	47,436	59,449	75,000	63%
(9.21) Other Office Expense	46,391	39,244	60,000	77%
(9.22) Miscellaneous Expense	8,513	6,356	16,000	53%
<b>Total Administrative Expenses</b>	<b>\$ 1,800,252</b>	<b>\$ 1,747,474</b>	<b>\$ 2,451,575</b>	<b>73%</b>

**Federal Bar Association  
Statement of Activities  
For the Ten Months Ended July 31, 2017**

	FBA FY 2017 YTD	S&D FY 2017 YTD	Combine FY 2017 YTD
<b>Support and Revenue:</b>			
(1) National dues	\$ 1,698,562	\$ -	\$ 1,698,562
(2) Sustaining dues	611,211		611,211
(3) Section/division dues		171,745	171,745
(4) Conferences	1,018,047		1,018,047
(5) Co-sponsored conferences	-		-
(6) Sections/divisions activities	19,535	64,307	83,842
(7) Administrative and other revenues (Schedule I)	339,134		339,134
In-Kind Contribution Revenues	325,063		325,063
<b>Total support and revenue</b>	<b>4,011,552</b>	<b>236,052</b>	<b>4,247,604</b>
Expenses:			
(8) Activity expenses (Schedule II)	1,833,607	271,075	2,104,682
(9) General and overhead expenses (Schedule III)	1,800,252		1,800,252
<b>Total expenses</b>	<b>3,633,859</b>	<b>271,075</b>	<b>3,904,934</b>
Change in net assets before other Income (Expense)	377,693	( 35,023 )	342,670
<b>Other Income (Expense)</b>			
Unrealized Gain/(Loss) on Investments	70,309		70,309
Realized Gain/ (Loss) on Investments	21,726		21,726
<b>Total Other Income (Expense)</b>	<b>92,035</b>		<b>92,035</b>
Change in Net Assets	469,728	( 35,023 )	434,705
Net Assets, beginning of year			2,647,407
Current Net Assets			<b>\$ 3,082,112</b>

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 Ten Months Ended July 31, 2016**

	FBA FY 2016 YTD	S&D FY 2016 YTD	Combine FY 2016 YTD
<b>Support and Revenue:</b>			
(1) National dues	\$ 1,622,463		\$ 1,622,463
(2) Sustaining dues	584,158		584,158
(3) Section/division dues		168,032	168,032
(4) Conferences	986,480		986,480
(5) Co-sponsored conferences	50,000		50,000
(6) Sections/divisions activities	18,375	48,995	67,370
(7) Administrative and other revenues (Schedule I)	282,208		282,208
<b>Total support and revenue</b>	<b>3,817,107</b>	<b>217,027</b>	<b>4,034,134</b>
Expenses:			
(8) Activity expenses (Schedule II)	1,821,270	202,624	2,023,894
(9) General and overhead expenses (Schedule III)	1,747,474		1,747,474
<b>Total expenses</b>	<b>3,568,744</b>	<b>202,624</b>	<b>3,771,368</b>
Change in net assets before other Income (Expense)	248,363	14,403	262,766
<b>Other Income (Expense)</b>			
Unrealized Gain/(Loss) on Investments	145,687		145,687
Realized Gain/ (Loss) on Investments	( 23,519 )		( 23,519 )
<b>Total Other Income (Expense)</b>	<b>122,168</b>		<b>122,168</b>
Change in Net Assets	370,531	14,403	384,934
Net Assets, beginning of year			2,249,964
Current Net Assets			\$ 2,634,898

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 D

Report from the Chair of the  
Government Relations Committee



# Federal Bar Association

August 7, 2017

TO: National Council

FROM: West Allen, Chair, Government Relations Committee  
Bruce Moyer, Counsel for Government Relations

SUBJ: Update on Government Relations and Public Policy Developments

Congress will return on September 5 to a set of legislative-must-do's before September 30 that include raising the debt ceiling and funding the government into the next fiscal year. The Trump White House is quietly moving ahead at a fast pace to fill a historic number of vacancies on the federal bench. The push for tax reform, beginning in the House, will dominate legislative attention moving into the fall.

## **Judicial Vacancies**

The Federal Judiciary [website](#) reported 138 Article III vacancies, as of August 7.

	<b>Current Vacancies</b>	<b>Nominees Pending</b>
Courts of Appeal	19	7
District Courts	111	22
US Ct of International Trade	2	0
US Ct of Federal Claims	<u>6</u>	<u>2</u>
Total	138	31

Fifty-five of the vacancies are considered "judicial emergencies" by the Judicial Conference, the policy-making body of the Federal Judiciary.

A little more than six months into his presidency, President Donald Trump has won confirmation of a Supreme Court justice, three federal appeals judges and one district judge, outpacing his two most recent predecessors combined, the [Washington Times](#) reported. President Trump has nominated 31 judicial nominees – far more than President Obama at this point and roughly equal to the pace of President Bush.

"This will be the single most important legacy of the Trump administration," Democratic Sen. Chris Coons of Delaware, a member of the Senate Judiciary Committee, told [Business Insider](#). "They will quickly be able to put judges on circuit courts all over the country, district courts all over the country, that will, given their youth and conservatism, will have

a significant impact on the shape and trajectory of American law for decades.” Coons attributed the historically high number of vacancies to "unprecedented obstruction by the Republican majority in the Senate in the latter years of the Obama administration" that led to many of these vacancies remaining unfilled.

### **FY 2018 Funding for the Federal Courts**

A trio of Congressional must-do's await attention when Congress returns on September 5: passage of a FY 2018 budget resolution, approval of government funding package; and lifting the debt ceiling to avoid a catastrophic default. Despite Republican control of both chambers of Congress and the White House, accomplishment of all three tasks will be a daunting task for House and Senate GOP leaders. The most likely scenario in September is that a coalition of Republican leaders, Republican moderates and Democrats will craft an omnibus appropriations bill that extends government funding for three months and raises the debt ceiling. The budget resolution is crucial to paving the way for Congressional clearance of tax reform legislation through a procedural tool called reconciliation that requires only 51 votes in the Senate for approval.

Earlier this summer, a favorable funding package for the federal courts was approved by the House Financial Services and General Government (FSGG) Appropriations Subcommittee. The package provides \$7.1 billion in discretionary appropriations for FY 2018, a 2.4 percent (\$167 million) increase above FY 2017. The House level is \$100 million below the Judiciary's re-estimated FY 2018 request, with the majority of the reduction in the courts' Salaries and Expenses account. The House full appropriations committee has not scheduled markup of the measure, nor has the Senate FSGG subcommittee announced its markup.

The House bill includes one-year extensions for five temporary district judgeships and seven temporary bankruptcy judgeships. The district judgeships are in Kansas, Missouri-Eastern, Alabama-Northern, California-Central and North Carolina-Western. The bankruptcy judgeships are in Delaware (2), Florida-Southern (2), Michigan-Eastern, Puerto Rico and Virginia-Eastern.

The Federal Bar Association on June 29, 2017 sent the attached correspondence to the Senate FSGG subcommittee in support of the Federal Judiciary's funding request.

### **2018 Issues Agenda**

The Government Relations Committee earlier this spring received five nominations to the 2018 Issues Agenda. On June 23, 2017, the Board of Directors approved the recommendation of the GRC that none of the nominations be added to the Issues Agenda for various reasons.

Attachment





# Federal Bar Association

June 30, 2017

The Honorable Shelley Capito  
Chairman  
Appropriations Subcommittee on  
Financial Services and General Government  
United States Senate  
Washington, DC 20510

The Honorable Chris Coons  
Ranking Member  
Appropriations Subcommittee on  
Financial Services and General Government  
United States Senate  
Washington, DC 20510

## Re: FY 2018 Funding for the Federal Judiciary

Dear Chairman Capito and Ranking Member Coons:

We write to express our strong support for the funding request of the Federal Judiciary for Fiscal Year 2018. We urge the Subcommittee to make these funds available to assure the Federal courts are able to fulfill their constitutional and statutory responsibilities as a co-equal branch of government.

Our Association's national membership of nearly 20,000 attorneys represents a core constituency of the Federal court system. Attorneys who practice in our federal courts look to Congress to assure that our court system is adequately funded to efficiently dispense justice. Attorneys and their clients, whether plaintiffs or defendants, turn to the courts with an expectation that disputes will be fairly and promptly heard.

The Judiciary's FY 2018 request of \$7.2 billion in discretionary appropriations will maintain current services across the Judiciary, and enable further investment in cybersecurity measures and other important program initiatives to support judicial operations. The House Financial Services and General Government Subcommittee on June 29 approved its FY 2018 Appropriations measure, providing the Judiciary with \$7.1 billion in discretionary appropriations for FY 2018, a 2.4 percent (\$167 million) increase above FY 2017. The House bill also includes one-year extensions for eight temporary district judgeships and seven temporary bankruptcy judgeships.

