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# PERSPECTIVES

## Message from the Chair

by Adine S. Momoh



Greetings! At this time, I would have been writing to reflect upon my experience in Washington, D.C., cherry blossoms, reconnecting with our YLD membership and FBA leadership, and all of the amazing events that I was able to participate in as part of the Federal Bar Association's Leadership Summit and Centennial Celebration. These events would have included our affiliated Younger

Lawyer Division events, such as the 25th Annual Thurgood Marshall Memorial Moot Court Competition (Moot Court Competition) and Rising Professionals Symposium (RPS). However, after much discussion, the National Board of the Federal Bar Association (of which I am a member) made the difficult but necessary decision to cancel the Leadership Summit and Centennial Celebration, which included the cancellation of RPS and the Moot Court Competition, because of the growing concerns surrounding COVID-19.

While the Moot Court Competition was canceled and will not be rescheduled for 2020, we were, nonetheless, able to score teams based on their submitted briefs and give awards to the top three brief-writers. Congratulations to Team 8 Mitchell Hamline School of Law—First Place, Team 28 St. Mary's University School of Law—Second Place, and Team 17 UC Hastings College of Law—Third Place on achieving excellence in brief writing!

We thank all YLD members, YLD Board (in particular, Moot Court Competition Directors Amy Boyle and Marshall Watson and their committee), FBA leadership, and staff for their involvement and assistance preparing for these programs. We look forward to the 2021 Rising Professionals Symposium and the 26th Annual Thurgood Marshall Memorial Moot Court Competition.

On another note, the YLD learned this month that the U.S. Supreme Court will be cancelling the Supreme Court Admissions Ceremony scheduled for May 18, 2020, due to public health and safety concerns related to COVID-19. The YLD had previously announced that this year, it would be partnering with the D.C. non-profit Martha's Table to hold a community outreach event following the admissions ceremony. For 40 years, Martha's Table has worked to support strong children, strong families, and strong communities in D.C. While the community outreach event will also need to be cancelled, I am hopeful that it will be postponed until a future date. In the meantime, I am excited to announce that the YLD will continue its partnership with Martha's Table for 2020. The

*Chair continued on page 5*

# Should I Get an LL.M. in Taxation?

by John G. Hodnette

A few times a year, I receive an email or call from a law student or young attorney who is trying to decide whether or not to pursue an LL.M. in Taxation. Not long ago, I was that law student considering whether or not to suspend my foray into the real world by extending my law school career from an interminable three years to the insurmountable sounding four. I ultimately decided to take the plunge and went straight into the University of Florida's LL.M. in Taxation program the fall after graduating from law school. It was one of the best decisions I have ever made.

## What is an LL.M. in Taxation?

An LL.M. (from the Latin *Legum Magister*) is, in the context of the American educational system, a master of laws degree. LL.M.s are available in the United States only to those who have already obtained an American law degree or, in some cases, the foreign equivalent. An LL.M. program takes one year to complete and is concentrated on a particular area of law.

## Reasons Not to Obtain an LL.M. in Taxation.

Those more cynical of the concept of post-Juris Doctor education sometimes refer to an LL.M. as "Lawyers Losing Money" because of the large cost and perceived lack of career enhancements. Some initially consider obtaining their LL.M. as a way to add luster to an otherwise underwhelming law school resume. If that is why you are thinking about getting an LL.M., I would urge you not to. Excellent performance in an LL.M. program, although admirable, will not likely erase poor performance in law school. Moreover, getting into one of the top ranked LL.M. programs in a particular subject matter will not erase the fact that your J.D. is from a lower ranked school. There are a number of LL.M. specializations; however, Taxation is widely considered to be one of the varieties of LL.M. that is most valuable. This article only discusses the LL.M. in Taxation.

## What is Obtaining an LL.M. in Taxation Like?

If you are considering an LL.M. in Taxation because of your strong interest in tax law, you are on the right track. An LL.M. can springboard your tax career by separating you from other attorneys as a true tax expert. Tax laws affect nearly every aspect of law and constantly change. Clients need tax law experts to assist them. Both law and accounting firms will actively seek out Tax LL.M.s to fill those valuable roles. The decision to defer a year of gainful employment in the workforce

and instead incur potentially tens of thousands of dollars of debt to obtain an LL.M. in Taxation, however, is not to be taken lightly. It is important to be sure that this is what you really want.

