

Strengthening Our Federal Court and America's Legal Standard Through the Federal Bar Association

BY W. WEST ALLEN, ESQ.

At Washington Square Park, inside Lower Manhattan's Greenwich Village, stands an arch that for more than a century has honored the centennial of our first president's inauguration. The inscription at the apex of the monument on its south-facing side is attributed to our original Founding Father:

*Let us raise a standard to which
the wise and honest can repair;
the event is in the hand of God.*

We might consider carefully this standard and how the wise and honest will repair to it. The ensign raised by the Founders' generation is a government by "We the People" set forth in our written U.S. Constitution. A cornerstone of this standard is our independent judicial system—the third branch of government dedicated to equal justice under law. America's judiciary and its pursuit of equal justice are unparalleled in the world. But this has been no accident. As Chief Justice John G. Roberts in his *2019 Year-End Report on the Federal Judiciary* explained: "remember that justice is not inevitable."

The administration of equal justice under law requires constant work. It requires knowledge, humility, patience, integrity and vigilance. And for the professionals entrusted to safeguard it, we must understand it, improve it, teach it, and strengthen it for ourselves and our posterity.

Chief Justice Roberts counseled further that for too many, our democracy, which includes our legal system dedicated to the pursuit of justice, has been taken for granted. We should ask ourselves, individually: "Have we taken our democracy for granted?"



Sustaining America's Legal Standard

Introspective lawyers might inquire about how we stay vigilant, engaged and *not* take democracy, our Constitution and its legal system—this wondrous American standard—for granted. What is our responsibility? As legal professionals, it is our entrusted constitutional responsibility to sustain and uphold the American standard by sustaining and strengthening the independence of our third branch of government. We must serve and teach others within our legal system to do justice. We must understand the Constitution, its words and founding principles of popular sovereignty, separation of powers, federalism, a bill of unalienable rights and equal application of written law. This understanding and service is at the core and very mission of the Federal Bar Association (FBA). It is a cause in which more should be engaged.

For those not yet aware, the FBA is the foremost professional association of judges and attorneys engaged in the practice of law and administration of justice before the federal courts and U.S. administrative agencies. Nearly 20,000 members of the legal profession belong to the FBA through



affiliation with local chapters found within every state and federal court district throughout the country.

Since its founding, the mission of the FBA has been clear: 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. For this purpose, the FBA has brought together many of our nation’s brightest lawyers from all parts of the country and all areas of legal practice, and united them in common service to the legal profession and upholding America’s standard.

A Brief History of the Federal Bar Association

This year, the FBA celebrates 100 years of service—not only to its members but to the entire legal community. This service was inspired by the vision of the organization’s founders a century ago.

Following World War I, as Prohibition and women’s right to vote loomed on America’s political horizon, President

Woodrow Wilson concerned himself with the issue of unjust salary classification for federal employees. To help find a solution, Congress appointed groups of employee representatives to meet and propose a proper classification of their respective legal positions. As a result of these conferences, lawyers from the various government departments and independent agencies were brought together to discuss issues of mutual interest.

Federal attorneys chose a member of the solicitor’s office named James W. Witten in the Department of the Interior to lead and represent them. In his congressional testimony, Witten described the importance of the work of his lawyer colleagues:

“Upon their knowledge, efficiency, ability, honesty, and zeal very much depends, because upon them rests the important and responsible duty to know the laws, to say what they mean, to tell how they should be applied, and to help in their execution. And to no other class of officers are assigned duties of greater importance, or work upon the proper doing of which the welfare of our Government more largely depends.”

Witten had more right than he knew. It is our legal professionals – our American judges and lawyers – upon whom “very much depends” because of their duty to know the law, say what it means and tell others how it should be applied. What President Wilson and Witten knew lawyers could do for good government, President Washington understood they would do for the American standard. These would be among the wise and honest to repair to and sustain our standard, all that it teaches, that it might be raised up for our people and to the world.