We are deeply appreciative of your Subcommittee's past support for the Federal Judiciary's funding needs. We ask your Subcommittee to take into account the commendable actions taken by the Judiciary to contain costs and implement more efficient ways to administer justice. Members of the Federal Bar are committed to doing everything we can to provide support for the Judiciary's efforts to administer justice and serve as a good steward of taxpayer resources.

Thank you for your consideration of our comments.

Sincerely yours,



Stacy King  
Executive Director



W. West Allen  
Chair, Government Relations Committee

cc: Members of the Senate Appropriations Subcommittee on Financial Services and General  
Government  
The Honorable Julia S. Gibbons, Chair, Judicial Conference Committee on the  
Budget  
The Honorable James Duff, Director, Administrative Office of the U.S. Courts



# Federal Bar Association

August 4, 2017

The Honorable Trey Gowdy  
Chairman  
Committee on Oversight  
and Government Reform  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Elijah Cummings  
Ranking Member  
Committee on Oversight  
and Government Reform  
U.S. House of Representatives  
Washington, DC 20515

## Re: FY 2018 Budget Instructions

Dear Chairman Gowdy and Ranking Member Cummings:

As you and your HOCR colleagues consider the FY 2018 budget instructions received from the House Budget Committee, we urge you to reject any budget cuts aimed at the compensation of current and former employees of the federal government.

The Federal Bar Association is the foremost professional association of lawyers in the private bar and federal service who practice and serve the law in the federal courts and the Executive Branch. Our membership includes over 3,000 federal attorneys responsible for an impressive range of litigation and advisory legal services in departments and agencies across the federal government. They assure the defense of our borders, the protection of our war fighters, the health of our economy, the safety of our food and water and the preservation of public safety. In short, these federal litigators and attorney advisors perform essential services necessary to assuring that our nation operates within the bounds of the law, that the interests of the United States are defended, and that justice is preserved for every American.

In pragmatic terms, the retention of key legal talent throughout the federal government is critical to assuring that taxpayer dollars are never wasted and always spent prudently. The retention of key legal talent helps to assure that our government upholds its laws and that the liberties of all Americans are protected. Reductions in the retirement benefits of federal employees, including federal attorneys, are a slippery slope that can compromise the government's capacity to attract and retain the expert legal talent it desperately needs. We urge the Committee to find other ways that do not reduce or erode the current pay and benefit structure of the federal workforce in its satisfaction of the FY 2018 budget instructions.

As you know, the federal workforce since 2010 has contributed \$182 billion towards deficit reduction through a three-year pay freeze, reduced pay increases, unpaid furlough days due to sequestration, and two increases in retirement contributions for new hires. These are substantial contributions. Federal employees and retirees should not be asked to sacrifice more. The federal government should not break its promise to upstanding federal employees and retirees who have based their career and retirement plans on long-standing promised benefit arrangements.

We are mindful of the deficit situation and the need for Congress to prevent federal spending from spiraling out of control. At the same time, we urge you to keep federal employees and retirees out of the crosshairs of further spending reductions. Thank you for your consideration of these comments.

Sincerely yours,



Stacy King  
Executive Director



W. West Allen  
Chair, Government Relations Committee

cc: Members of the House Oversight and Government Reform Committee

# TAB E

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



# Federal Bar Association

## Constitution, Bylaws, Rules and Resolutions Committee

**Date:** August 1, 2017

**To:** Federal Bar Association's National Council

**From:** Constitution, Bylaws, Rules and Resolutions Committee

Tyler Brooks  
Geoffrey Cheshire  
Kristin Kimmelman  
Stacy King (Staff Liaison)  
Kevin Maxim (Chair)  
Matt Moschella

Peg O'Connor  
Thomas Schuck  
Tom Segars  
Beth Smith  
Paul Vamvas

**Re: Committee Report & Recommendation:  
Proposed Constitutional Amendment regarding  
Circuit Vice Presidents and the Federal Circuit**

---

### I. Background

Pursuant to the Federal Bar Association's Bylaws at Sections 8(a)(1)(c) and 14, the Constitution, Bylaws, Rules and Resolutions Committee (the "Committee") reports that it received a proposal from FBA member Jim Satola to amend the FBA's Constitution.

Mr. Satola proposed to amend the Constitution so as to clarify that the FBA does not maintain a Circuit Vice President position for the Federal Circuit. Mr. Satola's proposal is included in Section II below.

On March 4, 2017, the Committee submitted its report and recommendation to the Board of Directors to request the Board's recommendation regarding the constitutional amendment proposed below. The Board of Directors recommended the approval of the proposed amendment, and did not have revisions to the proposal.

As a reminder, pursuant to Article XIV of the FBA's Constitution, entitled "Amendment to the Constitution," the National Council is empowered to put this proposed amendment to the Constitution to an FBA member vote:





# Federal Bar Association

Section 1. Initiation of Amendment. A proposal to amend this Constitution may be initiated in any one of the following ways:

a. Subject to satisfying the notice and quorum requirements of Article VII, by two-third's vote of those present and voting at a meeting of the National Council, if written notice of the proposal has been included in the notice.

...

Section 2. Adoption of Amendment. An amendment so proposed shall be submitted to the members in good standing under procedures established by the Bylaws of the Association, either mailed or transmitted electronically. An amendment so submitted shall become effective upon the affirmative vote of two-thirds of the members who vote upon it.

The Committee here submits its report and recommendation on this proposal to the September 2017 National Council convening at the FBA's Annual Meeting & Convention in Atlanta.

## II. Proposed Constitutional Amendment

On Jan 13, 2017, at 9:06 PM, James W. Satola <[jsatola@roadrunner.com](mailto:jsatola@roadrunner.com)> wrote:

Here is something for consideration at the upcoming FBA Board of Directors meeting: a proposal to amend the language of the FBA Constitution to clarify the definition of Circuit Vice President to conform to the actual purpose of having CVPs -- to advise and assist those Chapters within each geographic region drawn by the boundaries of the numbered/geographic federal circuits, and to put an end to a claim of there being two "open" seats for "CVP for the Federal Circuit."

The role of Circuit Vice President is defined somewhat ambiguously in the FBA Constitution:

### 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 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:



\* \* \*

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.

The duties of the CVPs are then later listed as follows:

**Section 6. *Duties of Officers and Directors.***

\* \* \*

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.

Having "Federal Circuit" CVPs, with no Chapters to assist or supervise (or being completely redundant to the role of the "geographic Circuit" CVPs) because there are no Chapters residing outside a geographic Circuit (and such is an impossibility) would be both pointless, while at the same time be self-aggrandizing as a "Federal Circuit" CVP could claim to be the "equal partner" of each and EVERY geographic Circuit CVP pair, thus giving such position claim to being a "super-CVP."

A simple way to put an end to any claim of a "right" to hold such a pointless position would be to clarify the definition of the role of CVP in the FBA Constitution as being representatives of each of the GEOGRAPHIC federal circuits.

James W. Satola  
2608 Dysart Road  
University Heights, Ohio  
44118-4409  
P: (216) 321-6926  
C: (216) 702-5038  
[jsatola@roadrunner.com](mailto:jsatola@roadrunner.com)



# Federal Bar Association

### III. Summary of Arguments for and Against the Proposed Amendment

In the Committee's understanding, the primary argument for the establishment of Federal Circuit CVPs would be to align the Federal Circuit with the other twelve Circuits in having Circuit Vice Presidents. The Federal Circuit CVP positions would provide an additional opportunity for FBA members to take-on leadership roles and responsibilities in the organization, and perhaps the Federal Circuit CVPs might find a role for themselves to advance the interests of the Federal Circuit that are not presently being served by other contingents of the FBA.

According to FBA Executive Director Stacy King, the issue whether the FBA should support a Circuit Vice President position for the Federal Circuit has arisen from time-to-time over the years. In each prior instance, the consensus was that a Federal Circuit CVP was not necessary. That conclusion was reached because there are no Chapters associated with the Federal Circuit, and since the role of a CVP consists largely of supporting the Chapters within the Circuit, there does not appear to be any functional need for Federal Circuit CVPs. In addition, there would of course be a cost to the FBA of supporting CVPs for a thirteenth Circuit, which may be unnecessary if the needs of members who practice in the Federal Circuit already are met by the FBA's Intellectual Property and Government Contracts substantive law sections. It is also Ms. King's understanding that there have never been CVPs for the Federal Circuit.

### IV. Committee Recommendation

As noted in Mr. Satola's proposal, the relevant language of the FBA's Constitution, Article V, Section 1(e), currently provides:

- 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.

