

# Corporate Articles

published by Corporate & Association Counsel Division  
of the Federal Bar Association

Spring 2014

## Interview with Wendy Hickok Robinson

by Rachel V. Rose



One area of a corporation or association's legal practice that may be underappreciated is pro-bono service. Some may view pro-bono work as a "feel good" thing to do or something that all lawyers

should do—help those with legal needs who cannot afford to hire a lawyer. Others often feel that they are too busy for pro bono work or are unqualified to assist people with matters outside of their particular expertise. As FBA New Orleans Chapter President Wendy Hickok Robinson, assistant general counsel (Litigation) at Entergy Services, Inc., demonstrates, pro bono service is more than just the "right thing to do," it is a worthwhile and rewarding component of in-house practice. Pro bono not only assists those in our communities who need our help, but can also develop skills, enhance an organization's image, enrich relationships with outside counsel, and contribute to the larger corporate goal of community responsibility.

**RR:** Please tell us about your background.

**WHR:** I have worked for Entergy at its

headquarters in New Orleans for three years, currently serving as assistant general counsel in the Litigation Section. Entergy Corporation is an integrated public utility company engaged primarily in electric power production and retail distribution operations. We deliver electricity to 2.8 million customers in Arkansas, Louisiana, Mississippi and Texas, and own nuclear and fossil generating plants in other areas of the country that provide power in the wholesale market. Entergy has annual revenues of more than \$10 billion, approximately 15,000 employees, and approximately 75 lawyers in the Legal, Ethics & Compliance Department.

Prior to working at Entergy, I graduated from Yale University with a BA in Russian Language and Literature and then from Columbia University School of Law. I served as a law clerk for Hon. Jerry Buchmeyer chief judge of the USDC for the Northern District of Texas. Following the clerkship, I was awarded a Public Interest Fellowship from Skadden Arps Slate Meagher and Flom, which I pursued at New Orleans Legal Assistance Corporation practicing employment law. I then joined a private firm in New Orleans where I was an associate and then a partner representing Entergy and other clients on a range of commercial litigation matters.

At Entergy I have continued to work on significant litigation for the Company, and am co-chair of the Legal Department's Pro Bono

## Message from the Editor

by Rachel V. Rose

Spring has arrived, and so has the CACD's Spring 2014 issue of Corporate Articles! So far, it has been an exciting year for our division, with a successful Supreme Court CLE sponsored by Sidley Austin LLP, and an amazing collaborative effort to focus on in-house counsel in the March 2014 edition of *The Federal Lawyer* magazine. Building on Division Chair John Okray's article in the magazine, "Companies and Countries with Female Corporate Directors Outperform," we encourage all members to attend the First Annual Federal Bar Association Women in the Law Conference. This will be held on July 11 in Washington, D.C.

This issue of our newsletter features articles from accomplished attorneys Tamara Woods and Sebastien Chain on FATCA and Peter Vogel on special masters, along with two interviews: one with Wendy Hickok Robinson, FBA New Orleans Chapter President, and another with Ken Berger, president and CEO of Charity Navigator. We hope you enjoy the articles and interviews and we welcome your comments and suggestions.

Thank you for being part of the Corporate and Association Counsel Division. ■

## In This Issue

- pg 4** How The Oil And Gas Industry Can Prepare For FATCA
- pg 5** Reduce The Cost Of Litigation Of Using Special Masters And e-Mediation
- pg 7** America Has More Than A Million Nonprofit Organizations
- pg 10** Division Leadership
- pg 11** Membership Application

Initiative. I also serve as a member of the Boards of Directors of the New Orleans Pro Bono Project and the Greater New Orleans Fair Housing Action Center, and am president of the New Orleans Chapter of the FBA.

**RR:** What led you to develop such a robust pro-bono program within Entergy?

**WHR:** In 2012, our new general counsel, Marcus Brown, launched an initiative to increase the commitment of Entergy's lawyers and paralegals to provide legal assistance to some of the most vulnerable citizens in our service territories. We established a goal that each lawyer provide 50 hours of legal work to indigent individuals or organizations that serve them. I was honored to be asked to be a co-chair of the initiative, which dovetailed with my personal interest and background in pro bono and community service. We worked with pro bono organizations in our communities to provide multiple ongoing projects and opportunities for pro bono work; support lawyers in their pro bono efforts; and are also responsible for tracking those efforts and communicating their success both within the company and outside.

**RR:** Beyond the "feel good" factor, what other benefits has Entergy seen?

**WHR:** Lawyers in our department have responded extremely well to the Pro Bono Initiative. In 2013, we provided over 1,500 hours of volunteer legal services to low income members of our communities. Since the initiative was started in 2012, our participation rate has gone from 22 percent to 81 percent and the number of hours of work has more than tripled. Lawyers and paralegals assist with individual cases in many different areas, staff clinics, participate in wills for heroes programs, assist local charitable organizations and schools with low-income populations, and contribute in other ways.

These activities have enhanced our individual and combined reputations with the local federal and state judges before whom many of us practice. They also create a positive association with the company for all the people that we assist—the same people who are often our neighbors, customers, and even potential employees.

These efforts have been recognized both locally and nationally. In May, the department had the distinction of being nominated by the Louisiana State Bar Association for a national award given annually by the Association of Corporate Counsel for outstanding achievement in providing pro bono legal services. Specifically, this nomination was in recognition of the department's efforts with the Self-Help Desk at the Civil District Court for the Parish of Orleans, a resource where volunteer attorneys provide information on the legal process and assistance with filing out court forms to low-income, self-represented litigants in domestic matters such as divorce, child custody, and name changes. Entergy's efforts include coordinating staffing for the shifts, training volunteers, developing materials, and providing 8-12 hours of actual volunteer time per week throughout the year.

In addition, in December, the Entergy Legal Department received the tremendous honor of being named the Pro Bono Law Firm of the Year for 2013 by the New Orleans Pro Bono Project, which wrote, "Beginning with the commitment made in the fall

of 2012 by chief counsel Marcus Brown to increase the company's commitment to pro bono, attorneys and paralegals for Entergy have become the biggest supporter of the Project's work.... The result has been a phenomenal success for clients and the community."

Such awards and recognitions are not ends themselves, but are demonstrations of the department's achievements in furthering the company's corporate values. They also illustrate to external audiences the culture of excellence in our department, which in turn furthers our efforts to hire and retain top legal talent.

**RR:** How can pro bono impact the relationship between in-house and outside counsel?

**WHR:** One unexpected positive side-effect of the pro bono initiative has been to enhance our relationship with outside counsel. Lawyers at local firms with whom we work have enthusiastically joined in our pro bono efforts. We've hosted joint training sessions, staffed clinics together and handled pro bono cases together. It's a wonderful and, frankly, a fun way to get to know outside counsel better—to see how they interact with people in our community and how their firm values align with our own.