Those who obtain an LL.M. in Taxation are true tax nerds. Before making the decision to pursue an LL.M., be sure to take as many tax classes as your law school offers to be certain that you truly love it. Tax law is not for everyone—some people love it and some people hate it. Entering into an LL.M. in Taxation program is making the decision to voluntarily immerse yourself in tax law for an entire year. It can be an excellent experience for a tax nerd, but a tortuous one for someone who doesn't fit that description. Tax LL.M.s rattle off Internal Revenue Code sections to one another the way sports fanatics discharge statistics about their favorite team. If staying late in the library pouring through the Treasury Regulations sounds like a great Friday night to you, then send in your application right away.

## Which LL.M. in Taxation Program Should I Choose?

Not all LL.M. in Taxation programs are created equal. It is almost universally agreed that, as of the date of the publication of this article, the top three LL.M. in Taxation programs are New York University ("NYU"), Georgetown, and the University of Florida.

NYU is recognized year in and year out as the most prestigious of the three. Georgetown and Florida sometimes swap places for second and third place, but Georgetown generally holds the spot of second best program. NYU benefits from being in New York City, providing easy access to the city's prestigious law firms. Likewise, Georgetown benefits from being in the District of Columbia, allowing its graduates to find placement in prestigious D.C. firms as well as into roles as clerks for the Tax Court judges. The University of Florida may be slightly more prestigious in the areas of estate and gift tax as compared to the other two programs, in part, perhaps, because of the number of hyper-wealthy retirees who find themselves in the state of Florida when establishing their estate planning documents.

The University of Florida also has the benefit of being by far the most cost effective of the three programs. While NYU and Georgetown both boast tuitions of over \$60,000 per year, Florida's current tuition cost is about \$22,000 for in-state students and \$38,000 for out-of-state students. In addition, both NYU and Georgetown are located in some

of the most expensive cities in the United States. The University of Florida is located in Gainesville, which, in contrast, has a cost of living below the national average.

The top three LL.M. programs, however, are not the only programs that might be worthwhile for you. Northwestern, Virginia, Columbia, and Stanford are the current fourth, fifth, and sixth best programs (Columbia and Stanford tied for sixth) according to the U.S. News and World Report 2019 “Best Tax Law Programs” ranking.<sup>1</sup> As with selecting law schools, the location of the school can be important. If you are planning to practice in a jurisdiction that has a reputable LL.M. in Taxation program, it may be the best decision for you to obtain your degree there rather than in another state with a higher ranked program.

### **Who Hires Tax LL.M.s?**

The major hirers of LL.M. graduates are the “Big Four” accounting firms (Deloitte, KPMG, Ernst & Young, and PricewaterhouseCoopers), the Internal Revenue Service, the U.S. Tax Court, and the tax groups of law firms. Each of these career paths has pros and cons.

The Big Four are prestigious Fortune 500 companies that provide tax advice to some of the biggest companies in the world. Their resources are endless—as is your opportunity to move geographically and yet stay within the company. Many of the Big Four offer international work placement opportunities and boast excellent benefits programs. The base salary for a starting position at such an accounting firm, however, is generally lower than you would find at a law firm because a law degree is not a requirement. Your position within the company would not likely be as a lawyer and some of your co-workers will be certified public accountants rather than other lawyers.

Working for the Internal Revenue Service as tax counsel or with the U.S. Tax Court as a law clerk can be a prestigious next step for your career. As Internal Revenue Service tax counsel, you would advise field agents on difficult legal questions raised by the taxpayers’ counsel. You may also assist with representing the Internal Revenue Service in Tax Court litigation. Working for the government comes with unique benefits including pensions, a less stressful work environment, and potential student loan forgiveness.

Working for the U.S. Tax Court is a more temporary move. Few attorneys remain with the Court for their whole career. Rather, they move to D.C. to sit with a particular Tax Court judge for a few years and assist with the writing of Court opinions. This is excellent experience, particularly if you intend to appear before the Tax Court in the future as a private tax controversy litigator.

Working for the Internal Revenue Service or the U.S. Tax Court will not compensate you as well as working in private practice; however, many large law firms provide starting bonuses in the form of large cash compensation for new hires with this experience.