After analysis, discussion, and a unanimous vote, the Committee recommended the following changes to the Constitution's Article V, Section 1(e), shown below in comparison format:

- e. Two Vice Presidents for the Circuit for each Federal ~~judicial~~ circuit court of appeals (other than the Court of Appeals for the Federal Circuit), who shall be elected for staggered terms of two years by the members within that Circuit. Because the Court of Appeals for the Federal Circuit is unique among the courts of appeals in that it has nationwide jurisdiction in a variety of subject areas, and because there are no Chapters specifically associated with the court, the Court of



## Federal Bar Association

Appeals for the Federal Circuit shall not have a Circuit Vice President. No Vice President for the Circuit shall serve more than three full terms.

The Committee took into account Mr. Satola's proposal and supporting arguments, and Ms. King's historical perspective. The Committee found that it would not appear to be beneficial to the FBA to support Federal Circuit CVPs, when the positions would not function as do the CVPs for the other Circuits by serving Chapters within the Circuit. The Committee also believed that it would benefit the organization to make this constitutional change, so as to avoid the issue of Federal Circuit CVPs arising periodically, and expending time and energy revisiting the issue.

The Committee does not believe that the proposed amendment conflicts with any other provision of the Constitution or Bylaws, and believes that the proposed amendment is consistent with the FBA's historical practices with respect to the Circuits traditionally represented by Circuit Vice Presidents.

The Committee respectfully recommends that the National Council approve of submitting this proposed constitutional amendment to an FBA member vote.



## **Constitution, Bylaws, Rules and Resolutions Committee**

**Date:** August 1, 2017

**To:** Federal Bar Association's National Council

**From:** Constitution, Bylaws, Rules and Resolutions Committee

Tyler Brooks  
Geoffrey Cheshire  
Kristin Kimmelman  
Stacy King (Staff Liaison)  
Kevin Maxim (Chair)  
Matt Moschella

Peg O'Connor  
Thomas Schuck  
Tom Segars  
Beth Smith  
Paul Vamvas

**Re: Committee Report & Recommendation:  
Proposed Constitutional Amendment regarding  
Associate FBA Membership for Clerks of Court Not Admitted to Any Bar**

---

### **I. Background**

Pursuant to the Federal Bar Association's Bylaws at Sections 8(a)(1)(c) and 14, the Constitution, Bylaws, Rules and Resolutions Committee (the "Committee") reports that it has received a proposal from FBA General Counsel Matt Moschella to amend the FBA's Constitution.

Mr. Moschella proposed to amend the Constitution so as to add a new category of associate membership in the Association designated for Clerks of Court who are not members of any bar.

On May 16, 2017, the Committee submitted its report and recommendation to the Board of Directors to request the Board members' approval or disapproval of the constitutional amendment proposed below. At its June 23, 2017 meeting, the Board recommended that the proposed amendment be approved in the form proposed below, to which proposal the Board had no recommended revisions.

As a reminder, pursuant to Article XIV of the FBA's Constitution, entitled "Amendment to the Constitution," the National Council is empowered to put this proposed amendment to the Constitution to an FBA member vote:



Section 1. Initiation of Amendment. A proposal to amend this Constitution may be initiated in any one of the following ways:

a. Subject to satisfying the notice and quorum requirements of Article VII, by two-third's vote of those present and voting at a meeting of the National Council, if written notice of the proposal has been included in the notice.

...

Section 2. Adoption of Amendment. An amendment so proposed shall be submitted to the members in good standing under procedures established by the Bylaws of the Association, either mailed or transmitted electronically. An amendment so submitted shall become effective upon the affirmative vote of two-thirds of the members who vote upon it.

The Committee now submits its report on the proposal to the September 2017 National Council convening at the FBA's Annual Meeting & Convention in Atlanta.

## II. Proposed Constitutional Amendment

Mr. Moschella has recommended the additional language shown below to create a new Clerk of Court associate membership category for non-attorneys. The proposed language is shown below in the context of the other associate membership categories found in the FBA's Constitution at Article IV, § 3:

**Section 3. Associates.** Subject to such limitations as are contained in the Bylaws of the Association, any person is eligible to become an associate of the Association, as hereinafter provided. Such an associate may also maintain association with any one or more Chapters, Sections, and Divisions. However, such associate is not a member of the Association; accordingly, in no event may such associate vote or hold any elective office in the Association or in any Chapter, Section, or Division thereof.

a. Foreign Associate. Any person who is admitted to practice law before a court or administrative tribunal of a country other than the United States of America is eligible to become a foreign associate of the Association.

b. Law Student Associate. Any law student actively enrolled in an accredited law school and not admitted to the practice of law before a Federal court or a court of record in any of the several states, commonwealths, territories, or possessions of the United States or in the District of Columbia is eligible to become a law student associate of the Association.





c. Clerk of Court Associate. Any individual who holds the position of “Clerk of Court” or “Circuit Executive” of a Federal court established under Article I or Article III of the Constitution of the United States or a tribal court of record or his or her designee who is not admitted to the practice of law before a Federal court, or a court of record in any of the several states, commonwealths, territories or possessions of the United States or in the District of Columbia is eligible to become a Clerk of Court associate of the Association.

### **III. Summary of Arguments For and Against the Proposed Amendment**

By way of background, those Clerks of Court who have been members in the Association typically have been members of some bar, and become full-fledged, voting members in the Association.

It has come to Mr. Moschella’s attention that there are a very few current Clerks of Court for the Federal Districts and tribal courts who are not admitted to any bar. Of those few, some Clerks are long-time friends of the FBA, but who, because they are not members of any bar, are unable to have any membership status in the FBA.

Mr. Moschella’s proposal would expand the Association’s associate membership ranks to beyond the two categories currently existing for Foreign Associates and Law Student Associates. *See FBA Constitution at Art. IV, §§ 3(a) and (b).* As noted in Section 3 of Article IV, “in no event may such associate vote or hold any elective office in the Association or in any Chapter, Section, or Division thereof.”

The potential benefits of Mr. Moschella’s proposal might include offering an opportunity to increase the affiliation and participation of the offices of the Clerks of Court who might otherwise not have an opportunity to associate with the FBA. One key benefit for both the Clerks of Court and the local Chapters would be that associate members are included in the distribution list for local Chapter communications. In addition, associate members receive the FBA’s weekly e-mails and other important national announcements about the Association. Absent at least associate membership status, Clerks of Court who do not happen to be members of the bar have no status within the association in which they might be regularly included in those local and national FBA communications channels. The proposal would formally include those Clerks of Court and ensure that the Clerk’s offices are better informed, and hopefully, more involved.

A potential downside to Mr. Moschella’s proposal would include establishing a precedent for expanded associate membership in the FBA for non-attorneys, when the association is of course a *bar* association. Concerns were expressed about creating a slippery



slope to more expansive membership in the Association by non-attorneys, especially since the new proposed category would extend associate membership to those who are not at least (a) members of some foreign bar or (b) studying to become a member of a bar.

One perspective on the slippery slope argument is that the Association has previously allowed for non-lawyer, honorary members to be vested with the full rights and privileges of membership:

**Section 2. *Honorary Membership.*** Honorary members of the Association, as hereinafter provided, shall be exempt from payment of dues but shall have full rights and privileges of membership:

...

b. Any person who has rendered conspicuous service to the United States Government or to this Association may be elected to an honorary membership by vote of three-fourth's of the members of the Board of Directors then present;

*See* FBA Constitution at Article IV. The proposed Associate membership category, while being extended to certain non-lawyers, would not carry with that membership the full rights and privileges of membership, and therefore appears to pose less of a risk of a non-lawyer slippery slope than other, pre-existing provisions in the Constitution.

Another potential pitfall was identified in the “or his or her designee” language of this proposal. While the Clerk of a given Court may be known to the local Chapter, the proposal leaves to the Clerk of Court the discretion to appoint someone else to stand in her or his stead for purposes of the relationship between the Chapter and the Clerk’s office. That discretion in theory could connect the local Chapter with a designee that would not be the Chapter’s first choice. Some viewed that discretion as a potential benefit in that the flexibility might allow a Clerk of Court, who might decline on grounds that he or she had insufficient time to devote to the FBA relationship, to designate someone that the Clerk supervised to invest the needed time and attention to the FBA on behalf of the Clerk’s Office.

#### **IV. Committee Recommendation**

After analysis, discussion, and a vote, the Committee recommends the following addition to the FBA Constitution’s Article IV, Section 3, with the one revision to the originally proposed language shown in comparison format below:

c. Clerk of Court Associate. Any individual who holds the position of “Clerk of Court” or “Circuit Executive” of a Federal court established under Article I or Article III of the Constitution of the United States or a tribal court of record or his or her designee and who is not admitted to the practice of law before a Federal



## **Federal Bar Association**

court, or a court of record in any of the several states, commonwealths, territories or possessions of the United States or in the District of Columbia is eligible to become a Clerk of Court associate of the Association.

The addition of the word “and” as shown above is believed to clarify that the clause “who is not admitted...” qualifies “[a]ny individual” and not just “his or her designee”.