**RR:** What accomplishment are you most proud of, either personally or professionally?

**WHR:** I'm most proud that I've been able to assist others in my Department getting involved in pro bono, often for the first time. I love hearing from them what I have seen first-hand—that we can make a true positive difference in someone's life. In addition to feeling good, we develop skills useful in our practice, build closer relationships with our colleagues and outside counsel, and concretely support our Company's corporate responsibility mission of creating and sustaining healthy, vibrant communities. ■

# WOMEN IN THE LAW



## POWER AND PROGRESS

The Federal Bar Association's inaugural conference will feature vibrant and dynamic discussions of the unique challenges and successes of women in law and leadership from a number of perspectives. Speakers will include judges, academics, and thought leaders from corporate, nonprofit, government, and law firm backgrounds.

### CONFERENCE AGENDA

#### OPENING REMARKS

Hon. Gustavo A. Gelpí, *U.S. District Judge, District of Puerto Rico, and President, Federal Bar Association*



#### MORNING KEYNOTE

Hon. Patricia A. Millett, *Judge, U.S. Court of Appeals for the D.C. Circuit*

#### HISTORY OF WOMEN IN THE LAW

Sheila L. Birnbaum, *Partner, Quinn Emanuel Urquhart & Sullivan LLP*

Stacy Leeds, *Dean, Arkansas Law School*

#### DEVELOPMENT OF DOMESTIC LAW AS IT AFFECTS WOMEN

Lt. Gen. Flora D. Darpino, *Judge Advocate General's Corps., U.S. Army*

Catharine A. MacKinnon, *Elizabeth A. Long Professor of Law, University of Michigan Law School*

Hon. Loretta A. Preska, *Chief U.S. District Judge, Southern District of New York*



#### LUNCHEON KEYNOTE

Hon. Beverly McLachlin, *Chief Justice, Supreme Court of Canada*

#### BREAKING BARRIERS: THE GLASS CEILING IN THE LEGAL PROFESSION

Hon. Aida Delgado-Colon, *Chief U.S. District Judge, District of Puerto Rico*

Camille Nelson, *Dean, Suffolk Law School*

Michele Roberts, *Partner, Skadden, Arps, Slate, Meagher & Flom LLP*

#### HOW HOLLYWOOD AFFECTS LAWYER BEHAVIOR: A PRESENTATION ON ETHICS

Nancy Rapoport, *Gordon Silver Professor of Law, University of Nevada-Las Vegas William S. Boyd School of Law*

JULY 11, 2014 / WASHINGTON, D.C.

Learn more at [www.fedbar.org/womeninthelaw](http://www.fedbar.org/womeninthelaw)

## How The Oil And Gas Industry Can Prepare For FATCA

by Sebastien N. Chain and Tamara G. Woods

The Foreign Account Tax Compliance Act (FATCA) is a U.S. tax law that has established a far-reaching tax information disclosure regime and a regulatory labyrinth that would leave even the minotaur bewildered. Enacted to curb alleged abuses by U.S. taxpayers who used offshore accounts and foreign entities to hide investment income, FATCA imposes new compliance burdens on payors and recipients of U.S. source “withholdable payments.” Although FATCA is most commonly associated with the financial services sector, its tentacles will reach and impact almost all multinational organizations, regardless of industry.

One such non-financial industry with an international footprint is the oil and gas industry. Domestic and multinational oil and gas companies should familiarize themselves with FATCA’s requirements as they will need to implement U.S. tax documentation, due diligence, reporting and withholding. Non-compliance is risky, potentially costly, and looms large for the uninformed: FATCA withholding on withholdable payments starts July 1, 2014. The rest of this article briefly discusses FATCA and suggests how the oil and gas industry can position itself to comply with its burdens.

In general, FATCA was designed to increase the disclosure and reporting on U.S. persons by foreign entities. FATCA enforces this disclosure and reporting by requiring a withholding agent to withhold 30 percent of a “withholdable payment” made to a foreign financial institution (FFI) or a non-financial foreign entity (NFFE), unless the FFI or NFFE meets certain requirements. FATCA withholding is not a tax, but rather an enforcement mechanism intended to promote compliance with FATCA’s reporting and disclosure obligations.

A “withholdable payment” is any U.S. source fixed, determinable, annual or periodic (FDAP) payment (i.e., interest, dividends, premiums for insurance and annuity contracts and capital gains from the sale of assets that produce dividends or interest). There are broad exemptions for payments that are effectively connected with a U.S. trade or business and for certain non-financial payments that are made in the ordinary course of business (i.e., compensation for services, use of property, office and equipment leases, software licenses, transportation, freight, etc.).

Under FATCA, the term “financial institution” is defined broadly such that any foreign entity conducting financial transactions could be considered an FFI. The most common examples include banks, brokerage companies, investment entities (e.g., mutual funds, private equity funds, hedge funds), certain insurance companies that issue cash value insurance, and certain treasury centers or holding companies. A NFFE is any foreign entity that is not classified as a financial institution. The two categories are mutually exclusive.

To avoid withholding on a withholdable payment made to a FFI, the FFI must have entered into an agreement with the IRS (the FFI Agreement) in which the FFI agrees to undertake certain duties, including annual reporting on accounts held by certain U.S. persons. The FFI must also register with the IRS and obtain a Global Information Identification Number (GIIN), which is used to establish its FATCA status and for information reporting purposes.

Unlike FFIs, a NFFE does not need to register or enter into an

agreement with the IRS to avoid FATCA withholding. Instead, the NFFE must only provide information about its U.S. owners or verify that it has none. Certain NFFEs are exempt from even this requirement and need only certify their exempt status.

A withholding agent is defined broadly to include “all persons, in whatever capacity acting, having the control, receipt, custody, disposal or payment of any withholdable payment.” A withholding agent can be U.S. or foreign, an entity or an individual. Thus, each person within the payment chain from the payor to the beneficial owner is a withholding agent.

The withholding agent is charged with collecting and remitting information and tax to the IRS, and it is liable for complying with FATCA and any tax required to be withheld under FATCA. The withholding agent identifies each person within the payment chain and documents their FATCA status. Generally, FATCA status will be documented through a withholding certificate provided by the payee. A failure to provide proper documentation triggers the 30percent enforcement levy, which the withholding agent collects and remits to the IRS. For each calendar year, the withholding agent must also file an annual tax return showing total FATCA payments and separate information returns showing total FATCA payments made to each recipient (similar to Form 1099 reporting).

A significant impact that FATCA will have on oil and gas companies is to treat them as withholding agents for purposes of FATCA. Although the exception for certain non-financial payments made in the ordinary course of a trade or business is broad, many payments could still be subject to FATCA. At a minimum, an oil and gas company should review and analyze its cross-border payments to determine which payments are withholdable payments and to determine which entities in its multinational group might be withholding agents.

From the receiving end, the multinational oil and gas business should determine the FATCA status of each entity within its multinational group and prepare the appropriate documentation. Certain situations may arise in which a third party will ask for the FATCA status of a foreign affiliate. Failing to timely provide the proper documentation could embarrass the company, frustrate a business partner, or even result in a loss of business.

In addition, the multinational oil and gas enterprise should be aware of the broad definition of “financial institution” under FATCA. A foreign entity acting as a holding company, treasury center or captive finance company would generally be categorized as an FFI, unless it is part of an “excepted non-financial group,” which generally includes a group that owns a limited amount of passive assets and earns a limited amount of passive income. Multinational oil and gas companies should also review their offshore pension or benefit plans, which are generally FFIs unless they meet certain limited exceptions.