Finally, working in private practice for the tax group of a large law firm can be incredibly rewarding. There are a large number of different practice areas in a law firm that benefit from strong tax knowledge. Tax lawyers can specialize in Individual Income Taxes, Business Taxation (including Partnership and Corporate), Estate and Gift Taxation, Taxation of Income of Trusts and Estates, International Taxation, State and Local Tax, Taxation of Tax Exempt Organizations, or a combination of all of these. Additionally, private practice will provide you with a larger starting salary than the other career paths.

### **Should I Get an LL.M. in Taxation?**

Tax law is challenging and exciting, ever changing and always relevant. Obtaining my LL.M. in Taxation was the right decision for me, and it might be the right decision for you. As a young lawyer, you may be looking for a way to separate yourself from your peers. Obtaining a LL.M. in Taxation makes you part of an elite club of tax experts. If that is something that excites you, I encourage you to speak with your tax law professors and with the representatives of the LL.M. in Taxation programs you are considering. They will be happy to help you make the right decision.



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### **Endnotes:**

<sup>1</sup>See <https://www.usnews.com/best-graduate-schools/top-law-schools/tax-law-rankings>.

# A Young Lawyer's Guide to Management (Up, Down, and Sideways)

by Margaret W. McLaughlin

It is now axiomatic that law school does not teach every skill you need to practice law. Among the many skills that go untaught, management is one of the most critical. In many cases, instruction concerning management continues to be overlooked when you begin practicing; but it is a critical skill to transition from a competent attorney to a great attorney.

There are many tips for summer clerkships—bring notebooks and pens everywhere! Say yes to every opportunity! There are fewer guides when you are a year or two into your career and trying to take your practice to the next level. The key to this development lies in management.

Management might conjure up thoughts of dark suits and corner offices but, in fact, management is an ongoing process. Developing your management skill applies to everyone you interact with—whether your boss, people you supervise, or the colleague next door.

Strong management skills will not change a roaring lion of a boss to a lamb, or transform chaos to serenity; but, the following strategies can help smooth the rough corners, make processes more efficient, and advance your legal practice.

## Managing “Up”

There are many things about your job that you do not control. One of these things is your boss, or any of the partners or senior attorneys with whom you work. While you do not control your superiors and their personalities, your response is within your control. Whether it's dysfunction you want to try to set straight or a solid relationship you want to take to the next level, strengthening your upward management can help get you there. Here are a few “Managing Up 101” skills to help:

*Anticipate:* Think ahead and suggest the next step. Even if it isn't the right next step, it shows that you're thinking strategically and saves your partner or senior attorney from having to begin the thought process. Likewise, come with suggestions: if you have a meeting to discuss the next steps on a case, spend ten minutes ahead of time preparing an agenda and come ready to discuss. Instead of waiting on someone to provide you with the next steps, showing that you anticipate issues and are capable of executing the next steps, where appropriate, makes you a more proactive team member.

*Learn your superiors' communication styles:* Partners and senior attorneys, like everyone else, prefer information to be communicated in a variety of ways. Learn their communication styles and

preferences. Some might like a quick drop-in so you don't clutter their inbox, some might like short single-issue emails, and others might prefer more comprehensive reports. Some prefer phone calls over email, while others can be reached fastest via text message. Watch how they communicate—do they call you or stop in? Look at how their staff and other attorneys who work with them often communicate. Learn these habits and serve back what they give you to ensure your communication matches their preferences.

*Stay organized:* Your partners and senior attorneys inevitably have 1,000 things on their minds. In a fast-paced legal practice, it is easy to drop the ball when there's so much going on. You probably have strategies that help you manage your to-do list and your calendar—if you don't, create those first!—but taking organization to the next level will help your supervising attorneys manage their to-do lists as well. After you send up a report, calendar a reminder to check back in to be sure it goes out on time. If you know a question needs to go to the client, take a stab at drafting the email and send it along for the partner or senior attorney to revise and forward. Your boss will appreciate your attention to detail, and you will appreciate that both of you are less stressed.

