



# Side BAR

Winter 2000 • Published by the Federal Litigation Section of the Federal Bar Association • Vol. I No. 2

## Happy Holidays

### OPENING STATEMENTS

#### Message from the Editor

**John F. (Joe) Perry**

I hope that you enjoyed our last newsletter and I pray that you will enjoy this edition. Again, I have endeavored to bring you some interesting and hopefully informative matters. Please, give me your feedback, both negative and positive. I want to know how I am doing and what can be done to make this a better, more responsive newsletter for you, our members.

Speaking of Cleveland and the FBA Annual Convention, those of you who attended, did you enjoy it as much as I did? **Joe Dattilo** and his committee are to be commended on a terrific job. Tucson has some big shoes to fill and I am sure that like the Phoenix (sorry Tucson), they will rise to the occasion.

The Federal Litigation Section has some great plans for the future under the capable leadership of Pat Flanagan. Some of these plans began to be discussed and formulated at a Thursday morning meeting of leaders and section members at the national convention in Cleveland. In attendance were **Jackie Goff**, then FBA president; **Bob McNew**, now FBA president, **Kent Hofmeister**, **Adrienne Berry**, **Jim Richardson**, **Geoffrey Angel**, **Alan Blakley**, **Winston Haythe**, **Bill LaForge**, **Mary Lehman**, **Matt Moreland**, **Jack Lockridge**, **Susan Kilgore**, **Janet Richardson**, **Brad Henry**, **Tom Schuck** and **Kathy Wall**.

The main idea discussed concerned revitalizing the section. It was noted that the committees within the section have been the same for over 20 years and that they should be restructured to be more responsive to our members. To this end, a suggestion was made that a mission statement be drafted to give the section more focus. One such area of focus would be the creation of a leadership ladder similar to national's thereby reaching out to our members and getting them more involved with specific tasks.

Another area of discussion was how to be more responsive to membership, what sets the section apart and what can the section offer that is unique to the members. Leadership was challenged to answer the question of why be a member. One suggestion was to become more supportive and interact more with local chapters and use our large membership to provide mentoring with older (more experienced) attorneys. Another interest expressed was to provide a means to have more involvement with the federal judiciary because it was noted that younger lawyers feel isolated from the judges.

Last (and perhaps least), suggestions were apparently made as to how to improve the newsletter. I say apparently because I was unable to attend the meeting and what's to improve?

Seriously, the suggestions were to include pieces about our members, add pictures of the section in action (Dade County, Fla. probably could provide some great action photos!) and include some litigation tips (like sue early and often?). As aforesaid, I welcome these and other suggestions and although none are in this edition, I will endeavor to include them in future editions. But again, I need your input. Send me your litigation tips, send me your biographies (and a picture), send me your articles and other ideas. If we all work together, the work is less and the product better. Thank you and Happy Holidays.

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## Message from the Section Chair

### N. Patrick Flanagan

First, let me wish each and every one a joyous and happy Holiday Season! Second, let me invite you to get involved with the Litigation Section. We have renovated the section to make it more "user friendly" and I invite anyone who wants to get involved to contact me personally at [pflanagan@halelane.com](mailto:pflanagan@halelane.com). We have many exciting events, and this section, as well as the FBA under **Bob McNew's** leadership, looks to be more active in providing opportunities for its members.

For example, we had a wonderful convention in Cleveland with outstanding speakers and CLE. It was the largest annual convention and in addition to a fistful of new business cards, I made a lot of new personal and professional contacts. In fact, **Michael McBride**, a tribal judge from Tulsa, Okla., was my guest at a bar association lunch the following week here in Reno, Nev. A case I had handled pro bono for the National Judicial Conference gave us common ground for discussion on issues of mutual interest. The case, *Hicks v. Nevada*, involved tribal jurisdiction over non-tribal members and has been accepted by the Supreme Court for *certiorari* this term.