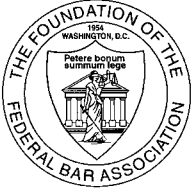
With that small change, the Committee believes that it would benefit the Association to make this constitutional change to facilitate the relationship and communications between non-bar member Clerks of Court on the one hand, and the FBA and its local Chapters on the other.

The Committee does not believe that the proposed amendment conflicts with any other provision of the Constitution or Bylaws.

The Committee respectfully recommends that the National Council approve of submitting this proposed constitutional amendment to an FBA member vote.

# TAB F

Foundation of the FBA Election



# The Foundation of the Federal Bar Association

*Chartered by Act Of Congress, August 24, 1954*

## Annual Report

### Chapter Community Outreach Grants

The Foundation Grants Committee has approved the following grants for 2017:

#### Cincinnati/Northern Kentucky Chapter – Half-day Court Camp

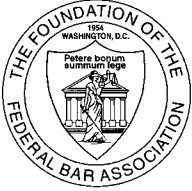
To sponsor half-day Court Camp for local students at the Federal Courthouse. The goal is to bring up to 100 students from 2-5 area high schools to the federal courthouse for a half-day “camp” that will include tours of facilities and the opportunity to meet with judges and representatives of the agencies housed in the courthouse. Both judges and schools in our area have expressed interest in courthouse field trips for students. The local chapter has made a major effort to form a Civics Liaison Committee (of private practitioners, government attorneys and local law students) to participate in National Community Outreach in April 2017 in this way, and otherwise to facilitate linkage between the courts and local schools.

#### Eastern District of Michigan Chapter – Law Day

The 2017 Law Day Event, hosted by the District Court, EDMI, Federal Bar Association, and the Wolverine Bar Association will focus on the role of federal courts and agencies protecting civil rights and civil liberties following up on last year's 50th anniversary of *Miranda v Arizona*. We received a grant last year to assist with transportation that resulted in a significant increase in participation by high school students whose teachers did not otherwise have funding for transportation. We were able to host students from four high schools, with one school sending two busloads of students. Those students participated in panel discussions lead by expert practitioners, judges and law enforcement personnel providing insight on the impact of the *Miranda* decision. Without the transportation assistance, those schools would not have been able to participate.

#### Eastern District of North Carolina – Federal Court Field Trip: A Real Life Civics Lesson at the EDNC

The EDNC Chapter of the FBA is planning a Federal Court Field Trip for middle and high school students who are taking a civics class and/or who are otherwise interested in the law. We chose this project to give young students an opportunity to experience the federal court system in a positive way and hopefully to encourage some to pursue the practice of law. Grant funds will provide transportation for the students to the courthouse, and will provide lunch for students and volunteers, and to give students a small gift/token to remind them of the lessons they learned from the court. We plan to reach out to the chapter membership and encourage practicing attorneys to volunteer to accompany the



## The Foundation of the Federal Bar Association

*Chartered by Act Of Congress, August 24, 1954*

students while they are in the court as well as speak to the students about their own path into the law. Our event is tentatively scheduled for mid-April of 2017.

### Nevada Chapter – National High School Mock Trial Competition

The Nevada Chapter received funding to support the 2018 National High School Mock Trial Competition, hosted in Reno, Nevada May 17-19, 2018. This partnership with the State Bar of Nevada and the Nevada Bar Foundation, will bring more than 1,500 high school students, coaches, families, and judges from across the country to compete at the highest level. The event also brings a unique opportunity to the Nevada Chapter to join local and statewide bar associations and members of the judiciary to support law related education in the state and nationally.

### Orlando Chapter – Schoolhouse to Courthouse

The Orlando Chapter received funding to facilitate its participation in the Federal Bar Association's Civics Outreach project in April 2017. The Orlando Chapter participated in April 2016 and our program was well-received by the students and the Court, and we look forward to providing the same opportunity to local high school students in the upcoming year. The funding will assist the Orlando Chapter with covering the cost of the necessary task of busing the students to the courthouse, as well as providing lunch for the students as part of the program.

### Hawai'i Chapter – Civil Pro Bono Panel

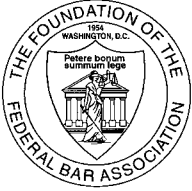
The FBA, Hawai'i Chapter, is implementing a new Civil Pro Bono Panel Program to provide legal services in civil cases to the poor and to increase access to justice. Hawai'i has the sixth-highest poverty rate in the nation. A new court order allows attorneys to provide unbundled legal services when representing pro se litigants in the program. The Hawai'i FBA is soliciting lawyers to represent pro se litigants and creating a panel of volunteer experienced mentors, including on neighbor islands. Grant funds will be used for training, publicity and recruitment and subsidizing panel participation costs.

### Hon. Raymond L. Acosta Puerto Rico Chapter – Veterans Outreach CLE

The Puerto Rico Chapter and the Veterans and Military Law Section will hold a full day CLE on veteran issues to train lawyers and nonlawyers who assist veterans. Puerto Rico has a large veteran population with diverse needs. The Veterans and Military Law Section will bring experts from the mainland to assist the Puerto Rico Chapter and Puerto Rico lawyers who help the veterans' community. The Puerto Rico Chapter and the Section will also reach out to Puerto Rico law schools to encourage and promote the establishment of legal services for veterans at the law schools' legal aid clinics.

### Utah Chapter – Civics Camp





## The Foundation of the Federal Bar Association

*Chartered by Act Of Congress, August 24, 1954*

Members of the Utah Chapter are coordinating a joint effort with our local district court, a local law school, and the AO to establish the first ever summer civics camp for high school youth. We are committed to help at least 10% of the students attend from disadvantaged circumstances. An inclusive effort will benefit all who attend.

### Central District of Illinois – Naturalization Ceremony

Courts across the country will be celebrating Constitution and Citizenship day on September 18, 2017. On September 20, 2017, the U.S. District Court for the Central District of Illinois will be holding a large naturalization ceremony at the Peoria Civic Center (approximately 400 new citizens to be sworn in). As part of a joint national initiative between the Administrative Office of the United States Courts and the Federal Bar Association aimed at promoting the signing of the Constitution, we have invited 900 8th grade students to attend and participate. We already received approval of the District Superintendent, and the District will be transporting the students to and from the Peoria Civic Center. Students attending the ceremony will be given instruction regarding the ceremony prior to that day. On the day of the ceremony, Judges and local FBA members will be presenting a short civics presentation regarding the Constitution. Between the new citizens and their families, the students, and community, we expect more than 2,000 people to attend.

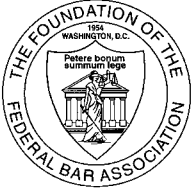
### Eastern District of Michigan – Pro Se Legal Assistance Clinic

Working in partnership with the United States District Court, Eastern District of Michigan, University of Detroit Mercy School of Law will create a part-time legal assistance clinic providing legal services to indigent and low-income non-prisoner pro se litigants in the Eastern District of Michigan. The Chapter will collaborate on this project by coordinating pro bona legal services and will host an annual reception to thank pro bona attorneys. The Chapter will additionally monitor the upkeep of clinic offices and will host an annual fundraiser. Clinic services are expected to benefit pro se litigants and the bench and bar.

### South Carolina – BRIDGE Mentorship Program

The South Carolina Chapter of the Federal Bar Association created the Mentorship Program to support the relatively new federal drug court in Charleston, SC known as the BRIDGE Program. The BRIDGE Program seeks to provide a rehabilitative program for individuals whose illegal substance dependency has led to federal criminal charges. In 2015, the BRIDGE Program expanded to Columbia, Florence, and Greenville. FBA members and the federal judiciary will benefit from the grant as resources and personal involvement are critical to sustain the continued growth of this Program, which facilitates the administration of justice while addressing the need for legal services.

### **National Community Outreach Project**



# The Foundation of the Federal Bar Association

*Chartered by Act Of Congress, August 24, 1954*

Building upon the enormously positive response to the inaugural National Community Outreach Project in 2016, the Foundation has provided funding for these 2017 Participants:

Eastern District of New York Chapter

Minnesota Chapter

Chattanooga Chapter

Eastern District of Pennsylvania Chapter

Knoxville Chapter

DC Chapter and Pentagon Chapter

Inland Empire Chapter

Massachusetts Chapter

Northern District of Indiana Chapter

San Antonio Chapter

Montana Chapter

Intellectual Property Law Section

Younger Lawyers Division

Law Student Division

Western District of Pennsylvania Chapter

LGBT Law Section

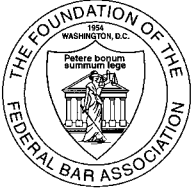
Phoenix Chapter

Eastern District of North Carolina Chapter

Chicago Chapter

Oklahoma City Chapter

Palm Beach Chapter



# The Foundation of the Federal Bar Association

*Chartered by Act Of Congress, August 24, 1954*

Utah Chapter

Middle District of Pennsylvania Chapter

South Carolina Chapter

Tampa Bay Chapter

San Diego Chapter

Tax Law Section

Central District of Illinois Chapter

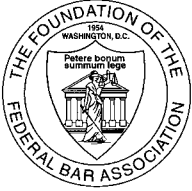
## **Robert A. McNew Law Scholarship**

The Foundation of the Federal Bar Association is pleased to announce the recipient of the 2017 Robert A. McNew Law Student Scholarship: Ms. Valerie Brummel of Northwestern University Pritzker School of Law.