Nearly every oil and gas business with activities outside the U.S. will need to address the new compliance requirements under FATCA. By and large, these compliance requirements turn on an entity’s FATCA status and potential to make withholdable payments. It is therefore imperative for the multinational oil and gas enterprise to properly classify each entity within its group and to identify which entities could make withholdable payments. The Minotaur is waiting. ■



*Sebastien N. Chain (LL.M., Georgetown University Law Center; J.D., University of Houston Law Center; B.A., University of Texas). Chain joined the firm as an associate in June 2011. He concentrates his practice on federal tax controversy matters, including examinations, administrative appeals, and trial. He also represents clients in domestic and international tax planning matters. Chain is also an active member of the ABA and HBA.*



*Tamara G. Woods (LL.M., in taxation, Georgetown University; J.D. and M.S. in Accountancy, University of Houston; B.A., University of California Santa Barbara). Ms. Woods concentrates her practice on federal, state, local and international transactional tax and tax controversy matters, including in connection with examinations, administrative appeals and trials. Ms. Woods has been recognized as a Texas Rising Star by Texas Monthly in its annual publication of Texas Super Lawyers. She is involved in a number of community and professional activities and is also a Certified Public Accountant.*

#### Endnotes

<sup>1</sup>FATCA was enacted as part of the Hiring Incentives to Restore Employment (HIRE) Act of 2010 and added Chapter 4 (§§ 1471 - 1474) to the Code. Treasury issued final regulations in January 2013. See TD 9610, 78 Fed. Reg. 5874 (Jan. 28, 2013). Unless otherwise stated herein, all references to Code, IRC, Section or § are to the Internal Revenue Code of 1986, as amended through the date of the article.

<sup>2</sup>In Greek mythology, the Minotaur was a creature with the head of a bull and the body of a man who lived at the center of the Cretan Labyrinth, an elaborate maze-like construction, and was offered a

regular sacrifice of youths and maids to satisfy his cannibalistic hunger. He was eventually destroyed by the Athenian hero, Theseus.

<sup>3</sup>Notice 2013-43, 2013-31 I.R.B. 113.

<sup>4</sup>FATCA withholding closely resembles and is in addition to the existing withholding tax imposed on certain U.S. source payments to nonresident aliens and foreign corporations under Chapter 3 (§§ 1441, et seq.) of the Code. Although the two taxes are not stacked, FATCA withholding applies before any Chapter 3 withholding and does not allow for any tax treaty based exemptions or reductions in the withholding tax rate.

<sup>5</sup>IRC § 1473(1)(A)(i) and (ii).

<sup>6</sup>IRC § 1473(1)(B); Treas. Reg. § 1.1473-1(a)(4)(ii).

<sup>7</sup>Treas. Reg. § 1.1473-1(a)(4)(iii).

<sup>8</sup>See Treas. Reg. § 1.1471-5(e)(1)(i) - (v).

<sup>9</sup>IRC § 1472(d).

<sup>10</sup>To implement FATCA compliance, some foreign jurisdictions have opted to enter into Intergovernmental Agreements (IGAs) directly with the U.S. Under an IGA, the reporting and compliance burdens on financial institutions in the jurisdiction may be simplified. For a current list of IGA countries, see: [www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA-Archive.aspx](http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA-Archive.aspx).

<sup>11</sup>IRC § 1472(b).

<sup>12</sup>The following NFFEs are exempt from withholding if they are the beneficial owner of the payment: (i) a publicly traded corporation or its affiliate, (ii) a territory entity, or (iii) an active NFFE (i.e., an NFFE that has less than 50 percent passive income and 50 percent passive assets). Treas. Reg. § 1.1472-1T(c)(1).

<sup>13</sup>IRC § 1473(4).

<sup>14</sup>Treas. Reg. § 1.1471-3(b). Form W-8BEN-E, Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities), will be used to document one's FATCA status. The form is still in draft form, and the IRS has not stated when a final form will be available for use.

<sup>15</sup>Treas. Reg. § 1.1474-1(c)(1) and (d)(1).

<sup>16</sup>Treas. Reg. § 1.1471-5(3)(5)(i)(B).

## Reduce The Cost Of Litigation Of Using Special Masters And e-Mediation

by Peter S. Vogel

Without belaboring the obvious all information is now electronic, and as a result the cost of litigation is higher than ever because of the volume and complexities of electronic evidence in e-Discovery. However there are at least two paths to help reduce the cost of e-Discovery in today's litigation: first, by using a special master who is a lawyer and an expert in information technology (IT); and second, by conducting mediations about the management and scope of e-Discovery with a mediator who is an expert in IT and e-Discovery.

Since the 2006 amendments to the Federal Rules of Civil Procedure, the term to describe electronic data is ESI (electronically stored information). As a general rule the ESI gatekeeper for most businesses is the chief information officer (CIO), chief technology officer (CTO), IT director, or the like. Although CIOs are highly skilled technologists, they rarely study law, let alone are lawyers, and as a result, CIOs are not prepared to manage all of the legal issues associated with ESI.

#### Special Masters

Courts have appointed special masters in state and federal courts for some time, but the advent of ESI gives new value to Federal Rule of Civil Procedure 53 (Rule 53). Most states have similar laws, in particular Texas Rule of Civil Procedure 171 which is very similar to the Rule 53. The special master who is an IT expert and lawyer provides unique technical insight regarding ESI, may hold hearings on ESI disputes and make recommendations to the Judge. Of course, the special master has a unique role in litigation, since the special master represents the Judge and can help interpret complex ESI and IT issues.

Parties may ask a judge to appoint a special master to help with ESI, or a judge may recommend the appointment of a special master. Generally, special masters can help speed up the e-Discovery process and reduce the motion practice presented to judges. Special masters may consider hearing motions filed by the parties regarding e-Discovery disputes or when a special master concludes that a hearing would be helpful to any issues confronting the parties. Also, when a special master issues orders the appeal is made to the trial judge, much like a federal

magistrate judge's orders are appealed to the trial judge.

Normally the judge will order one or more of the parties to pay the special master's fees and expenses, which may include fees for ESI consultants who may assist the special master if necessary. Often the special master will attend and/or participate in court hearings and then later advise the judge about specific details regarding ESI. The special master also may review motions filed with the court and make recommendations.

The special master represents the judge but may have certain ex-parte conversations with the parties if appropriate in the particular case. The scope of any ex-parte discussions should be set out in the court's orders.

### e-Mediation

Mediation conferences have enjoyed widespread adoption in state and federal courts around the United States even though historically Mediation conferences generally have been only about resolving the underlying dispute. However, the mediation process is available not just for settlement but also for other disputes arising during the course of litigation.

e-Mediation is most effective when initiated at the beginning of litigation, at the outset of e-Discovery. Each side should bring in its in-house counsel, CIO, and subject-matter experts.