Networking at the only conference dedicated to federal practitioners is only part of the benefits of the FBA's Litigation Section. We sponsor the National Litigation Conference that

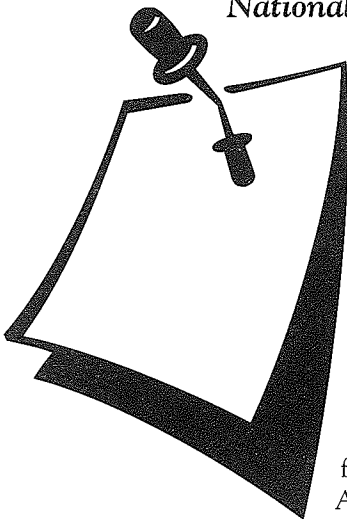
has been held across the country in order to bring the conference to you, the federal practitioner. **Joe Savage** in Boston is putting together a Criminal Law Section, **Mary Lehman** in San Diego chairs the Appellate Law Section and **Alan Blakley** of Montana is the driving force in training litigators to think like settlement judges in ADR programs. These are only some of our activities.

As you can tell, the Litigation Section is made up of private and public lawyers from across the country. Yet we are still small enough to be able to have an immediate impact in our chosen field of expertise. Where else can you market yourself, not just as the best known lawyer in Montana, but as the best known Montana lawyer in Washington, D.C.? In the FBA, you can expand your knowledge, improve your practice skills and network with federal practitioners around the country.

I invite you to contact me to get involved with the Litigation Section. We have a reception at the U.S. Supreme Court, the Pentagon and the mid-year meeting March 23, 2001, in Washington, D.C. But not everything takes place within the Beltway. We have our **section annual meeting and Litigation Conference in New Orleans April 19-21, 2001**, and the **FBA Annual Convention Sept. 12-16, 2001, in Tucson, Ariz.** Come join an exciting and rewarding experience; join us in the Litigation Section. Ask me how!

## NEWS AND NOTES

### National Litigation Seminar



As announced in the last edition of *Sidebar*, the **National Litigation Seminar** is scheduled for **April 19-21, 2001**, in New Orleans, La. A brochure for the event is included in this edition of *Sidebar*. Please note, there is an early bird discount. The Litigation Section is also looking for law firms to cosponsor the seminar. At certain levels of cosponsorship the firm receives a number of free registrations. For further information, please contact Alan Blakley at (406) 543-0909.

### Alternative Dispute Resolution In Federal Practice Seminar

The **District of Columbia Chapter** will be hosting the Alternative Dispute Resolution In Federal Practice Seminar in the District of Columbia on **March 23, 2001**.

This is the seminar, produced by the Litigation Section, which uses federal magistrate judges and others to train attor-

neys in how to prepare themselves and their clients for settlement in federal court. The project has been conducted in other chapters and has been a great success. The seminar is open to members from anywhere in the country. You will note this is the Friday before the mid-year meeting. For additional information, please contact Jim Baker, the D.C. Chapter administrator, at (202) 986-6698. If your chapter is interested in hosting the seminar, call Alan Blakley at (406) 543-0909.

### Chapter Delegate To Federal Litigation Section

The Federal Litigation Section sent letters to all chapter presidents asking for the appointment of two members from each chapter as section delegates. These delegates will meet in New Orleans on the Saturday of the National Litigation Seminar to work on implementing the National Council resolution concerning ADR in federal district courts. Those interested in being a chapter delegate should contact Pat Flanagan, (775) 327-3000, or Alan Blakley, (406) 543-0909, as well as their local chapter presidents.

## FOOD FOR THOUGHT

### Working at Home for Lawyers

by Jennifer J. Rose\*

Working at home can be a great arrangement for lawyers. All sort of tax benefits come into play. (Read the *IRS Guide to Offices in the Home*.) No longer must you endure lengthy commutes to the office, surly parking attendants or lunch-hour sales at Bloomingdale's. Mornings start off with a cup of coffee from your own kitchen instead of Starbuck's. Lest the rest of the world think you're loafing about in fuzzy slippers watching Oprah, there are still some rules:

**1. Dress appropriately.** Notice, I didn't say "suit and tie," but dress for the office, just the same. At least during your "regular office hours." You never know who's going to drop in, and it's real tacky to get caught in your bathrobe. (After hours, no one cares if you want to work in your pajamas.) Insist that staff dress appropriately. While the dress code for home offices is relaxed, often staff begins to think that sweats are *derigueur* in a home office. If you have staff, their attire is actually more important than yours.