Valerie's undergraduate and law school paths have consistently pointed her towards federal practice. As a college student, one of her greatest joys was volunteering with the Head Start program in Ann Arbor. She spent two years as a Volunteer Coordinator and a volunteer, working with children from low-income families, autistic children, and children with cochlear implants. Valerie observed the impact of federally funded preschool on these young lives.

Valerie spent two summers working for United States Congressmen: the first summer she worked in Washington, DC, for Carl Levin, the Senator from Michigan. Working in the Capitol Building gave her an opportunity to see the federal government at work. She attended several Congressional hearings throughout the summer. The following summer, she worked in Dearborn, Michigan for John D. Dingell, the Representative from the 12th District in southeast Michigan. Here Valerie observed the federal government's ability to create change at a local level. She worked side by side with case workers to help constituents with issues regarding veteran's benefits, immigration, and disability law.

While applying to law school, Valerie visited several top law schools across the country, a process which reinforced her decision to pursue a legal career. She discovered that she loved the fast-paced style of learning, the importance of good writing, and the emphasis placed on logical reasoning. Most importantly, she loved the promise of what a law degree could help her achieve in the future - the ability to influence law and policy to positively impact many people.



## The Foundation of the Federal Bar Association

*Chartered by Act Of Congress, August 24, 1954*

After her first year of law school, Valerie spent the summer as a judicial extern for Judge Robert M. Dow of the Northern District of Illinois. While there, she observed the judge conduct his calendar call and watched hearings and trial proceedings. She completed legal research memos and wrote opinions under the supervision of law clerks. The experience strengthened her legal research and writing skills and gave her the chance to see several stages of the litigation process first hand.

Valerie enjoyed the externship so much that she accepted a position as a law clerk for Judge Milton Shadur of the Northern District of Illinois.

### **Earl W. Kintner Public Service Scholarship**

The Foundation of the Federal Bar Association has awarded the Kintner Public Service Scholarship to Andrew Pettit from Coronado, California. Mr. Pettit graduated from Coronado High School and will be attending the University of California Santa Barbara. In addition to his many extracurricular activities and outstanding academic record, Mr. Pettit served for four years in various capacities, including president, of the Interact Club, which led over 25 public service projects during the 2016-2017 school year. He was a tutor, YMCA Camp Counselor, and youth bible study leader for young children. But that's not all; he is a talented landscape photographer, whose amazing pictures can be found at [www.andrewpettitphoto.com](http://www.andrewpettitphoto.com). He donates all the proceeds from sales of his photographs to environmental causes! As you can see from his photographs, he is passionate about the environment and hopes one day to own an environment consulting firm that develops business models for companies to use sustainable energy and eco-friendly manufacturing practices. The Kintner Public Service Scholarship will provide Mr. Pettit assistance at UCSB to pursue those dreams.

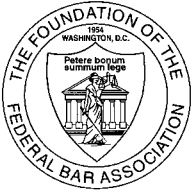
### **Foundation Diversity Grant**

2017 marks the inaugural year of the Foundation Diversity Grant. The grant focuses on educational, community service, or outreach projects or programs with a diversity focus that involve FBA Chapter, Section, Division, or member participation.

The Foundation's Diversity Grants Committee met via teleconference June 26 to review two applications. The following grants totaling \$10,000 were approved:

#### Cincinnati/Northern Kentucky- Summer Work Experience in Law, Inc. (SWEL)

SWEL's mission is to help primarily African American students make an informed decision with respect to entering law school and the legal profession. SWEL sets the stage for each student's own self-discovery by exposing them to the inherent opportunities and challenges of practicing law through summer work experiences, coaching and networking. SWEL's vision is to be the best decision-



## The Foundation of the Federal Bar Association

*Chartered by Act Of Congress, August 24, 1954*

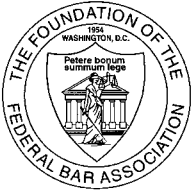
development program for African American students and others who may need assistance that have an interest in the legal profession. As our community and country grow more culturally diverse, and as clients require diversity from the companies that represent them, it is critical that the legal profession become more representative of the changing racial demographics in the region. SWEL's goals of diversity in the legal community align with those of the Chapter and the Federal Bar Association nationally.

### Veterans and Military Law Section- Advocating for Veterans in Indian Country

The program's primary focus will be advocacy on behalf of veterans seeking VA benefits, including preparation of the claim, appealing a VA decision to the Board of Veterans' Appeals, and cultural competence in advocating for veterans with mental health symptoms. Additional topics will include Veterans Treatment Courts, advocating for patient-centered Native healthcare services for veterans, current legislative issues relevant to veterans in Indian country, and economic development for veterans in Indian country. The VMLS's objectives in offering this program are to educate advocates who will work with veterans in Indian country, providing necessary training for accreditation as a Veterans Service Officer. By offering the training in the West (e.g., Montana), the VMLS hopes to draw attendees from various tribes and tribal organizations throughout the region. Additionally, the VMLS will work to collaborate with VA Office of Tribal Government Relations to invite regional VA staff working to increase access to healthcare and services in Indian country. The program will be modeled after VA accreditation CLEs, but it will cover a broader range of topics important to advocates working in Indian country. More broadly, this program will advance several of the Federal Bar Association's strategic efforts. It will promote the education and professional development of attorneys practicing in the areas of federal law, including the law governing veterans benefits and Indian law. Improved education of diverse advocates will lead to improvements in national advocacy for all veterans. The program will also strengthen connections among federal practitioners across the country and create new lines of networking in the federal bar. Finally, the program will be exploring best practices for representing veterans in Indian country, which advances the Federal Bar Association's dedication to excellence in Continuing Legal Education.

### **Moot Court Sponsorship**

The Foundation continues its sponsorship of the Moot Court Competition for 2017.



# The Foundation of the Federal Bar Association

*Chartered by Act Of Congress, August 24, 1954*



**THE FOUNDATION OF THE FEDERAL BAR ASSOCIATION**  
**Statement of Financial Position**  
**June 30, 2017 and 2016**

	2017	2016
<b><u>ASSETS</u></b>		
CURRENT ASSETS		
Cash	\$ 45,336	\$ 34,598
Investments	910,372	905,934
Due from affiliates	3,437	
Promises to give	16,344	30,869
Prepaid expense	127	127
TOTAL CURRENT ASSETS	975,616	971,528
OTHER ASSETS		
Promises to give, long-term net	48,039	39,621
TOTAL OTHER ASSETS	48,039	39,621
TOTAL ASSETS	\$ 1,023,655	\$ 1,011,149
<b><u>LIABILITIES</u></b>		
CURRENT LIABILITIES		
Accounts payable	\$ 263	\$ 203
Due to affiliates		5,170
TOTAL CURRENT LIABILITIES	263	5,373
<b><u>NET ASSETS</u></b>		
NET ASSETS		
Unrestricted	802,737	784,535
Temporarily restricted	220,655	221,241
TOTAL NET ASSETS	1,023,392	1,005,776
TOTAL LIABILITIES AND NET ASSETS	\$ 1,023,655	\$ 1,011,149

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 Nine Months Ended June 30, 2017**

	FY2017 YTD	FY2016 YTD	FY2017 Budget	Percent of Budget
<b>Revenues:</b>				
<b>Grants and Contributions:</b>				
Fellows' Contributions	\$ 20,400	\$ 16,895	\$ 35,000	58%
Voluntary Contributions	58,536	40,276	75,000	78%
Other Grants and Contributions	71,754	64,825	65,000	110%
Silent Auction	600	-	3,000	20%
<b>Support and Revenue:</b>				
Fellows Dinner	8,550	8,265	8,400	102%
Interest Earned	18,595	31,458	35,000	53%
Miscellaneous Revenue	-	-	100	0%
<b>Total Revenue</b>	<b>178,435</b>	<b>161,719</b>	<b>221,500</b>	<b>81%</b>
<b>Expenses:</b>				
<b>Program</b>				
Grants and Awards	155,239	122,756	176,500	88%
Fellows Dinner	-	7,055	7,000	0%
Travel	1,738	3,267	3,500	50%
Program Expense	997	48	1,000	100%
Total Program	157,974	133,126	188,000	84%
<b>Management and Support</b>				
Administrative Fees	10,125	10,125	13,500	75%
Insurance	572	572	800	72%
Board Expense	718	1,382	4,000	18%
Office Expense	828	3,447	2,500	33%
Postage	1,121	1,105	1,500	75%
Professional Fees	18,249	17,048	22,000	83%
Miscellaneous Expense	7,583	3,412	6,000	126%
Total Management and Support	39,196	37,091	50,300	78%
<b>Total Expenses</b>	<b>197,170</b>	<b>170,216</b>	<b>238,300</b>	<b>83%</b>
Change in Net Assets before Other Income (Expense)	(18,735)	(8,497)	(16,800)	
<b>Other Income (Expense)</b>				
Unrealized Gain/(Loss) on Investments	37,857	50,094		
Realized Gain/ (Loss) on Investments / Sale of Asset	1,987	(16,149)		
<b>Total Other Income (Expense)</b>	<b>39,844</b>	<b>33,945</b>		
Change in Net Assets	21,109	25,447		
Net Assets, Beginning of Year	1,002,284	980,329		
<b>Net Assets</b>	<b>\$ 1,023,392</b>	<b>\$ 1,005,776</b>		