During the e-Mediation conference, each party may have a confidential caucus with the mediator to discuss the specific circumstances of its ESI and problems that it may have. Ultimately, after all the parties meet with the mediator, the result can be an agreed mediation e-Discovery plan (MEP), which will shape discovery for the case. Obviously, if the parties can agree to the initial MEP at the e-Mediation, this will reduce the number of disputes presented to the trial court. By using e-Mediation, the parties are less likely to engage in an expensive and time-consuming motion practice about ESI, otherwise if there is extensive motion practice the judges make decisions about ESI rather than the litigants.

Once the parties reach an agreed MEP and start the discovery process, if they encounter problems, they can go back to the mediator to see if changes and/or refinements need to be made to the MEP. If the parties cannot resolve their issues at the e-Mediation, a special master may be able to assist.

### More Information

In 2008, in the *Cardozo Law Review*, Judge Shira A. Scheindlin of the U.S. District Court for the Southern District of New York and author of the famous *Zublake v. UBS Warburg* case and Jonathan Redgrave, a founder of the Sedona Conference, wrote an excellent law review article titled "Special Masters and e-Discovery: The Intersection of Two Recent Revisions to the Federal Rules of Civil Procedure." (found at [courtappointedmasters.org/sites/default/files/SCHEINDLIN.30.2.pdf](http://courtappointedmasters.org/sites/default/files/SCHEINDLIN.30.2.pdf))

[default/files/SCHEINDLIN.30.2.pdf](http://courtappointedmasters.org/sites/default/files/SCHEINDLIN.30.2.pdf))

Many special masters are members of the Academy of Court Appointed Masters (ACAM) ([www.courtappointedmasters.org/](http://www.courtappointedmasters.org/)) which is an excellent resource to locate special masters who specialize in e-Discovery matters. In 2013, the ACAM published its benchbook for judges and lawyers entitled "Appointing Special Masters and Other Judicial Adjuncts" (found at [www.courtappointedmasters.org/sites/default/files/2013\\_benchbook.pdf](http://www.courtappointedmasters.org/sites/default/files/2013_benchbook.pdf)) which includes the following on page 4:

#### 1.3 Electronic Discovery Master

Modern cases typically deal with electronically stored information (ESI) issues. The recent amendments to the discovery rules affect how Judges and lawyers can resolve problems that arise from determining what information is readily accessible or recoverable, what is an appropriate native format, and whether metadata needs to be disclosed. A Special Master experienced in both discovery procedures and computer systems and software can be an invaluable help to a court and the parties. Substantial time and money can be saved by the use of a Special Master to help resolve ESI disputes.

The benchbook also includes sample form orders, including cases of e-Discovery matters.

In 2011, the American College of e-Neutrals (ACESIN) ([www.acesin.com/](http://www.acesin.com/)) was established to help train special masters and mediators. The ACESIN website lists Fellows of ACESIN and individuals who have completed the ACESIN training. ■



*Peter S. Vogel is a trial partner, arbitrator, and special master at Gardere Wynne Sewell LLP, where he is chair of the e-Discovery Group and the Internet, eCommerce, & Technology Team. Before practicing law, he worked as a programmer, received a Masters in Computer Science, and taught graduate courses in information systems. Vogel has been a mediator and special master for more than 20 years and had trials around the United States on software implementations, misappropriation of trade secrets, copyright infringement, software patent infringement, and Internet disputes. He has taught courses at the SMU Dedman School of Law for more than 25 years, including courses on e-Discovery and the Law of eCommerce. Many of Vogel's topics are discussed on his blog, [www.vogelitlawblog.com](http://www.vogelitlawblog.com), and in his monthly legal column on [www.ecommercetimes.com](http://www.ecommercetimes.com). He can be reached at [pvogel@gardere.com](mailto:pvogel@gardere.com).*

Corporate Articles is the recipient of the

## 2013 FBA Outstanding Newsletter Award

Presented at the Annual Meeting and Convention  
in San Juan, Puerto Rico

## America Has More Than A Million Nonprofit Organizations: How Donors Can Sort Through The Good, The Bad, And The Ugly With Ken Berger, President And Ceo Of Charity Navigator

by John Okray



*Ken Berger joined Charity Navigator in 2008 after almost thirty years' experience working in the charitable non-profit sector. He has held leadership positions at a variety of human service and health care agencies, both large and small, and has operated programs serving the homeless, the developmentally disabled, the mentally ill, substance abusers, the medically underserved, and persons with HIV/*

*AIDS, among many others. Berger earned his Bachelor's degree at the University of Buffalo. He went on to obtain a Master's degree in Psychology from Antioch University and a Master's degree in Business Administration from Rutgers University.*

*Berger has a deep passion for helping donors become wise social investors (charitable givers who see their donations as a long term social investment) by learning how to identify and then support high performing nonprofits. He also has a deep interest in encouraging charitable non-profits to perform effectively and thrive, even in challenging times. He is a regular presenter at conferences on both the domestic and international stage, is frequently interviewed by regional, national and international media on nonprofit issues, and has published numerous articles on issues affecting the nonprofit sector's effectiveness. In addition, he is the author of Ken's Commentary, a blog about his thoughts on the non-profit sector. Berger is also a LinkedIn influencer and writes a monthly article on charity issues there.*

*He is a member of both the Alliance for Effective Social Investing and was a founding member of the Social Impact Analysts Association. He was also a member of the CFC-50 Commission which was formed under the U.S. Office of Personnel Management to strengthen the integrity, operation, and effectiveness of the Combined Federal Campaign (the largest workplace giving campaign in the world).*

**Please tell us about Charity Navigator, its mission, and what makes it unique.**

**Berger:** Our mission is to be a guide to intelligent giving and that essentially means that we see our role as providing all the resources we can for donors to charities. The key resource we provide is our website and within that is the system we use to evaluate the performance of charities through a rating system of zero to four stars. It's a very rich site with all kinds of resources and tips. In addition, we see ourselves as an advocate for donors in the public square, so whether it's speaking before Congress or interviews with the media or talking to nonprofit groups and their trade associations, it's about providing a voice and perspective and interests of donors. What makes us unique in this regard is the fact that we make judgments. There are only a handful of organizations that actually rate charities. People often think that Guidestar does, but if you look at their exchange it just shows whether a charity has supplied certain information. On the other hand, we actually judge the quality. We are also somewhat unique in the sense that we don't charge anybody. We don't charge the charities that we rate to use our seal and we don't charge the users of our service.

We are completely free to everyone. I'm not aware of any service of the size and scope of Charity Navigator that is completely free. I think we're distinctive in being the most scalable evaluation system out there that has some depth. Scalable meaning that we're larger than anyone in terms of the number of charities we evaluate and we provide more depth of analysis than some of the crowd funding sites that are basically just the will of the crowd that often do not have expert analysis.

**It sounds like Charity Navigator is similar to Consumer Reports in terms of your independence and objectivity in providing evaluations of charities?**

**Berger:** Yes!

**How do you rank charities? What are some of the major charity red flags donors should be aware of and how do you spot them?**

**Berger:** We rate charities on a scale of zero to four stars. I emphasize that we rate rather than rank. We use a three dimensional system. Two of the dimensions are fully operational and the third is currently under development. The first dimension looks at the finances of the charity and assesses their health from a financial perspective. The second dimension, called accountability and transparency on the website, focuses on governance and best or ethical practices for their operations. The third dimension, which we have begun to post information on but have not begun to rate charities on yet, is what we call results reporting. It looks at matters related to outcomes, impact, and in some cases, outputs of the charity. How are you meeting your mission in a meaningful way? And are you reporting on that in a meaningful way in the public square, particularly on your website? Those are the three major areas that we consider.