**2. Keep regular office hours.** While your "hours" may not be the usual 9 to 5, establish some kind of schedule when you're open for business. You need the regularity to stay on task, and your clients need to know when you're "at home" and when you're "at work."

**3. Keep household noises to a minimum.** The sounds coming from the laundry room or kitchen are a dead giveaway that you're not real serious about the law business. Lawnmowers and televisions blaring are distracting. If you can't help it, invest in a white sound machine or play some music that will mask household noise. Keep cooking odors down. ... while everyone loves the smell of just-baked brownies, you may want to wait until later before you boil cabbage. Unless you've got the telephone shut off and you absolutely know that you're going to be client-free, make some adjustments in household schedules.

**4. Keep your home life and your office life separate.** Don't use your office area at home for anything that would be out of place on the 20th floor of Conglomerate Towers. You may adopt an attitude of formality in your home office that you never considered when you practiced downtown.

**5. Some clients can be just as uncomfortable meeting you at your home office as you are having them invade your territory.** Meet them elsewhere. Borrow another lawyer's conference room, meet at the client's office, or find another more public meeting place.

**6. Underscore to both clients and other lawyers that having an office at home doesn't mean that you're on call twenty-four hours a day.**



**7. If you can, establish a separate entrance from the outside to your home office.** If that's impossible, then do your best to keep the pathway from your front door to the home office as direct as possible. Keep the traffic flow away from the private aspects of your home.

**8. When you're not working, stay out of the office.** Do not, under any circumstance, enter your office unless you have a legitimate purpose in being there. Otherwise, you'll never mentally leave the office.

**9. Come out for air occasionally.** If you have an "office practice," it's real easy to get nearly everything accomplished without ever leaving. Make an effort to get out, even if you're only going out for coffee with other lawyers. Don't become a hermit.

**10. Read about others' home offices.** *Self Employed Professional* and *Home Office Computing* magazines are great resources. Talk to others who have home offices. ... what works for someone in another field can often work for lawyers who work at home. Don't give up networking and trawling for new business.

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\*Jennifer J. Rose practiced matrimonial law in Iowa and now lives in central Mexico as an eccentric recluse and legal consultant.

This article/ information/ material is from the 'Lectric Law Library Web site at <http://www.lectrlaw.com>

## ERRATA

### *Allegedly True Stories From The 4th Estate*

A Jackson, Miss., man filed a lawsuit last September against Oxford University Press for its publication of the Bible. In the \$45 million dollar suit, Joel Ford alleged that the Bible was based on hearsay and that it oppresses blacks and gays. Ford dropped the suit shortly thereafter due to threats against his life. (*Times-Picayune-AP*)

A Roanoke, Va., man has sued his palm reader, "Miss Stella," for her failure to give him the winning lottery numbers she promised. Plaintiff Warren Smith requested \$3 million for the jackpot that he would have won, plus punitive damages of \$350,000 and actual damages of \$75,724 (for Miss Stella's fees and his losing lottery tickets). (*AP*)

Pamela Baker requested a Beaufort, S.C. judge to excuse her from jury duty because her husband, a Baptist pastor, has forbidden her to speak in public. (*Post & Courier*)

Sari Zayed is suing the Davis, Calif., city council for lost wages, medical expenses, and emotional distress suffered when her citation for violation of the city's noise ordinance was publicized worldwide. Her neighbor, Chris Doherty, filed several complaints about her "audible snoring," claiming that the sound penetrated the thin duplex wall which separated them and kept him awake at night. After she made world headlines and even had her snoring recorded through Doherty's wall by a television crew, the city council determined that snoring was not a "willful act," as required by the ordinance, and her case was dismissed. (*AP*)

Washington, D.C., police and federal drug agents called off an elaborately-planned raid of a notorious drug dealer hangout after the local housing department distributed a press release about the raid the night before. The D.C. Department of Public and Assisted Housing sent out a press release which was circulated on the AP newswire and broadcasted repeatedly on local radio stations. The raid, which had been in the works for several months, was canceled when one of the 200 agents mentioned during the pre-raid briefing that he had heard about the raid on the radio as he was driving to the briefing. (*Washington Post*)