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From those initial gatherings of Witten and his lawyer colleagues sprang the Federal Bar Association—founded during a meeting at the Department of the Interior in Washington, D.C., on the evening of Jan. 5, 1920. The new organization had just 205 members (although subsequent accounts by the FBA itself put the number at 438), including 21 women. Witten was elected the organization's first president, with the Department of Justice's David D. Caldwell as vice president, the Department of the Navy's Alexander McCormick as secretary and the Department of the Treasury's Clara Greacen as treasurer. The organization was to hold monthly meetings, according to Washington, D.C., daily newspaper the *Evening Star*, "for the purpose of promoting legal relations between departments and to discuss governmental law questions."

The FBA is still discussing important governmental law questions today. From this small beginning, the FBA grew quickly—not just in numbers but in stature. Since its inception, the FBA has been preeminent among the leaders of the federal legal community. The FBA has prospered and continues to be a non-partisan catalyst for communication between the bench and the bar, the public

and private sectors, as well as for greater civics education.

What the Federal Bar Association Does Today

As a national, voluntary bar, the FBA comprises approximately 100 chapters with boundaries that mirror the federal districts, as well as 26 substantive practice areas and six career divisions, including the Judiciary Division and the Federal Career Services Division. This local chapter connection plus national structure allows the FBA to have an impact on the federal legal profession at large and local federal judicial districts, while providing meaningful and engaging opportunities for leadership and networking throughout the U.S. legal community. The FBA also promotes the highest standards of professional competence and ethical conduct through national and chapter continuing education programs, publications and civics.

In accordance with its mission, the FBA maintains an active presence in the nation's capital, monitoring and participating in policy-making processes in congress, the executive branch and the federal judiciary. The compass of the FBA's government relations program is its Issues Agenda: a roster of policy priorities to which the association devotes its advocacy resources. The policy priorities embraced by the Issues Agenda are associated with active issues that concern the health and welfare of the federal judicial system and effective federal legal practice. The issues contained in the Issues Agenda are derived from input from FBA members, chapters, sections and divisions. The FBA's credibility in Washington hinges on its identity as a nonpartisan

organization without allegiance to any political party. The FBA does not endorse or contribute to political candidates, nor does it maintain a political action committee. The FBA's nonpartisanship and its emphasis upon issues addressing federal jurisprudence and legal practice contribute to the association's respect and credibility in the halls of Congress and throughout Washington. Quite simply, the FBA is a collection of diligent, engaged citizens within the legal profession who seek to sustain the independence of America's judiciary and encourage our nation's elected officials to practice good government under the Constitution.

Through these collective efforts and simple acts undertaken by small groups of judges and lawyers, we work together as "one" legal family to assist federal judges, federal courts, federal practitioners, legal educators and students in strengthening and sustaining our American standard. The FBA has long embraced Chief Justice Roberts' admonition that "each generation has an obligation to pass on to the next, not only a fully functioning government responsive to the needs of the people, but the tools to understand and improve it."