In terms of red flags for donors, there are a few that are quick and easy. One is if a charity gets our lowest rating of zero or even a one star rating. It means that it has poor or extremely poor performance compared to industry standards. We would encourage donors to be very cautious about supporting organizations that are at that low level of scoring in our system. There are two other ways that a person could quickly find red flags using Charity Navigator. The second is called Donor Advisories. We put up a Donor Advisory if we become aware that a charity has something significant going on that may go beyond what we typically rate a charity for that could be of serious concern to donors. Typically either the charity is currently under investigation by some governmental entity or had some major lawsuit going on often having to do with embezzlement or fraud issues. Even if the investigation or the court case is not concluded, it's something that might give a donor pause until that investigation or lawsuit has reached its end. The last way to look for a red flag is something that is brand new called the CN Watch List. These are situations where a charity might not be subject to a governmental investigation or lawsuit, but a reputable media outlet may have conducted an investigation and is reporting some concerns. When there is a Donor Advisory we stop rating the charity because we wonder whether the information is necessarily

accurate if there are other problems. If there is a CN Watch List entry, we still continue to rate the charity since it doesn't always rise to the level of severity of donor pause or a Donor Advisory.

Those are the quick ways we provide donors with red flags to be aware of. Separate from Charity Navigator it would fall within these three dimensions. So if you see a charity that has the vast majority of its money going into administrative and fundraising expenses rather than programs, we think that is a cause for concern. However, remember we believe you need to look at an organization three dimensionally, so if an organization has slightly more overhead than another organization that you're considering, that should not be the only thing that you look at to make your decision. What I'm talking about here is extreme cases, where let's say 60 percent-70 percent of the money is going to overhead. But just because one organization has 25 percent overhead but another has 30 percent, it should not be the single factor in our opinion to decide which charity to support.

The second area for red flag would be in the issue of governance. If you look at some of the metrics that we consider, one thing that we have found on a number of occasions that can be a worrisome indicator is a small board of directors. The board is supposed to be in charge of the charity, not the CEO. The board is supposed to set the direction for the organization and then the CEO executes that strategy. But small boards that don't have diverse expertise or for boards that have friends and relatives of the CEO, the amount of oversight and independence is often not there. We often see that these kind of fraudulent activities are much more likely to happen when the CEO is basically unfettered and unmonitored and unaccountable from a board perspective.

**There have been several news stories about charities that spend most of their money on solicitors and a small percentage of their funds on direct cash aid in furtherance of their mission. Some of the examples are quite shocking and may be hurting the reputation of the entire charitable organization sector. Should Congress consider passing laws that impose minimum performance or conduct standards for charities to maintain their tax exempt status? Or are there other ways to force sham charities out of business?**

**Berger:** Let me start by saying that because of the nature of this job I've had more exposure to the media and these types of stories than ever before. There is a profound problem in the nature of news when it relates to the nonprofit sector because the typical news reporter will focus on controversy and problems. Those charities that are doing bad things get highlighted and there really is a problem where some donors come to the conclusion, how can you trust anybody when there is all of this bad stuff going on?

Remember there are 1.5 million nonprofits and even if there are a hundred or even a thousand reports like this per year, it gets into the public consciousness more than the good news and it definitely can as you indicate hurt the reputation of the entire sector. A number of my colleagues will still say that problems are very rare. My experience is that it is not rare. It is a real problem in the sector. There needs to be more monitoring and oversight of the sector, but it's certainly not the majority of charities. To say that it is rare as some in the sector do I think doesn't take it seriously enough. It's a serious problem.

In terms of Congress passing laws in this area, when I think of that I think of a balloon and if you squeeze the bottom of the balloon then it all gets to the top. I suspect that if you just pass a law with these kinds of things in place there will be other ways

to manipulate and abuse the system. It is one of the challenges of regulation. I think a bigger problem here is the vast underfunding of enforcement organizations both at the state and the federal levels. So even for existing laws, the amount of enforcement is minuscule at best and if anything we are moving in the wrong direction because with the imploding of state government funds and the fact that at the federal level the enforcement agency is the IRS whose mission is to collect taxes. So if that's the mission, you can understand in part why its oversight of those organizations is tepid. Additionally, you have lobbying efforts by multimillion or even billion dollar nonprofits such as hospitals and others. So when I look at existing laws and their enforcement, we have a structural problem. The point is if Congress were to simply passing more laws, they are not going to get enforced since the existing laws aren't. I definitely do think that government needs to play a much more active role in investigating sham charities and in putting them out of business and in having clearer policies about what it is a nonprofit and what are the parameters around how a nonprofit operates. The use of solicitors where only a small amount of money is going to the mission is an issue. But a much bigger problem that has to be addressed is the increasing vagueness of what the definition of a nonprofit is. I recently published an article titled Nudity, Ghosts, and Perpetual Indulgence and the question is what do these three things have in common? They are the mission of a variety of charities promoting nudity, perpetual indulgence, and having ghost boxes in your house to get rid of your poltergeists. Those are real charities! On the other end of the spectrum you have nonprofit hospitals walk like a duck and talk like a duck when you compare them to their for profit peers. More often than not they are virtually the same except they do not have to pay taxes, so they have the strategic business advantage. I think the real fundamental problem in the oversight and the policy of how we define charities in the sector.

**Are there any specific laws on the books that could be enforced easily that would have a big impact?**

**Berger:** There are a couple of states, I believe Oregon and Florida, that tried to pass laws stipulating that if you don't have at least 30 percent of your funds going to programs then they would revoke your tax exempt status. These were the simple laws that they tried to pass and I believe the lobbying juggernaut wiped them out. We're talking 30 percent and that can't pass! There is an organization that was recently founded called the Charity Defense Council that is aggressively fighting against anything to do with overhead at all. They argue that even if it cost a charity more than a dollar to raise a dollar, maybe that's not so bad because now you have a new donor list and in years two and three you could raise more money. So there's a real resistance to this, some real opponents to any basic accountability in the fiscal realm. So to directly answer your question, no I do not think any specific laws could be enforced easily. However with hard work, laws are on the books that could have a big impact. For example, enforcing intermediate sanctions can penalize a "disqualified person" who is in a position to exercise substantial influence with respect to the organizations affairs and receives financial gain from the organization that exceeds the value of services provided.