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**  
**Schedule of Fund Activity**  
**For the Nine Months Ended June 30, 2017**

	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
<b>Support and Revenue:</b>											
Grants and Contributions:											
Voluntary Contributions	58,536	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 58,536
Fellows program		20,400									20,400
Fellows Dinner		8,550									8,550
Other Grants and Contributions	500			61,254		10,000					71,754
Silent Auction	600										600
Memoriams and Remembrances	-										-
Miscellaneous income	-										-
Unrealized Gain/(Loss) on Inv.	37,857										37,857
Realized Gain/ (Loss) on Inv.	1,987										1,987
Interest Income	5,073	10,087		155	101	58	439	2,292	320	70	18,595
<b>Total Support and Revenue</b>	<b>104,553</b>	<b>39,037</b>	<b>-</b>	<b>61,409</b>	<b>101</b>	<b>10,058</b>	<b>439</b>	<b>2,292</b>	<b>320</b>	<b>70</b>	<b>218,279</b>
<b>Expenses:</b>											
Fellows Dinner Expense	-										-
Travel		1,738									1,738
Program Expenses		997									997
Board Meeting Expense	718										718
Grants	88,545			61,254	5,440						155,239
Administrative Costs	10,125										10,125
Insurance	572										572
Postage and Mailing Expense	1,121										1,121
Professional Fees	18,249										18,249
Supplies	828										828
Miscellaneous Expense	7,583										7,583
<b>Total Expenses</b>	<b>127,741</b>	<b>2,736</b>	<b>-</b>	<b>61,254</b>	<b>5,440</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>197,170</b>
Change in Net Assets	(23,188)	36,301	-	155	(5,339)	10,058	439	2,292	320	70	21,109
Net Assets, Beginning of Year	245,928	543,695	27,458	8,378	5,436	3,148	23,664	123,537	17,263	3,776	1,002,283
Net Assets, End of Period	\$ 222,740	\$ 579,996	\$ 27,458	\$ 8,533	\$ 97	\$ 13,206	\$ 24,103	\$ 125,829	\$ 17,583	\$ 3,846	\$ 1,023,392

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.

Biographical Sketch  
of  
Winston McDonald Haythe  
2141 P Street, NW, Suite 402  
Washington, DC 20037-1031  
(202) 255-8989 Mobile Phone  
[winstonhaythe@gmail.com](mailto:winstonhaythe@gmail.com)

Winston McDonald Haythe is a lawyer whose career as a litigator in both private and government practice spans over 40 years. He initially engaged in a nationally-focused law practice with a specialized boutique Washington, DC firm and thereafter as the first Assistant General Counsel for Enforcement of the U.S. Consumer Product Safety Commission. He is also a legal educator who served on the Staff and Faculty of the U.S. Army Judge Advocate General's School, where he attained the rank of colonel and was awarded the Legion of Merit (the highest non-combat, military award) upon retirement after 31 years of commissioned service.

He was a principal designer of the first course on Negotiations offered by the U.S. Department of Justice to federal attorneys nationwide, at a time when law schools in the United States did not offer a formal course. (Today virtually every law school in the nation offers Negotiations as part of its curriculum.)

He is a member of the adjunct faculty at The George Washington University Law School where he teaches Negotiations to third year law students in their final semester before receiving their *Juris Doctor* degree or, for those students who have already received a *J.D.* degree and are pursuing an advanced degree in the field of law, their *LL.M.* (Master of Laws) degree.

He was a pioneer in designing and offering environmental training throughout Mexico to over 500 of that nation's environmental professionals at the time that the North American Free Trade Agreement (NAFTA) was being implemented. Also, as a LEGIS Fellow with the United States Senate for two years, he focused on environmental issues in the Great Lakes region.

In addition, he taught for over 14 years with the University of Maryland University College in the Department of Paralegal Studies. In his final year of teaching for the University of Maryland, he was awarded the "Teacher of the Year Award" by secret ballot vote of the faculty at large.

He has been a member of the FBA for the past 45 years. He joined the Fellows of the Foundation of the FBA shortly after its inception and has been one of its most generous donors annually. For the past six years during his first term as a member of the Board of Directors for the Foundation, he has served on a number of committees to include the selection of the annual recipient of the Earl Kintner Scholarship Award, as well as the Diversity Committee.

# TAB G

Federal Bar Building Corporation Election

August 10, 2017

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 a statement of the financials of the Federal Bar Building Corporation (FBBC) for that portion of FY 2017 through July 31, 2017, 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 an intensive fundraising effort that produced contributions and grants that fully funded the construction of a building that housed the first formal headquarters of the FBA on H Street, NW, in Washington, DC. That ambitious effort was funded without any monies 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 exceeded, under Section 501(c)(2) the FBBC will periodically distribute funds that are in excess of that goal as of September 30 of any given year 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 presently has a fair market rental value of \$450,075 per year.



I strongly urge you to carefully read the Report to the National Council regarding the history and evolution of the FBBC and the assets we manage for the benefit of the FBA and the Foundation of the Federal Bar.

***FBBC***

---

**FEDERAL BAR BUILDING CORPORATION**

**FINANCIAL STATEMENTS**

**FOR THE PERIOD ENDING**

**JUNE 30, 2017**

**PRELIMINARY AND UNAUDITED**



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

6/30/2017

Preliminary and Unaudited

	<u>Jun 2017</u>	<u>Jun 2016</u>
<b><u>ASSETS</u></b>		
CURRENT ASSETS		
Cash & Cash Equivalents	\$25,112	\$1,108
Prepaid Expenses	12,424	11,464
Accounts Receivable	0	0
TOTAL CURRENT ASSETS	<u>37,536</u>	<u>12,571</u>
PROPERTY AND EQUIPMENT		
Building	4,100,260	4,100,260
Leasehold Improvements	517,495	517,495
Phone System	18,977	18,977
Furniture & Fixtures	99,353	99,353
	<u>4,736,085</u>	<u>4,736,085</u>
Accumulated Depreciation-Building	(784,131)	(678,996)
Accumulated Depreciation-Leasehold Improvements	(161,022)	(146,793)
Accumulated Depreciation-Phone System	(17,712)	(15,814)
Accumulated Depreciation-Furniture & Fixtures	(88,742)	(79,043)
	<u>(1,051,607)</u>	<u>(920,646)</u>
NET PROPERTY AND EQUIPMENT	<u>3,684,478</u>	<u>3,815,439</u>
OTHER ASSETS		
Investments - Mutual Funds	<u>5,509,006</u>	<u>5,257,756</u>
TOTAL ASSETS	<u>\$9,231,020</u>	<u>\$9,085,767</u>
<b><u>LIABILITIES</u></b>		
CURRENT LIABILITIES		
Accounts Payable	\$320	\$50
Due to Affiliates	0	0
Prepaid Rental Income	5,000	5,000
TOTAL CURRENT LIABILITIES	<u>5,320</u>	<u>5,050</u>
<b><u>NET ASSETS</u></b>		
NET ASSETS		
Beginning Balance Unrestricted	9,137,567	8,864,843
Change in Net Assets	<u>88,133</u>	<u>215,874</u>
TOTAL LIABILITIES AND NET ASSETS	<u>\$9,231,020</u>	<u>\$9,085,767</u>

**FEDERAL BAR BUILDING CORP**  
**Statement of Activities**  
**For the Nine Months Ending Friday, June 30, 2017**  
**Preliminary and Unaudited**