An Ontario man says that he intends to sue prison officials for the harsh treatment he received when he was caught after escaping. Convicted murderer Allen Kinsella said that a ladder which was left behind by a construction crew and not removed by prison officials, gave him the idea that he could leave. (*Kingston Whig-Standard*)

No more access to California state court for Fred Whitaker. An Oakland judge ended Whitaker's free access after he filed his 23rd "frivolous" petition in that court, out of 40 overall in the state court system since 1987. His previous lawsuits include a claim against a grocery store which accepted his 30¢ coupon on Mug Root Beer and then charged sales tax, which lowered his actual discount to 28 cents. (*San Francisco Examiner*)

*This article/information/material is from the 'Lectric Law Library Web site at <http://www.lectlaw.com>.*

### *Holiday Classics?*

*Editor's note: I found these on the Web along with other versions. The authors are unknown and I take no responsibility for content.*

#### *A Politically Correct Version of "Twas the Night Before Christmas:*

"Twas the night before Christmas and Santa's a wreck ... How to live in a world that's politically correct.

His workers no longer would answer to "Elves", "Vertically challenged" they were calling themselves.

And labor conditions at the North Pole, were alleged by the union to stifle the soul.

Four reindeer had vanished, without much propriety, Released to the wilds by the Humane Society.

And equal employment had made it quite clear, that Santa had better not use just reindeer.

So Dancer and Donner, Comet and Cupid, were replaced with four pigs, and you know that looked stupid.

The runners had all been removed from his sleigh, the ruts were termed dangerous by the EPA

And people had started to call for the cops, when they heard sled noises on their roof tops.

Second hand smoke from his pipe had his workers quite frightened. His fur trimmed red suit was called, "unenlightened".

And to show you the strangeness of life's ebbs and flows, Rudolf was suing over the use of his nose.

He had gone to Geraldo, in front of the nation, demanding millions in just compensation.

So, half of the reindeer were gone; and his wife suddenly said, "I've had enough of this life" joined a self help group, packed, and left in a whiz. Demanding from now on her title was Ms.

And as for gifts, why, he'd ne'er had a notion, that making a choice could cause such a commotion.

Nothing of leather, wood, plastic or fur; which meant nothing for him and nothing for her.

Nothing that might be construed to pollute. Nothing to aim and nothing to shoot.

Nothing that clamored or made lots of noise. Nothing for just girls or just for the boys.

Nothing that claimed to be gender specific. Nothing that's war like or non-Asian Pacific.

No candy or sweets ... they were bad for the tooth. Nothing that seemed to embellish the truth.

And fairy tales, while not forbidden, were like Ken and Barbie, better off hidden.

For they raised the hackles of those pathological, who claimed the only good gift was one ecological.

No baseball, no football – someone could get hurt. Besides, playing sports exposed kids to dirt.

Dolls were said to be sexist and should be passé. And Nintendo would rot your entire brain away.

So Santa just stood there, disheveled, perplexed. He could

not figure out what just to do next.

He tried to be merry, he tried to be gay. But you've got to be careful with that word today.

His sack was quite empty, limp to the ground. Nothing fully acceptable was to be found.

Something special was needed, a gift that he might, give to all without angering the left or the right.

A gift that would satisfy, with no indecision, each group of people, every religion;

Every ethnicity, every hue' everyone, everywhere, yes ... even you!

So here is that gift, it's priced beyond worth ...

May you and your loved ones enjoy Peace on Earth.

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#### **Legal Version of 'Twas the Night Before Christmas:**

Whereas, on or about the night prior to Christmas, there did occur at a certain improved piece of real property (hereinafter "the House") a general lack of stirring by all creatures therein, including, but not limited to, a mouse.

A variety of foot apparel, *e.g.* stocking, socks, etc., had been affixed by and around the chimney in said House in the hope and/or belief that St. Nick *a/k/a/* St. Nicholas *a/k/a/* Santa Claus (hereinafter "Claus") would arrive at sometime thereafter.