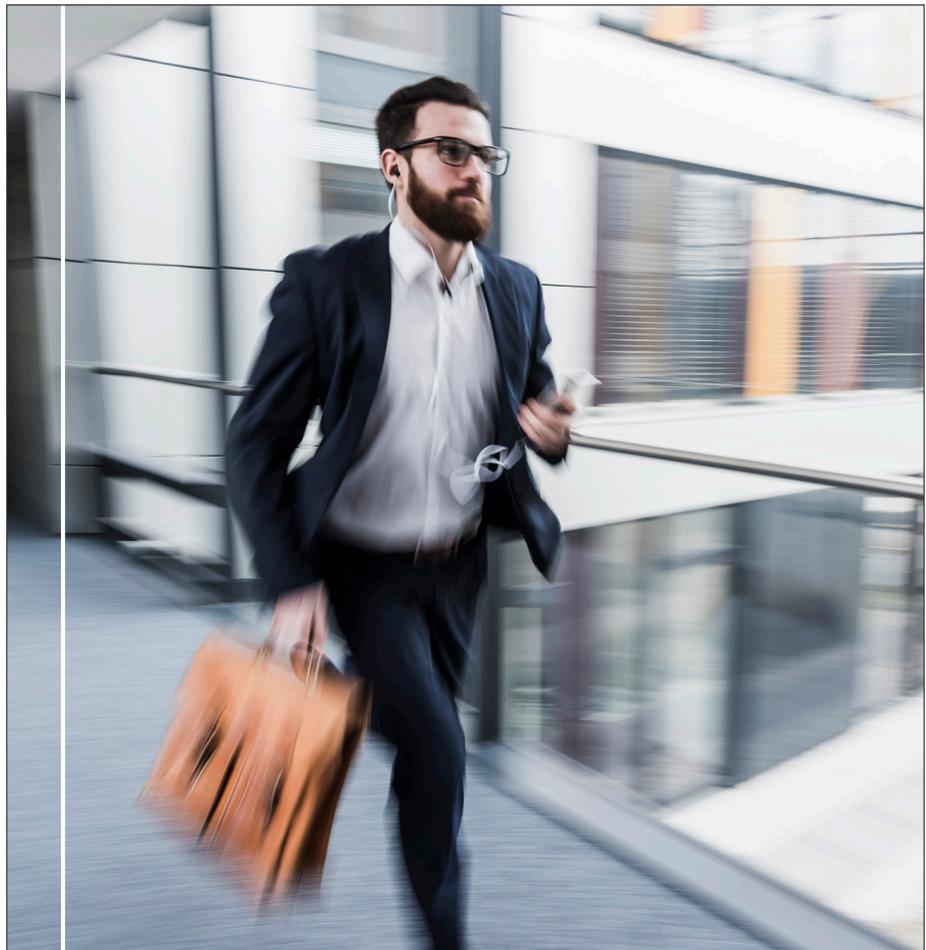
An Invitation to Strengthen America's Legal Standard

I invite you become part of the FBA's mission to strengthen the independence of our federal courts, improve our nation's civics and sustain America's standard. We need more men and women to know our U.S. Constitution—to say what it means and how it should be applied. Begin today by joining the FBA online at www.fedbar.org/membership and downloading the *Interactive Constitution* mobile app from the National Constitutional Center—a FBA civics partner and leader in U.S. Constitutional studies. This is an extraordinary constitutional resource that every U.S. lawyer should have, study and share.

The FBA is a vibrant bar association with an increasing number within its active ranks, including nearly 2,000 members of the judiciary. Looking to the future, the FBA's focus is on upholding the ideal of "one FBA family"—federal attorneys and judges from all corners of the country and all facets of federal practice coming together to support our common mission and engage in good civic causes.

As we recognize the accomplishments of the FBA's past 100 years, we know this milestone is only the beginning of what is to come. It is our hope that 100 years from now, the simple words of the FBA mission will continue to inspire service to the federal legal system, the U.S. Constitution, and our collective strengthening of the independence of America's judiciary that administers justice. Our cause is this American standard. Our nation's judges and lawyers are its guardians. These are among the "wise and honest" of whom Washington spoke. Their work is to understand America's standard, to improve it, to repair to it, and to strengthen it for the generations that follow.

W. WEST ALLEN is the incoming national president of the Federal Bar Association for its 2020-2021 term. He is an intellectual property litigator and counselor with the national business law firm Howard & Howard, where he represents a wide variety of international clients in federal courts. Allen has served as chair of the FBA's Government Relations Committee and testified before the U.S. Senate Judiciary Subcommittee on Bankruptcy and the Courts regarding the effect of sequestration and budget cuts on federal courts. Allen founded the State Bar of Nevada's Intellectual Property Section and was elected to serve as that section's first chair. Previously, he has worked with the U.S. District Court, District of Nevada, as a law clerk, member of the court's Civil Rules Standing Committee on Local Rules, and on multiple Merit Selection, Appointment and Reappointment Panels for U.S. magistrate judges. He is the principal author of Nevada's Local Patent Rules. He currently serves on the newly formed Southern Nevada District Court Review Commission to assist Nevada's U.S. senators in selecting candidates to serve as U.S. district judge.



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