## Managing “Down”

When people hear management, they typically think of managing “down,” or the direct management of staff, including assistants, paralegals, and any other staff that work on your team. For many associates, this is your first experience managing others. It can be a tricky skill to master, especially when staff members are already established within the firm and have more experience than you. Rather than thinking of yourself as managing “down,” think of yourself as a team leader, and your success depends on leading your team well.

*Build investment:* If you're on a team, everyone should feel like it. Acknowledge people's contributions, make sure the goals are clear to everyone on the team, and eliminate finger-pointing when things go wrong. Strong leaders motivate their teams so that everyone is pursuing the same agenda.

*Ask questions:* Ask the staff you work with how they typically do things. Ask them what's working and what they would change. Ask other staff, other associates, or other departments how they typically do things to generate additional ideas.

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*Guide to Management continued on page 7*

# Calling All Interested YLD Members – Learn More About the Immigration Law Section and Its Webinar Series

by Lauren McClure

The Immigration Law Section's Younger Lawyers Division has provided a webinar series geared toward younger attorneys since 2016. This webinar series was created to give seasoned immigration attorneys a platform to provide knowledge and mentorship to younger and less-experienced attorneys. Over the last four years, distinguished panelists—including accomplished members of the Immigration Law Section from both the private and public sectors—have presented on a variety of immigration law topics. Given the number of changes to federal immigration law over the years, the Younger Lawyers Division webinar series has been a crucial tool to keep younger attorneys and Immigration Law Section members informed on important updates in immigration law.

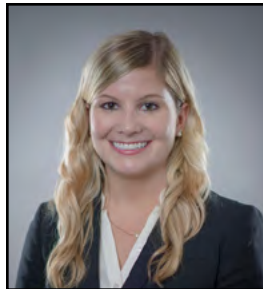
The webinar series typically features six webinars per year. Each webinar covers a new and relevant topic for both immigration practitioners and those interested in learning more about immigration law. Various webinar topics over the years have included: asylum law, appeals, crime victims, naturalization, consular processing, employment-based immigration, federal court litigation, and related topics.

On October 29, 2019, the webinar series featured panelists Professor Deborah Anker of Harvard Law School and Bradley Jenkins, an attorney for the Catholic Legal Immigration Network, Inc. ("CLINIC"), who presented on updates in asylum law. Specifically, the webinar discussed significant recent case law concerning "particular social groups," including the 2019 decisions issued by the U.S. Attorney General in the Board of Immigration Appeals cases *Matter of A-B-* and *Matter of L-E-A-*. Professor Deborah Anker played a critical role in the

case *Matter of A-B-*, as a co-author of the *amicus curiae* brief filed by The Harvard Immigration and Refugee Clinical Program, et al. Bradley Jenkins is the federal litigation attorney for CLINIC, and he served as co-counsel in the case *Matter of L-E-A-*.

The next webinar will be held on April 20, 2020, at 2:00 pm (EST) and will feature two experienced panelists discussing the topic "How to Win Your Cancellation of Removal Case." To obtain more information about the event, or to register, please visit: <https://www.fedbar.org/event/webinar-how-to-win-your-cancellation-of-removal-case/>. Registration is free for FBA members.

To find out more about the Immigration Law Section's Younger Lawyers Division, including its webinar schedule, you can visit: <http://gm.fedbar.org/Sections/Immigration-Law-Section/Younger-Lawyers-Division.aspx>.



*Lauren McClure is an attorney based in Chicago, Illinois. She focuses her practice exclusively in the area of immigration law, including family-based immigration, asylum, removal defense, employment-based immigration, and federal court litigation. Lauren has been a committee member of the Younger Lawyers Division of the Immigration Law Section since 2017 and received the award for Younger Lawyer of the Year at the 2019 Immigration Law Section's Annual Conference in Austin, Texas.*

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## Chair continued from page 1

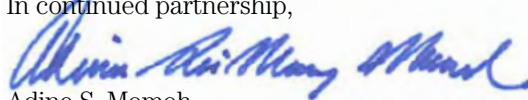
YLD Board is identifying new ways to help the non-profit, which continues to remain open to help and support those in need, support that is especially more important given the COVID-19 pandemic. Stay tuned for more details!

The YLD and I hope you, your families and loved ones all stay safe and hopeful as we continue to manage and live in a new normal. If there is anything

the YLD can do to help our YLD members during this time, please do not hesitate to contact me.