The minor residents, *i.e.* the children, of the aforementioned House were located in their individual beds and were engaged in nocturnal hallucinations, *i.e.* dreams, wherein visions of confectionery treats, including, but not limited to, candies, nuts and/or sugar plums, did dance, cavort and otherwise appear in said dreams.

Whereupon the party of the first part (sometimes hereinafter referred to as "I"), being the joint-owner in fee simple of the House with the party of the second part (hereinafter "Mamma"), and said Mamma had retired for a sustained period of sleep. (At such time, the parties were clad in various forms of headgear, *e.g.* kerchief and cap.)

Suddenly, and without prior notice or warning, there did occur upon the unimproved real property adjacent and appurtenant to said House, *i.e.* the lawn, a certain disruption of unknown nature, cause and/or circumstance. The party of the first part did immediately rush to a window in the House to investigate the cause of such disturbance.

At that time, the party of the first part did observe, with

some degree of wonder and/or disbelief, a miniature sleigh (hereinafter "the Vehicle") being pulled and/or drawn very rapidly through the air by approximately eight (8) reindeer. The driver of the Vehicle appeared to be and in fact was, the previously referenced Claus.

Said Claus was providing specific direction, instruction and guidance to the approximately eight (8) reindeer and specifically identified the animal co-conspirators by name: Dasher, Dancer, Prancer, Vixen, Comet, Cupid, Donner and Blitzen (hereinafter "the Deer"). (Upon information and belief, it is further asserted that an additional co-conspirator named "Rudolph" may have been involved.)

The party of the first part witnessed Claus, the Vehicle and the Deer intentionally and willfully trespass upon the roofs of several residences located adjacent to and in the vicinity of the House, and noted that the Vehicle was heavily laden with packages, toys and other items of unknown origin or nature. Suddenly, without prior invitation or permission, either express or implied, the Vehicle arrived at the House, and Claus entered said House via the chimney.

Said Claus was clad in a red fur suit, which was partially covered with residue from the chimney, and he carried a large sack containing a portion of the aforementioned packages, toys, and other unknown items. He was smoking what appeared to be tobacco in a small pipe in blatant violation of local ordinances and health regulations.

Claus did not speak, but immediately began to fill the stocking of the minor children, which hung adjacent to the chimney, with toys and other small gifts. (Said items did not, however, constitute "gifts" to said minor pursuant to the applicable provisions of the U.S. Tax Code and the Uniform Gifts to Minors Act.)

Upon completion of such task, Claus touched the side of his nose and flew, rose and/or ascended up the chimney of the House to the roof where the Vehicle and Deer waited and/or served as "look-outs." Claus immediately

departed for an unknown destination.

However, prior to the departure of the Vehicle, Deer and Claus from said House, the party of the first part did hear Claus state and/or exclaim: "Merry Christmas to all and to all a good night!" Or words to that effect.



## MORE FOOD FOR THOUGHT

**Editor's note:** The following article was found on Ladera Press' Web site and is reprinted here with permission, which, if you ask, is usually given. In this instance, the author was quite happy to give me permission, when I asked her and even asked for a copy of the newsletter. (I better read her column first, though!)

### Copyright Myths

There are a number of myths out there concerning the necessity of getting a license. Here are five. Don't make the mistake of believing them:

- **Myth #1: "The work I want to use doesn't have a copyright notice on it, so it's not copyrighted. I'm free to use it."**

Most published works contain a copyright notice. However, for works published on or after March 1, 1989, the use of copyright notice is optional. The fact that a work doesn't have a copyright notice doesn't mean that the work is not protected by copyright.

- **Myth #2: "I don't need a license because I'm using only a small amount of the copyrighted work."**

It is true that de minimis copying (copying a small amount) is not copyright infringement. Unfortunately, it is rarely possible to tell where de minimis copying ends and copyright infringement begins. There are no "bright line" rules.