	<b>Jun 2017</b>	<b>2017 YTD Actual</b>	<b>2016 YTD Actual</b>	<b>2017 Annual Budget</b>	<b>2017 Actual/Budget Variance</b>
<b>SUPPORT AND REVENUE</b>					
Rental income					
Federal Bar Association	\$37,506	\$337,556	\$291,081	\$450,075	\$112,519
Interest and dividend income	16,311	103,285	131,628	125,491	22,206
Miscellaneous Income	0	0	0	0	0
<b>TOTAL SUPPORT AND REVENUE</b>	<b>53,817</b>	<b>440,841</b>	<b>422,709</b>	<b>575,566</b>	<b>134,725</b>
<b>EXPENSES</b>					
Administrative Fees	2,000	18,000	18,000	24,000	6,000
Condo Fees	4,970	44,292	43,258	63,000	18,708
Depreciation	10,913	98,221	98,221	131,000	32,779
Real Estate Tax / Personal Property Tax	11,819	45,585	45,830	49,000	3,415
Repairs & Maintenance	0	122	970	4,000	3,878
Insurance	202	1,814	1,814	3,500	1,686
Investment Fees	2,324	20,341	17,914	25,000	4,660
Board Meetings	0	381	0	1,000	619
Postage	1	11	44	25	14
Telephone	0	3	11	25	22
Supplies	0	0	0	100	100
Stationary & Printing	2	28	231	0	(28)
Professional Fees	0	6,205	5,527	6,000	(205)
Travel	279	743	471	1,000	257
In-Kind Contribution Expense	32,506	292,556	246,081	390,075	97,519
Miscellaneous Expense	0	280	67	300	20
<b>TOTAL EXPENSES</b>	<b>65,017</b>	<b>528,581</b>	<b>478,439</b>	<b>698,025</b>	<b>169,444</b>
CHANGE IN NET ASSETS BEFORE OTHER INCOME (EXPENSE)	(11,200)	(87,740)	(55,730)	(122,459)	(34,719)
<b>OTHER INCOME (EXPENSE)</b>					
Realized gains (losses) on sales of investments	0	73,148	(87,206)	0	(73,148)
Unrealized gains (losses) on investments	7,674	102,724	358,810	0	(102,724)
<b>TOTAL OTHER INCOME (EXPENSE)</b>	<b>7,674</b>	<b>175,873</b>	<b>271,604</b>	<b>0</b>	<b>(175,873)</b>
CHANGE IN NET ASSETS	(3,526)	88,133	215,874	(122,459)	(210,592)
NET ASSETS, BEGINNING OF YEAR	0	9,137,567	8,864,843	0	(9,137,567)
NET ASSETS	(3,526)	9,225,700	9,080,717	(122,459)	(9,348,159)

August 7,2017

**MEMORANDUM FOR: FBA National Council**

**FROM: President, Federal Bar Building Corporation (FBBC)**

**SUBJECT: FBBC Report Concerning Evolution of the FBBC and Current Investment Funds**

On March 26, 2010, the Board of Directors of the Federal Bar Building Corporation (FBBC) unanimously adopted a resolution reflecting that the then-approximately \$4 Million (\$4,000,000) investment portfolio of the FBBC, together with growth, dividends, interest, and other income, be maintained by the FBBC as an operational reserve, to be used for the sole purposes of anticipated operating expenses, capital improvements, and necessary repairs. At a subsequent meeting of the Board, then-President Alan Harnisch appointed Judge Delissa Ridgway, Gerald Gilbert, and Robert Mueller (chairman) to comprise this special committee to study and make recommendations to the Board regarding various questions directly or indirectly relating to this reserve.

**Historical Context**

The FBBC was incorporated in the District of Columbia in December 1958 and was organized under provisions of Section 501(c)(2) of the Internal Revenue Code. Its stated purpose was to purchase or build and maintain office headquarters for the FBA and the Foundation of the FBA.

The first such home for the FBA was in an office building at 1815 H Street, N.W., in Washington, D.C. That building, and the neighboring building at 1819 H Street, were built with monies generated by fund-raising efforts, donations, events, etc., by past-President Earl W. Kintner. Those buildings, owned by the FBBC, were built without any funds from the FBA.

When these buildings began to seriously deteriorate and began to experience vacancies, the FBBC determined to sell them and locate other appropriate offices for the FBA and the Foundation. The buildings were sold in 1997, and the FBBC purchased a building at 2215 M Street, NW, as the future home of the FBA and the Foundation. The purchase was made with funds realized from the H Street sale, with no mortgage. The remainder of monies realized from the H Street sale was invested by the FBBC with the intent and for the purpose of paying all operating expenses and reasonable repairs and maintenance from the growth and income of the investment corpus. There was no plan to charge the FBA any rent for its use of the building, nor was any rent in fact charged initially. Neither was any thought given to initiating rent for the Foundation.

In the 1998-2002 timeframe, three unforeseen things changed this financial blueprint. First, soon after moving to the new building, the FBBC had to replace the roof at a total cost of \$58,000. In 2001 a drain on the roof of the building malfunctioned and caused substantial

damage to our building and a restaurant next door. The cost of re-routing the water, and repairing damage to the FBA headquarters and restaurant was approximately \$85,000. Additionally, during this same timeframe, it became clear that substantial expenses loomed on the near horizon for several necessary and relatively major capital repairs (e.g., replacement windows). The amount of these realized and anticipated expenses was substantial and not foreseen in the FBBC's financial planning for this early time period. Second, we unexpectedly lost the 4<sup>th</sup> floor tenant in the building, from whom we had received and reasonably expected to continue to receive approximately \$100,000 per year. This put an enormous squeeze on the investment portfolio. Third, the investment market took a significant downturn, with the result that the investment portfolio on which the FBBC relied for income, discussed above, suffered major losses and was no longer sufficient to generate the necessary income to cover expenses.

As a temporary measure to help delay the breaking point of this crisis, the FBBC took the step of initiating a rent requirement from the FBA. The plan was to begin by charging rent in the amount of \$36,000 per year and to increase it each year to a level of \$120,000 per year. In fact, in early 2007, when the rent was at \$60,000 per year as of October 2006, the FBBC had decided to sell the building and to relocate the FBA headquarters; therefore, the rent level was retained at \$60,000 per year, where it still exists today. No rent was ever charged of the Foundation, largely because of the relatively small physical space used by the Foundation.

The decision to sell the M Street building fortuitously was made at a point when the commercial real estate selling market in DC still was relatively strong. A sale was consummated in January 2007, and the FBA headquarters and staff moved to temporary office space in Crystal City, Virginia. New office condominium space was located at 1220 N. Fillmore Street, Arlington, VA, to become the new FBA headquarters. The contract for this space, executed in the spring of 2008, was a lease with option to purchase after two years, which the FBBC planned from the outset to exercise.

Upon the sale of the M Street building and the relocation to Arlington, the financial plan of the FBBC was clearly established: Invest \$5,000,000 in short term funds that would be adequate to finance the lease/planned-purchase of the space, and invest the remaining \$4,100,000 from the M Street sale in a long-term portfolio that would produce income sufficient to pay for operating expenses and reasonable capital maintenance and improvements. Just short of the schedule in January of 2010, the FBBC exercised its option to purchase this space, and the short-term investments and a small part of the long-term portfolio were liquidated, leaving the balance of the long-term investments to produce income for operating expenses.

The general world-wide economic downturn that started in 2007 presented a realistic threat to this financial plan. Fortunately, the skill and advice of our investment counselors and the fortuitously low level of expenses required at the time permitted the FBBC to weather that storm. The result is that, at the present time, with the global economy having markedly improved and with the forecast encouraging, the long-term investment portfolio has returned a level that currently significantly exceeds the value prior to the onset of the severe recession.

It is in this historical context that the FBBC considered various questions relating to establishing and maintaining a portfolio sufficient to cover anticipated operating expenses, real estate taxes, repairs and upkeep in the future, and to provide reserve funds sufficient to cover unforeseen property expenses and economic challenges. It is impossible to overstate the



determination of the current Board of Directors to learn from the M Street experience and to take all steps necessary to avoid similar threatening factors in the future. The headquarters office space is the principal physical asset of the FBA and the Foundation, and there can be no doubt that the FBBC's primary mission, now and in the future, must be to maintain the financial integrity of its investments so as to protect the future financial well-being of the FBA and the Foundation of the FBA. All other policies and decisions made by the FBBC must be in the context of that primary mission.

### **Special Committee's Investment Recommendations**

The FBBC special committee met initially by teleconference on Monday, January 17, 2011. Additionally, the committee had the benefit of comments and suggestions on an interim draft report in a meeting of the Board of Directors in February 2011, and on several occasions thereafter. Bearing in mind the historical context set forth above, the committee submitted the following investment recommendations.