**If someone is interested in becoming a board member of a non-profit what steps should they take in terms of their due diligence, reaching out to an organization, etc.? Are there any**

### formulas that charities use to determine what their “give or get” requirements will be?

**Berger:** In terms of due diligence, I would humbly submit that looking at the kind of metrics that we consider at Charity Navigator would be a good part of the exercise, so looking at the financial statements, the 990's. Does it appear the organizations are managing their money well? Do they have sustainability? Do they have some reserves? Do they typically have a surplus rather than a deficit? There can be deficits on occasion but overall there should be evidence of positive financial health. Does it have a diverse board? Also really eyeballing the organization, going and visiting and seeing what they are doing on the ground, especially when it comes to the results that I mentioned as the third dimension we consider. Unfortunately, there is just so little currently available in the public domain on the meaningful evidence of results for an organization. So you probably have to go there. There are all kinds of reasons for going and actually seeing for yourself what they are doing, and learning about how they measure their performance for meeting their mission.

In terms of give or get formulas, they are all over the parking lot. There is everything from \$100,000 for certain boards, such as universities and some of the arts organizations that may be in that sort of stratosphere. There are some that have no requirement at all, it's whatever you can give or get. So there is tremendous diversity in requirements. I think another thing a board member should do is very quickly, early on, find out about this because if it turns out that there is not going to be an alignment with their capacity or interest then you may not have to go through the rest of the process. I do think though that there are a couple of fundamentals that anyone interested in joining a board should have in mind. Every board member should have a responsibility for helping with fundraising or helping with getting the message of the organization out. This could include going through their rolodex and seeing their friends and colleagues that might be able to support the organization or hosting events. Even if they are not a person of high net worth, every board member should be involved in the critical role of raising the funds, especially because the most precious funds for many nonprofits is general operating support. Often government and foundation grants are restricted so the money for unexpected events and needs and services is critical and the board can help in that regard. I think that the give or get requirements also vary by the size of the organization and the type of organization. There are some organizations that are almost entirely government funded and may have a very soft touch on this subject, where there are other organizations that receive almost entirely private contributions and really need a much more involved board in that regard.

### Governance best practices have been a major focus in the corporate world over the last several years. Are non-profits also being scrutinized for their governance practices, and if so, what are the current hot topics?

**Berger:** A few years ago, Independent Sector spent millions of dollars and years working with a number of nonprofit experts to develop a manual which is now free and online. Not only is there a manual of guidelines for governance practices, but also a workbook that can walk you through implementing and ensuring you have the best governance practices. It is called Principles of Good Governance and Ethical Practices – A Guide for Charities and Foundations. There has been a lot of work on this for quite a few years and I think

it was very much in the minds of Independent Sector, which is a major trade association, a few years ago when various scandals and problems arose in the sector. If an organization is following the handbook they would be much less likely to have problems. The issue is that people will start a nonprofit and not do their own due diligence. So it's not just prospective board members, founders of nonprofits will often not do the due diligence to see what are the best practices for governance and finance and so forth. They also will not do the due diligence to see whether or not within the universe of 1.5 million nonprofits, perhaps there is already an organization that is already doing this that I should align with and put my ego at the door, rather than having to create yet another nonprofit with my name on it.

### In the corporate world there was a backlash against “overboarded” directors, i.e. individuals that serve on too many boards at the same time to be effective. Do non-profit boards take current levels of responsibilities and commitments into consideration for current or prospective directors? If not, should they?

**Berger:** They definitely should but I think just like in the case of give or get the reality on the ground is all over the place. There are some well-run organizations where they have not just a nominating committee but a governance committee. I think it is a best practice to have a governance committee rather than a nominating committee because the governance committee not only helps to recruit new board members, but also does a self-assessment of the performance of each and every board member on some periodic basis to make certain that they are fulfilling an adequate commitment to the organization. There is not enough of that going on. I think in the nonprofit sector, most are desperate for getting more talent and commitment on their board. There are often boards where people are sort of show-boated and aren't really actively involved. I think the best practice is that if you are on a board, you are not just there for your name; you are actively attending and participating at the board and committee meetings. You see your role as funding and evangelizing for the charity as a core part of your duties and that the vetting of new board members considers their commitment and understanding of the responsibilities. There should be an orientation for new board members to reinforce their understanding of their responsibilities and commitment, and then there should be an ongoing assessment of those board members to see that they are indeed walking the walk of those responsibilities and commitments. The governance committee should compile a scorecard on an annual basis or at least every three years, where they conduct an assessment of individual directors that includes attendance at board and committee meetings, meeting the give or get policy, recruitment of others, etc.

### At one point attorneys were not considered ideal candidates for corporate boards but recent studies have shown an increase in lawyer-directors. Is there a general bias towards or against attorneys as directors of non-profit organizations?

**Berger:** It is perfectly fine to have attorneys on the board. However, it is very important and many boards don't realize this—it is generally inadvisable for the attorneys on the board to provide legal advice to the board or the organization because of the exposure and conflicts that can entail and hamstring that board member. The best practice is if the board wants to have that legal counsel, and I think it's a good idea, they should have a pro

bono legal counsel attend the board meetings who is not a board member, and that distinction is important. There are a lot of very affluent and influential attorneys out there, so generally charities would welcome their knowledge. For example, the attorney that is on our board is very good at reviewing the factual accuracy of documents which doesn't put him in harm's way, but his attention to detail and language, for example, is very helpful to the board.

**Do non-profit boards reflect the same level of diversity (e.g. gender, race) as you find in society? If females and/or minorities are underrepresented are there any efforts being taken in the industry to correct this?**

**Berger:** The answer to the first question is no, the answer to the second question is yes, and now the details. Absolutely there is a real problem in terms of the lack of diversity. In addition to gender and race, there also needs to be a diversity of skills on the boards. Part of the reason for this may be that structural problems remain in the society that I think are reflected back in the boardroom. We still have the reality that women make less money than men. We still have the reality that African Americans make less money on the whole than whites. If a nonprofit board is looking for high net worth individuals to support the organization, there is an implicit if not explicit bias by gender and race because of the socioeconomics. There is that built in challenge. I think a lot of people within the nonprofit sector, just by their nature and values, aren't happy about that and are making efforts to change this, which also includes finding younger people, too. They are trying to get more of a match between boards and people looking for board service and I do think they have emphasized diversity in the people they are trying to bring in. Nonprofits have been encouraged to be very conscience about setting policies in this area. I still think we have a long way to go and there are some structural realities on the ground that nonprofits are struggling with. In some cases there have been interesting efforts, like for community health centers to get funding from the federal government it is required that at least half of the board is made up of the people you are serving. That is one kind of effort being undertaken to correct the situation.

**What are the most frustrating and rewarding parts of your job?**

**Berger:** I think the most frustrating part of the job is that there is so much more we would like to do, and this is a typical nonprofit problem so I'm sorry if it sounds kind of generic but it's the case. There are a million 501(c)(3) organizations and we currently rate 7,000. The good news is those 7,000 receive 55 percent of all private contributions each year (not including houses of worship). That translates to our covering \$110 billion out of \$200 billion that Americans donate each year. People will come to our site and say, well I looked up my charity and it's not there, I'm frustrated. I think a lot of people don't realize we are also a charity and that the only way we are going to get to the scale that they want us to will be if people step up voluntarily and help us to get there.