Be safe and be well.

In continued partnership,



Adine S. Momoh

# What Gives?—A Look at Why Charitable Giving Among Individuals Is Declining

by Michael Mirabella

By many metrics, the quality of American life has much improved over the last decade. *U.S. unemployment* has reached roughly its lowest point in 50 years and wage growth for American workers reached a *10-year high* in 2019. Additionally, notwithstanding the notable exception of *recent market recoil* due to escalating fears surrounding COVID-19, the start of 2020 brought with it all-time-highs for the *DOW* and the *S&P 500*, both strong indicators of robust stock market health. Moreover, *disposable personal income* reached its highest point in November of 2019—thus being the likely catalyst of an all-time high for U.S. *consumer spending*. According to some economic metrics, the average American citizen is generally better off now than ever before—at least financially. Yet, individual charitable contributions are down across the board despite unprecedented economic growth. What gives?

According to *Giving USA*, a non-profit foundation which seeks to advance public understanding of philanthropy, individual giving declined 1.1% in 2018 and 3.4% when adjusted for inflation. Total charitable giving in 2018 declined 1.7% when adjusted for inflation when compared with 2017. Furthermore, giving by individuals made up 70% of total giving in the U.S. in the year 2017 and made up only 68% of the same in 2018. Similarly, fundraising revenue among charities was *down* 7.3% in 2019 compared to the same period in 2018.

There are many factors at play that likely influenced individual giving patterns in 2018. Possible factors include strong personal income growth and a late-year stock market contraction. However, it is difficult if not impossible to control for all variables in order to precisely determine which variable is most at fault. In fact, even Giving USA itself concedes that charitable giving is “*multi-dimensional*.” Nevertheless, not all factors share equal weight, and one factor in particular has perhaps affected giving patterns more than others—namely, the federal tax policy change under the *Tax Cuts and Jobs Act* (TCJA).

The TCJA, which generally went into effect on January 1, 2018, changed many aspects of federal tax policy. One of its goals was to simplify the tax code for individual taxpayers. In so doing, the bill nearly doubled the standard deduction from \$6,500 to \$12,000 for single filers and from roughly \$12,700 to \$24,400 for married filers. Because taxpayers have the choice to either itemize their deductions or take the standard deduction, an

increase in the standard deduction would, *ceteris paribus*, incentivize more tax filers to opt for the standard deduction when given a choice between the two. To provide a quick example, let’s analyze the tax effects given two single filers. Filer A, who has yearly deductions (including charitable deductions) which amount to \$10,000 and filer B, whose yearly deductions amount to \$15,000. Filer A would be better off taking the \$12,000 standard deduction because he could not rack up enough deductions on his own to surpass the standard deduction and make itemizing worth it. In other words, filer A can subject less of his money to taxation by taking the larger of the two deductions which, in this case, is the standard. On the other hand, filer B would be better off itemizing because she presumably could deduct more off her income than she could if she were to take the standard deduction given that her itemized deductions supersede the standard deduction.

Although Congress arguably met their goal of simplifying the tax code—at least with respect to individual filers—they seemingly did so at the expense of charitable contributions. Because the option to deduct charitable contributions is only available to filers who itemize, increasing the standard deduction likely discouraged itemization and unintentionally affected charitable giving. Put differently, simplification of the tax code in this way may be contributing to the chilling of individual charitable contributions. It follows logically that as fewer filers itemize, fewer filers donate to charitable organizations because there is less of a tax incentive to do so. For example, *more than 45 million households itemized their tax deductions* in 2016, but that number was expected to fall between 16 and 20 million following the tax reform. Sure enough, the *Tax Policy Center* estimated that approximately 19.3 million filers chose to itemize in 2018. Could tax reform be to blame for the decrease in individual giving?