- On an assumption of maintaining an investment portfolio that will produce an average annual income of 5-6%, the FBBC should achieve and maintain a portfolio balance of \$6 Million (\$6,000,000).
  - The committee concludes that a portfolio investment balance of \$4 Million (\$4,000,000) on average should be sufficient to produce income adequate to cover all operational expenses and relatively minor repairs (hereinafter “operational reserve”), as well as county real estate taxes, without need to invade this corpus for that purpose. All reasonable efforts should be made to avoid any invasion of this corpus.
  - The committee concludes that an additional portfolio investment of \$2 Million (\$2,000,000) on average should be a sufficient reserve (hereinafter “capital improvement reserve”) for the following nonexclusive purposes:
    - Periodic scheduled or predictable capital improvements and replacements;
    - Unforeseen expenses such as unscheduled repairs;
    - An economic downturn that results in a reduction of the \$4 Million (\$4,000,000) corpus to the point where it is insufficient to produce adequate income to cover operational expenses.
  - [At that point in time, the FBBC's investment portfolio was approximately \$1,675,000 less than the target of \$6 Million (\$6,000,000). I am pleased to report that, as of July 31, 2017, the value of the portfolio of investments is \$5,573,547.11 – approximately \$426,453 less than the target!]
- Any activity that causes the total portfolio balance to fall below \$6 Million (\$6,000,000) will trigger a focused determination by the FBBC to take all reasonable steps to fully restore the total portfolio balance. Such steps might include postponing some or all planned discretionary expenditures, adjusting the investment strategy, and/or increasing tenant rent. Until such time as the total portfolio is restored to \$6 Million (\$6,000,000), all decisions and actions by the FBBC must be reasonably consistent with the primary objective of restoring the total portfolio.
- At the end of any given fiscal year of the FBBC (October 1 through September 30), any balance in the total portfolio that exceeds \$6 Million (\$6,000,000) shall be distributed to the Federal Bar Association and/or the Foundation of the Federal Bar Association, as provided in the tax code for a Section 501(c)(2) corporation. All revenues in excess of

total operating expenses and reserves for future expenses must be distributed to the owners, per relevant provisions of the U.S. tax code and IRS regulations.

### **Related Recommendations of the Special Committee**

- The FBBC should continue the business practice of charging rent from the FBA.
  - This practice, originally started on M Street out of economic necessity, has established a disciplined and healthy business-like aspect to the relationship between the FBBC and FBA that should be continued.
  - The rent will assist the growing of the portfolio discussed above.
  - When the FBBC reaches the point where the total portfolio exceeds \$6 Million (\$6,000,000), the excess must be distributed to the FBA and/or the Foundation as described above, so there will not be a situation in which the FBBC is charging the FBA rent without an economic need. In pursuing this practice, the business relationship discussed above continues to be encouraged.
  - For the present and into the near future, the current rent of \$60,000 should continue, which coincidentally is nearly sufficient to cover all current condominium fees. It may be adjusted from time to time as circumstances may warrant.
- The FBBC should not presently initiate a rental charge to the Foundation, given its minimal space requirements in the headquarters facility.
- These investment and related recommendations should be reflected in and adopted by the FBBC Board of Directors by Resolution, so that any future Board may fully understand the current Board's decision, motivation, and rationale if and when a future Board considers adjusting any policy reflected in the resolution; and so that future FBA and Foundation Boards may be clear in the concept that this approach is deemed to be critical to the future interest of all three organizations.

### **Resulting Resolution of the FBBC Board of Directors**

On September 9, 2011, having received and considered the report of the Special Committee, as well as the historical context described above, the Board of Directors of the FBBC unanimously adopted the resolution that is attached to this Report to the National Council. That resolution fully adopted the recommendations of the Special Committee, and it has not been amended since that date. The monies invested by the FBBC from the sales of earlier properties is there for the sound discretionary use by the FBBC to maintain the headquarters of the FBA and the Foundation, and the Board of the FBBC is singularly focused on fulfilling that fiduciary responsibility that is so critical to the future success of the FBA and the Foundation.

Respectfully submitted,

/s/

Robert C. Mueller  
President and Chairman of the Board,  
Federal Bar Building Corporation

**FEDERAL BAR BUILDING CORPORATION  
BOARD OF DIRECTORS**

**Policy Resolution Regarding FBBC Investments and Reserves  
Approved on September 9, 2011**

WHEREAS, the Board of Directors of the Federal Bar Building Corporation (FBBC), on March 26, 2010, unanimously passed a resolution reflecting that the then-approximately \$4 Million (\$4,000,000) investment portfolio of the FBBC - together with growth, dividends, interest and other income - shall be maintained by the FBBC as an operational reserve, to be used for the sole purposes of paying usual operation expenses, capital improvements and replacements, and expenses for necessary repairs at the condominium office of the Federal Bar Association (FBA) and the Foundation of the Federal Bar (Foundation) at 1220 N. Fillmore Street, Arlington, VA;

WHEREAS, by report of February 25, 2011, a special committee of the FBBC Board submitted a draft report including certain recommendations regarding the appropriate value of the FBBC investment portfolio that should be achieved and maintained in order to generate sufficient income to fully cover operating expenses and real estate taxes, as well as to constitute a sufficient reserve for such non-exclusive purposes as scheduled or predictable capital improvements and replacements, unforeseen expenses such as unscheduled repairs, and possible economic downturns that may result in a reduction of the corpus of the portfolio to the point where the portfolio it is not sufficient to produce adequate income to cover operational expenses;

WHEREAS the full FBBC Board has offered comments and suggestions in response to the draft report and recommendations, which the special committee of the Board has considered and incorporated in the final report and recommendations, as appropriate, as approved in principle on March 15, 2011, and with final text approved on September 9, 2011;

WHEREAS, this report reflects that the recommendations of the special committee are based in part on the historical experiences of the FBBC and its financial and investment policies while owning properties serving as headquarters facilities for the FBA and the Foundation at 1815 and 1819 H Street, NW, Washington, DC, at 2215 M Street, NW, Washington, DC, and at 1220 N. Fillmore Street, Suite 444, Arlington, VA;

WHEREAS, it is the principal purpose of the FBBC to own and maintain real estate to serve as the headquarters of the FBA and the Foundation;

WHEREAS, the condominium office space at 1220 N. Fillmore Street, Arlington, VA, is owned and maintained by the FBBC for this purpose and is the principal physical asset of the FBA and the Foundation; and

WHEREAS, in this context, the Board of Directors of the FBBC considers that the FBBC's primary responsibility and trust, now and in the future, must be to maintain the financial integrity of its investments so as to protect the future financial well-being of the FBA and the Foundation and that all other policies and decisions made by the FBBC must be in the context of that primary mission;

IT IS, THEREFORE, RESOLVED: That, on an assumption of maintaining an investment portfolio that will produce annual income of 5-6%, the FBBC shall achieve and maintain a total portfolio balance of approximately \$6 Million (\$6,000,000);

IT IS, THEREFORE, FURTHER RESOLVED: That, of this portfolio balance, approximately \$4 Million (\$4,000,000) (“operational reserve”) will be sufficient to produce income adequate to cover all operational expenses, real estate taxes, and relatively minor repairs, without need to invade the corpus of the operational reserve for these purposes, and that all reasonable efforts shall be made to avoid any invasion of this operational reserve;

IT IS, THEREFORE, FURTHER RESOLVED: That the remainder of the portfolio balance - \$2 Million (\$2,000,000) (“capital improvement reserve”) - on average will be a sufficient reserve for such non-exclusive purposes as periodic scheduled or predictable capital improvements and replacements, unforeseen expenses such as unscheduled repairs, and economic downturns that may result in a reduction of the \$4 Million (\$4,000,000) operational reserve to the point where it is insufficient to produce adequate income to cover operational expenses;

IT IS, THEREFORE, FURTHER RESOLVED: That any activity that causes the total portfolio balance (“total reserve”), which is the combined balance of the operational reserve and the capital improvement reserve, to fall below \$6 Million (\$6,000,000) shall trigger a focused determination by the FBBC to take all reasonable steps to fully restore the total reserve balance, such as postponing some or all planned discretionary expenditures, adjusting the investment strategy, and/or increasing tenant rent;

IT IS, THEREFORE, FURTHER RESOLVED: That, until such time as the total reserve balance is restored to \$6 Million (\$6,000,000), all decisions and actions by the FBBC must be reasonably consistent with the primary objective of restoring the total reserve balance;

IT IS, THEREFORE, FURTHER RESOLVED: That, the FBBC shall continue the sound business practice of charging the FBA rent for its use of the condominium office space owned by the FBBC, but that the Foundation shall not be charged rent for its use of such space at this time.

AND IT IS FINALLY RESOLVED: That it shall be the general policy of the FBBC that, at the end of any given fiscal year of the FBBC (October 1 through September 30), any balance in the total reserve that exceeds \$6 Million (\$6,000,000) shall be distributed to the FBA and the Foundation as provided in the tax code and IRS regulations for a Section 501(c)(2) corporation.

# TAB H

Clerks of Court Membership Dues Category



# Federal Bar Association

## CLERKS OF COURT MEMBERSHIP DUES CATEGORY

In conjunction with accepting the recommendation of the Constitution, Bylaws, Rules, and Resolutions Committee to add language to the Constitution that establishes a Clerk of Court Associate membership category, the Board of Directors approved the creation of a zero-dollar active member and associate member dues category at the June 23, 2017 board meeting.