Copying a small amount of a copyrighted work is infringement if what is copied is a qualitatively substantial portion of the copied work. In one case, a magazine article that used 300 words from a 200,000-word autobiography written by President Gerald Ford was found to infringe the copyright on the autobiography. Even though the copied material was only a small part of the autobiography, the copied portions were among the most powerful passages in the autobiography. Copying any part of a copyrighted work is risky. If what you copy is truly a tiny and non-memorable part of the work, you may get away with it (the work's owner may not be able to tell that your work incorporates an excerpt from the owner's work). However, you run the risk of having to defend your use in expensive litigation. If you are copying, it is better to get a permission or a license (unless fair use applies). You cannot escape liability for infringement by showing how much of the protected work you did not take.

- **Myth #3: "Since I'm planning to give credit to all authors whose works I copy, I don't need to get licenses."**

If you give credit to a work's author, you are not a plagiarist (you are not pretending that you authored the copied work). However, attribution is not a defense to copyright infringement.

- **Myth #4: "My multimedia work will be a wonderful showcase for the copyright owner's work, so I'm sure the owner will not object to my use of the work."**

Don't assume that a copyright owner will be happy to have you use his or her work. Even if the owner is willing to let you use the work, the owner will probably want to charge you a license fee. Content owners view multimedia as a new market for licensing their material.

In 1993, 10 freelance writers sued the *New York Times* and other publishers over the unauthorized publication of their work through online computer services. In 1997, the court decided

that the magazines had the right to publish the articles in certain databases due to a rarely used section of the copyright law. The plaintiffs are appealing. And the Harry Fox Agency and other music publishers sued CompuServe, an online computer service, over the distribution of their music on certain forums of the service. CompuServe settled the suit without admitting responsibility, but paid a large amount to the Harry Fox Agency as a settlement; it also arranged a system for its forum managers to pay royalties to the Harry Fox Agency in the future for transmission of these musical compositions. CompuServe agreed to guarantee the royalty payments by its forum managers.

- **Myth #5: "I don't need a license because I'm going to alter the work I copy."**

Generally, you cannot escape liability for copyright infringement by altering or modifying the work you copy. If you copy and modify protected elements of a copyrighted work, you will be infringing the copyright owner's modification right as well as the copying right.

### Special Myths about the Internet

Much public domain material is available on the Net – government reports and uncopyrightable factual information, for example. However, much of the material that is on the Internet is protected by copyright.

In addition to the general copyright myths discussed above, there are a number of myths about how copyright law applies to copying material from the Internet and posting material on the Internet. We'll discuss some of them in this section.

#### COPYING MATERIAL FROM THE NET

Don't make the mistake of believing these myths about copying material from the Net:

- **Internet Myth #1: If I find something on the Net, it's okay to copy it and use it without getting permission.**

While you are free to copy public domain material that you find on the Net, generally you should not copy copyrighted material without getting permission from the copyright owner — whether you find the material on the Net or in a more traditional medium (book, music CD, software disk, etc.).

- **Internet Myth #2: Anyone who puts material on a Web server wants people to use that material, so I can do anything I want with material that I get from a Web server.**

Individuals and organizations put material on a Web server to make it accessible by others. They do not give up their copyright rights by putting material on a Web server. Also, the person who posted the material may not own it.

- **Internet Myth #3: It's okay to copy material from a home page or Web site without getting permission.**

Much of the material that appears in Web sites and home pages is protected by copyright. If you want to use something from someone else's home page or Web site, get permission — unless permission to copy is granted in the text of the home page or Web site.

#### POSTING MATERIAL

And don't believe these myths about how copyright law applies

to putting copyrighted material owned by others on the Net:

- **Internet Myth #4: It's okay to use copyrighted material in my Web site so long as no one has to pay to visit my Web site.**

Unless your use of the copyrighted work is fair use (for a definition of "fair use" see the Intellectual Law Primer for Multimedia and Web site Developers on the [www.laderapress.com](http://www.laderapress.com) site), you need a license to copy and use the work in your Web site even if you won't be charging people to view your Web site. (You also need a public display license.)

- **Internet Myth #5: It's okay to make other people's copyrighted material available on my Web server so long as I don't charge people anything to get the material.**

Copying and distributing copyrighted material without permission can be copyright infringement even if you don't charge for the copied material. Making material available for others to copy can be contributory infringement.