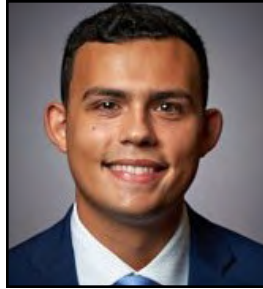
One non-profit seems to think so. *Preemptive Love* is an international 501(c)(3) non-profit that responds with fast relief on the frontlines of conflict-riddled areas by providing food, shelter, medicine, and jobs for victims of war and their families. In a recent online article titled “*People Are Giving Less to Charity Than They Used To. Here’s Why*,” Preemptive Love makes a well-articulated case for continued financial support amidst the ever-changing tax policies. Highlighting Giving USA’s 1.7% decrease, Preemptive Love writes, “[s]uch a small decrease might not seem

like cause for concern. But that 1.7% represents almost \$7.4 billion not given to benefit others.” In their impassioned plea they go on to say, “[t]he needs haven’t changed. And what kind of person you choose to be—how you choose to give to help those in need—doesn’t have to, either.”

Dating back to 1917, the charitable deduction is certainly not going anywhere. But recent tax reform has presented us with a new challenge: ensuring that tax code simplification does not render obsolete incentives for charitable donations. Possible policy solutions proposed in 2019 by *Republican Senator and Chairman of the U.S. Congress Joint Economic Committee Mike Lee* include making charitable deductions “above the line”, meaning that they could be taken by filers in addition to the standard deduction, or replacing the charitable deduction altogether with a charitable tax credit, which would purportedly make the system fairer and more equitable across income groups. How effective either solution is remains uncertain. However, until the tax code is adjusted to address its unintended consequences, the likely result will be the continued decline of individual charitable contributions.

I recommend those interested in reversing this trend to vocalize support for either of the proposed solutions above and/or continue to support or consider supporting non-profit organizations world-wide whose values coincide with their own.

*Disclaimer:* The information, materials, and opinions contained in this article are for general information purposes only, are not intended to constitute legal, tax, or other professional advice, and should not be relied on or treated as a substitute for specific advice relevant to particular circumstances.



*Michael Mirabella is a second-year law student at Cornell Law School. Originally from Florida, Michael earned his Bachelor of Science degree in Finance from Florida State University and enjoys writing on developments in federal*

*taxation law.*

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### *Guide to Management continued from page 4*

Check in often with your staff so you are aware of smaller issues as they come up, so as to prevent bigger issues from emerging later.

***Give feedback:*** Give positive feedback when things are working well—everyone likes to be appreciated. Equally important, give constructive feedback when things aren’t working. Feedback might range from full debrief meetings after major projects or trials to quick drop-ins, such as a short email with feedback regarding tweaks to make on the next filing. Clear communication is key to a successful team.

### **Managing “Sideways”**

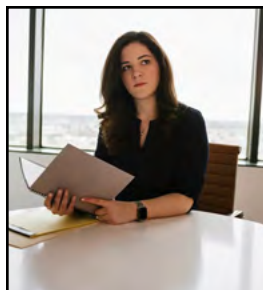
One underrated management arena is managing sideways, or making the most of relationships with individuals whom you don’t work for or supervise. The people you work with can brainstorm solutions to dilemmas, jumpstart your research ideas, and commiserate after a bad day. Many of the above strategies apply to your office neighbors, but there are a few particular strategies with special emphasis for colleagues.

***Build a network:*** There are a lot of guides to networking and mentorship, but not all emphasize the value of your colleagues. Their varied experiences and knowledge may make them good brainstorm partners or problem solvers, or may help you explore new areas of law. Even if you don’t

see one another often, sending a quick email when you think of them or spending an extra five minutes over coffee to catch up can help develop a strong network to turn to with questions or dilemmas.

***Be human:*** Knowing your colleague’s favorite food, favorite band, and favorite books can help you connect in a meaningful way. Learn their interests and share your own. These connections may not only make a long day shorter, but knowing people as humans and not just as colleagues also helps make you more vulnerable, accessible, and likely to ask for help or advice.

Whether it’s your boss, your legal assistant, or your next-door office neighbor, being a proactive manager of relationships can help you—and, in turn, your whole team—succeed.



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*joining the firm, she was a first grade teacher and worked for a national education non-profit.*



# perspectives

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## SPECIAL ANNOUNCEMENT

***In keeping with public health precautions recommended in response to COVID-19, the Supreme Court is cancelling the 2020 FBA Admissions Ceremony scheduled for May.***

*The views expressed in the articles contained within this newsletter are those of the individual authors alone and are not necessarily the views or endorsements of the Federal Bar Association or Younger Lawyers Division.*