The most rewarding part of the job is that I spent 30 years running charities, being in the trenches, and I observed a lot of the good, bad, and ugly in the nonprofit sector. After I started this job, all of a sudden people wanted to know my opinion and I had microphones in my face, I'm on CNN, NPR, quoted in the New York Times, etc. The reward is being able to take those 30 years of experience and observations and have the opportunity to have a platform to share what I know and to have some sense of leverage and impact to be able to help to move along some changes to make things better for the way the nonprofit sector operates, and for the way people have information to give to charity and to think about charity. That is definitely incredibly rewarding to be able to do that. To be working in a charity where you can see the impact and feel the impact. We estimate that we're influencing \$10 billion of charitable giving each year at this point, and each year that I've been here we've broken records in terms of the number of visits to the site, the number of people who are using the information so that's been very rewarding. I just continue pushing to do more. ■

More information about Charity Navigator, including how to donate, can be found on its website, [www.charitynavigator.org](http://www.charitynavigator.org).

*Interview conducted by John Okray, chair of the Federal Bar Association's Corporate and Association Counsel Division.*

## Federal Bar Association Corporate & Association Counsel Division Leadership

### CHAIR

John Okray  
American Beacon Advisors Inc.

### IMMEDIATE PAST CHAIR

Ashleigh Jones  
LSG Sky Chefs

### VICE CHAIR—CHAPTER LIAISON

Porter Nolan  
Superior Energy Services Inc.

### VICE CHAIR—MEMBERSHIP

Ryan Temme  
Groom Law Group

### VICE CHAIR—PUBLICATIONS

Rachel V. Rose  
Rachel V. Rose-Attorney at Law PLLC

### TREASURER

Diana Lai  
American Beacon Advisors Inc.

## Corporate Articles Editorial Board

Todd Olhms  
Freeborn & Peters LLP

Rachel V. Rose  
Rachel V. Rose-Attorney at Law PLLC

# connect



## through the Federal Bar Association

The Federal Bar Association offers an unmatched array of opportunities and services to enhance your connections to the judiciary, the legal profession, and your peers within the legal community. Our mission 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.

### Advocacy

The opportunity to make a change and improve the federal legal system through grassroots work in over 80 FBA chapters and a strong national advocacy.

### Networking

Connect with a network of federal practitioners extending across all 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands.

### Leadership

Governance positions within the association help shape the FBA's future and make an impact on the growth of the federal legal community.

### Learning

Explore best practices and new ideas at the many Continuing Legal Education programs offered throughout the year—at both the national and chapter levels.

## expand your connections, advance your career

**THREE WAYS TO APPLY TODAY:** ① Join online at [www.fedbar.org](http://www.fedbar.org); ② Fax application to (571) 481-9090; or ③ Mail application to FBA, 1220 North Fillmore St., Suite 444, Arlington, VA 22201. For more information, contact the FBA membership department at (571) 481-9100 or [membership@fedbar.org](mailto:membership@fedbar.org).

## FEDERAL BAR ASSOCIATION APPLICATION FOR MEMBERSHIP (CONTINUES ON REVERSE)

### Applicant Information

First Name \_\_\_\_\_ M.I. \_\_\_\_\_ Last Name \_\_\_\_\_ Suffix (e.g. Jr.) \_\_\_\_\_ Title (e.g. Attorney At Law, Partner, Assistant U.S. Attorney) \_\_\_\_\_

Male  Female Have you been an FBA member in the past?  yes  no Which do you prefer as your primary address?  business  home

Firm/Company/Agency		Number of Attorneys	
Address		Suite/Floor	
City	State	Zip	Country
Phone		E-mail	

Address			Apt. #
City	State	Zip	Country
( )	//		
Phone		Date of Birth	
E-mail			

### Bar Admission and Law School Information (required)

U.S.	Court of Record: _____
	State/District: _____ Original Admission: / /

Tribal	Court of Record: _____
	State: _____ Original Admission: / /

Foreign	Court/Tribunal of Record: _____
	Country: _____ Original Admission: / /

Students	Law School: _____
	State/District: _____ Expected Graduation: / /

### Practice Information

#### PRACTICE TYPE

- Private Sector:  Private Practice  Corporate/In-House  
 Public Sector:  Government  Association Counsel  
 Nonprofit  University/College  
 Military  Judiciary

#### PRIMARY PRACTICE AREAS

- |  |  |
|--|--|
| <input type="radio"/> Administrative         | <input type="radio"/> Health                 |
| <input type="radio"/> Admiralty/Maritime     | <input type="radio"/> Immigration            |
| <input type="radio"/> ADR/Arbitration        | <input type="radio"/> Indian                 |
| <input type="radio"/> Banking                | <input type="radio"/> Intellectual Property  |
| <input type="radio"/> Bankruptcy             | <input type="radio"/> International          |
| <input type="radio"/> Civil Rights           | <input type="radio"/> Labor/Employment       |
| <input type="radio"/> Communications         | <input type="radio"/> Military               |
| <input type="radio"/> Criminal               | <input type="radio"/> Securities             |
| <input type="radio"/> Environment/Energy     | <input type="radio"/> Social Security        |
| <input type="radio"/> Federal Litigation     | <input type="radio"/> State/Local Government |
| <input type="radio"/> Financial Institutions | <input type="radio"/> Taxation               |
| <input type="radio"/> General Counsel        | <input type="radio"/> Transportation         |
| <input type="radio"/> Government Contracts   | <input type="radio"/> Veterans               |
| <input type="radio"/> Other: _____           |  |

### Membership Levels

#### SUSTAINING MEMBERSHIP

Members of the association distinguish themselves when becoming sustaining members of the FBA. Sixty dollars of the sustaining dues are used to support educational programs and publications of the FBA. Sustaining members receive a 5% discount on the registration fees for all national meetings and national CLE events.

	Private Sector	Public Sector
Member Admitted to Practice 0-5 Years	\$165	\$145
Member Admitted to Practice 6-10 Years	\$230	\$205
Member Admitted to Practice 11+ Years	\$275	\$235
Retired (Fully Retired from the Practice of Law)	\$165	\$165

#### ACTIVE MEMBERSHIP

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 United States or in the District of Columbia.

	Private Sector	Public Sector
Member Admitted to Practice 0-5 Years	\$105	\$80
Member Admitted to Practice 6-10 Years	\$165	\$140
Member Admitted to Practice 11+ Years	\$210	\$170
Retired (Fully Retired from the Practice of Law)	\$105	\$105

#### ASSOCIATE MEMBERSHIP

Foreign Associate Admitted to practice law outside the U.S. ..... \$210  
Law Student Associate Currently enrolled in an accredited law school ..... \$35

**Dues Total:**

### Practice Area Sections

<input type="checkbox"/> Admiralty Law	\$25	<input type="checkbox"/> Indian Law	\$15
<input type="checkbox"/> Alternative Dispute Resolution	\$15	<input type="checkbox"/> Intellectual Property Law	\$10
<input type="checkbox"/> Antitrust and Trade Regulation	\$15	<input type="checkbox"/> International Law	\$10
<input type="checkbox"/> Banking Law	\$20	<input type="checkbox"/> Labor and Employment Law	\$15
<input type="checkbox"/> Bankruptcy Law	\$10	<input type="checkbox"/> Securities Law Section	\$10
<input type="checkbox"/> Civil Rights Law	\$10	<input type="checkbox"/> Social Security	\$10
<input type="checkbox"/> Criminal Law	\$10	<input type="checkbox"/> State and Local Government Relations	\$15
<input type="checkbox"/> Environment, Energy, and Natural Resources	\$15	<input type="checkbox"/> Taxation	\$15
<input type="checkbox"/> Federal Litigation	\$10	<input type="checkbox"/> Transportation and Transportation Security Law	\$20
<input type="checkbox"/> Government Contracts	\$20	<input type="checkbox"/> Veterans and Military Law	\$20
<input type="checkbox"/> Health Law	\$10		
<input type="checkbox"/> Immigration Law	\$10		