*This material is excerpted from the book Internet Law And Business Handbook, Copyright 2000 by J. Dianne Brinson and Mark F. Radcliffe, and is used with permission. The book is available for purchase at [www.laderapress.com](http://www.laderapress.com) or by calling (800) 523-3721 (9 a.m. to 4 p.m., Eastern time). A table of contents and sample chapters from the book are posted on the Web site.*

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## FEDERAL RULES OF EVIDENCE CHANGES

Effective Dec. 1, 2000, certain changes became effective to the Federal Rules of evidence. Here is a brief summary of those changes.

### RULE 103. RULINGS ON EVIDENCE.

It is no longer necessary to renew an objection at trial to proffered evidence the admissibility of which was ruled upon in advance of trial. Once the ruling is made on the record either at or before trial, a renewed objection at trial is not required to preserve the issue for appeal.

### RULE 404(A). CHARACTER EVIDENCE.

Rule 404(a)(2) was amended to allow the prosecution to introduce the character trait of the accused when the accused has opened the door by introducing similar character evidence of the victim. If an accused decides to attack the victim's character, this opens the door for the prosecution to raise similar traits of the accused.

### RULE 701. OPINION – LAY WITNESSES.

The amendment to this rule seeks to prevent parties from proffering an expert as a lay witness in an attempt to evade the requirements of Rule 702. New subpart (c) was added to specifically provide that the opinion must not be based upon specialized knowledge within the scope of Rule 702.

### RULE 702. TESTIMONY BY EXPERTS.

The Supreme Court's decision in *Daubert v. Merrell Dow Pharmaceuticals* is the basis for this amendment. The opinion must be based upon sufficient facts or data, it must be the product of reliable principles and methods and the witness must have applied the principles and methods to the facts of the case.

### RULE 703. BASIS OF OPINION TESTIMONY BY EXPERTS.

Under the current Rule, inadmissible facts can be given to the jury by an expert testifying that such facts help form the basis of his or her opinion. As revised, the expert may still rely upon such facts and it is up to the judge to determine if such facts should be disclosed to the jury if their probative value in assisting the jury to evaluate the opinion substantially outweighs their prejudicial effect.

### RULE 803. HEARSAY EXCEPTIONS.

Subparagraph (6) was amended to allow for certification of business records in compliance with Rule 902(11), Rule 902(12) or a statute permitting certification. Thus it is not always necessary to call a witness to authenticate a business record.

### RULE 902. SELF AUTHENTICATION.

New to this Rule are subparts (11) and (12) which provide the procedural requirements for self authentication of business records.

## UPCOMING EVENTS

**MARCH 23, 2001**

FBA Spring Meeting  
ADR in Federal Practice  
Reception at the Supreme Court  
Washington, D.C.

**APRIL 19-21, 2001**

National Litigation Seminar  
New Orleans, LA

**SEPTEMBER 12-16, 2001**

FBA Annual Convention  
Tucson, AZ



## Application for Membership in the Federal Bar Association

Return completed application to: Federal Bar Association, 2215 M Street, NW • Washington, D.C. 20037-1416

For additional information, call (202) 785-1614, Fax (202) 785-1568

**Membership Eligibility:** Membership is open to any person 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 U.S., or in the District of Columbia, provided you have been an officer or employee of the United States or the District of Columbia, you have a substantial interest or participate in the area of federal law, or you are a law student not admitted to practice.

Name \_\_\_\_\_

Title \_\_\_\_\_

Agency/Firm/Law School \_\_\_\_\_ Suite No. \_\_\_\_\_

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

( ) \_\_\_\_\_ ( ) \_\_\_\_\_

Daytime Phone \_\_\_\_\_ Fax Number \_\_\_\_\_

E-mail \_\_\_\_\_

Birth Date: \_\_\_/\_\_\_/\_\_\_ Gender:  Male  Female ABA Member?  Yes  No

Type of Practice:  Private  Government  Military  Corporate  Retired

First Bar Admission (required: list state, court, date) \_\_\_\_\_

Law school currently attending and expected graduation date \_\_\_\_\_

\$95—Senior Membership (applicant has been admitted to bar 5 years or more)

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# SideBAR

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