### Career Divisions

<input type="checkbox"/> Corporate & Association Counsel (in-house counsel and/or corporate law practice)	\$20
<input type="checkbox"/> Federal Career Service (past/present employee of federal government)	N/C
<input type="checkbox"/> Judiciary (past/present member or staff of a judiciary)	N/C
<input type="checkbox"/> Senior Lawyers* (age 55 or over)	\$10
<input type="checkbox"/> Younger Lawyers* (age 36 or younger or admitted less than 3 years)	N/C

\*For eligibility, date of birth must be provided.

**Sections and Divisions Total:**

### Chapter Affiliation

Your FBA membership entitles you to a chapter membership. Local chapter dues are indicated next to the chapter name (if applicable). If no chapter is selected, you will be assigned a chapter based on geographic location. \*No chapter currently located in this state or location.

<b>Alabama</b> <input type="checkbox"/> Birmingham <input type="checkbox"/> Mobile <input type="checkbox"/> Montgomery <input type="checkbox"/> North Alabama	<b>Georgia</b> <input type="checkbox"/> Atlanta-\$10 <b>Hawaii</b> <input type="checkbox"/> Hawaii <b>Idaho</b> <input type="checkbox"/> Idaho <b>Illinois</b> <input type="checkbox"/> Chicago <b>Indiana</b> <input type="checkbox"/> Indianapolis <b>Iowa</b> <input type="checkbox"/> Iowa-\$10 <b>Kansas</b> <input type="checkbox"/> Kansas <b>Kentucky</b> <input type="checkbox"/> Kentucky <b>Louisiana</b> <input type="checkbox"/> Baton Rouge <input type="checkbox"/> Lafayette/Acadiana <input type="checkbox"/> New Orleans <input type="checkbox"/> North Louisiana <b>Maine*</b> <input type="checkbox"/> At Large <b>Maryland</b> <input type="checkbox"/> Maryland <b>Massachusetts</b> <input type="checkbox"/> Massachusetts-\$10 <b>Michigan</b> <input type="checkbox"/> Eastern District of Michigan <input type="checkbox"/> Western District of Michigan <b>Minnesota</b> <input type="checkbox"/> Minnesota <b>Mississippi</b> <input type="checkbox"/> Mississippi <b>Missouri</b> <input type="checkbox"/> Missouri <b>Montana</b> <input type="checkbox"/> Montana <b>Nebraska*</b> <input type="checkbox"/> At Large <b>Nevada</b> <input type="checkbox"/> Nevada <b>New Hampshire</b> <input type="checkbox"/> New Hampshire	<b>New Jersey</b> <input type="checkbox"/> New Jersey <b>New Mexico</b> <input type="checkbox"/> New Mexico <b>New York</b> <input type="checkbox"/> Eastern District of New York <input type="checkbox"/> Southern District of New York <input type="checkbox"/> Western District of New York <b>North Carolina</b> <input type="checkbox"/> Eastern District of North Carolina <input type="checkbox"/> Western District of North Carolina <b>North Dakota</b> <input type="checkbox"/> North Dakota <b>Ohio</b> <input type="checkbox"/> John W. Peck/Cincinnati/Northern Kentucky <input type="checkbox"/> Columbus <input type="checkbox"/> Dayton <input type="checkbox"/> Northern District of Ohio-\$10 <b>Oklahoma</b> <input type="checkbox"/> Oklahoma City <input type="checkbox"/> Northern/Eastern Oklahoma <b>Oregon</b> <input type="checkbox"/> Oregon <b>Pennsylvania</b> <input type="checkbox"/> Eastern District of Pennsylvania <input type="checkbox"/> Middle District of Pennsylvania <input type="checkbox"/> Western District of Pennsylvania	<b>Puerto Rico</b> <input type="checkbox"/> Hon. Raymond L. Acosta/Puerto Rico-\$10 <b>Rhode Island</b> <input type="checkbox"/> Rhode Island <b>South Carolina</b> <input type="checkbox"/> South Carolina <b>South Dakota*</b> <input type="checkbox"/> At Large <b>Tennessee</b> <input type="checkbox"/> Chattanooga <input type="checkbox"/> Memphis <input type="checkbox"/> Mid-South <input type="checkbox"/> Nashville <input type="checkbox"/> Northeast Tennessee <b>Texas</b> <input type="checkbox"/> Austin <input type="checkbox"/> Dallas-\$10 <input type="checkbox"/> Del Rio-\$25 <input type="checkbox"/> El Paso <input type="checkbox"/> Fort Worth <input type="checkbox"/> San Antonio <input type="checkbox"/> Southern District of Texas-\$25 <input type="checkbox"/> Waco <b>Utah</b> <input type="checkbox"/> Utah <b>Vermont*</b> <input type="checkbox"/> At Large <b>Virgin Islands</b> <input type="checkbox"/> Virgin Islands <b>Virginia</b> <input type="checkbox"/> Northern Virginia <input type="checkbox"/> Richmond <input type="checkbox"/> Roanoke <input type="checkbox"/> Tidewater <b>Washington*</b> <input type="checkbox"/> At Large <b>West Virginia*</b> <input type="checkbox"/> At Large <b>Wisconsin*</b> <input type="checkbox"/> At Large <b>Wyoming</b> <input type="checkbox"/> Wyoming
---	--	--	--

**Chapter Total:**

## Payment Information and Authorization Statement

### TOTAL DUES TO BE CHARGED

(membership, section/division, and chapter dues): \$ \_\_\_\_\_

Check enclosed, payable to Federal Bar Association

Credit:  American Express  MasterCard  Visa

Name on card (please print)

Card No. \_\_\_\_\_ Exp. Date \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

By signing this application, I hereby apply for membership in the Federal Bar Association and agree to conform to its Constitution and Bylaws and to the rules and regulations prescribed by its Board of Directors. I declare that the information contained herein is true and complete. I understand that any false statements made on this application will lead to rejection of my application or the immediate termination of my membership. I also understand that by providing my fax number and e-mail address, I hereby consent to receive faxes and e-mail messages sent by or on behalf of the Federal Bar Association, the Foundation of the Federal Bar Association, and the Federal Bar Building Corporation.

**Signature of Applicant**

(Signature must be included for membership to be activated)

**Date**

\*Contributions and dues to the FBA may be deductible by members under provisions of the IRS Code, such as an ordinary and necessary business expense, except 4.5% which is used for congressional lobbying and is not deductible. Your FBA dues include \$14 for a yearly subscription to the FBA's professional magazine.