

THE FEDERAL BAR ASSOCIATION'S CIVICS EDUCATION INITIATIVE

PHOTO COURTESY REBECCA FANNING.



*One of the most rewarding things I've done as a judge*

BY MICHAEL J. NEWMAN

While working as a United States magistrate judge, I had the great (and rather humbling) honor to serve as national president of the Federal Bar Association (FBA) from 2016 to 2017. One year prior to taking on that role, I had an opportunity to meet with Jim Duff, then the director of the Administrative Office of the United States Courts (AO). When I met Jim, I told him that a magistrate judge had never served as FBA president, and I wanted to contribute in a substantive way, in the hope that my service might make a difference to the federal courts. He suggested that the

FBA focus on civics education, offering a rather shocking statistic: Less than one-third of adult Americans could identify the three branches of government.<sup>1</sup> Far fewer, it seems, understand how the federal courts work or how judges are selected.<sup>2</sup> We agreed, right then and there, that the FBA should create a national civics program.

How to create such a program (and make it successful) was a much harder question, but working as a team, the FBA did so.<sup>3</sup> Our first decision was to focus on civics education for young people, rather than adults. We spent one year planning the initiative, and the

following year — the year of my presidency — we implemented our plan.

It is incredibly rewarding, and very moving, to be with young people as they come to appreciate the importance of the Third Branch for the first time and learn how hard judges work to fairly and equitably decide cases. I've watched as students from underserved neighborhoods participate in a mock trial and then tell me they hope to be the first person in their family to go to college and become a lawyer. Students who have job-shadowed me have shared, at the end of the day, that they want to engage in public ser- ►

vice — just like the lawyers and judges they’ve watched. And, recently, I had a first-year law student tell me that he had decided to attend law school after hearing lawyers and judges speak at a civics presentation the FBA gave at his high school years ago.

Thanks to Jim and his bold idea — and the resulting national civics initiative for young people that the FBA created — federal judges across the United States have had the opportunity to personally meet with thousands of young people, in courtrooms and classrooms, to talk about the rule of law, separation of powers, the federal courts, justice, and due process, among many other topics. Without question, helping to create and run this national civics initiative is one of the most rewarding things I’ve ever done as a federal judge.

### **Creating the FBA’s Civics Initiative**

How did the civics initiative get started? At Jim’s suggestion, I first called Rebecca Fanning, the AO’s national educational outreach manager (read her article on Page 14). Rebecca and I met for two full days and she proceeded to show me every freely available internet civics resource she could find.<sup>4</sup> She had also authored a substantial amount of civics materials herself, though they were located on the federal courts’ intranet and thus

inaccessible to the public. I suggested, and she and Jim Duff graciously agreed, that the FBA could partner with the AO and host these civics materials for the public at [fedbar.org/civics](http://fedbar.org/civics) — a web address we believed lawyers, judges, teachers, and students could easily remember.

Another idea Rebecca and I had was to make it easy for federal judges to participate in civics programming. Knowing how busy judges are, we set about organizing Rebecca’s materials by the amount of time a judge would have to spend with the students. We categorized the materials into four groups: “If you have 15–30 minutes,” “If you have 30–60 minutes,” “If you have 60–90 minutes,” and “If you have 2.5–3 hours.” This way, a judge with even 15 minutes to spare would hopefully be inclined to meet with students. I then made sure, through personal notes to and visits with judges around the country, that judges and court personnel knew about the civics initiative; knew that the FBA was working cooperatively with the AO; and knew that all the civics materials could be found on the FBA’s website.

### **Implementing the Civics Initiative**

The FBA next decided we needed a lawyer “on the ground” in each FBA chapter to ensure the program’s success — an individual we called a “civics

liaison.” I asked Joan Brady, a career law clerk and former Cincinnati/Northern Kentucky FBA chapter president, if she would lead this group, helping to select and oversee all civics liaisons around the country. These civics liaisons were charged with interacting with the local federal judiciary to ensure they knew of the program and encourage participation.

Federal judges throughout the country quickly took us up on our offer and started meeting with students in classrooms and courtrooms using Rebecca’s materials. The results were immediate and rather startling: By the FBA’s calculation, about 10,000 students met with a federal judge in school year 2016–2017, a number that increased by thousands in the following years.<sup>5</sup>

During my year as FBA president, in addition to encouraging judges to personally meet with students, the FBA also engaged in other efforts to increase exposure to the Third Branch:

1. FBA representatives attended the National Council for the Social Studies Annual Conference in Washington, D.C., to tell social studies teachers about the FBA’s civics program.
2. I personally met with judges around the country to encourage them to participate in the civics program.
3. I appeared on radio shows and podcasts to talk about civics education and encourage students and teach-

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ers to meet with local federal judges.

4. The FBA formally recognized 20 of the best civics educators in the United States in each of the appellate circuits.
5. The FBA created and undertook its first civics essay contest, which has continued every year since (and is now partnered with the Federal Judges Association's civics essay contest). The first winners — a middle school student and a high school student<sup>6</sup> — were announced at the United States Supreme Court in March 2017. Justice Sonia Sotomayor graciously agreed to preside. Since that time, Justice Neil Gorsuch has presided at the awards ceremony, typically held at the Supreme Court. The essay contest has grown in scope and now includes video essays as well as written essays.
6. The FBA began several important partnerships with other civics organizations to work collaboratively. These collaborations include, among others, engagement with the National Constitution Center (NCC) in Philadelphia and its president and CEO, Jeffrey Rosen. FBA members now frequently participate in NCC's Scholar Exchange Program that "invites students to actively participate, interact with judges, and truly learn enduring Constitutional principles desperately needed in America today."

#### **Continued Civics Outreach, 2017 to Today**

The FBA's civics program has grown in scope and branched off into many different, exciting directions since its launch five years ago. The program has also supported several other civics initiatives in the federal courts that merit mention.<sup>8</sup>

#### **One-on-One Meetings Between Judges and Students**

In my courtroom, in Dayton, Ohio, we frequently meet with local middle school and high school students. All told, we met with several thousand students before the COVID-19 pandemic started in early 2020. During these visits, students met with one or more district judges and magistrate judges, as well as representatives from the U.S. Attorney's Office, the Federal Public Defender's Office, Probation/Pretrial Services, the Clerk's Office, and the U.S. Marshals Service. We also provided a civics presentation and answered student questions. We often covered other topics, including the need for civility in court matters, the rise of mediation and decline of civil jury trials, the importance of grand and petit jury service, and career options for those interested in public service (including jobs with the federal courts).

When students could not come to us, we went to them. I have driven to

meet with elementary school students, and the Dayton federal judges have held schoolwide assemblies on the Third Branch. Many state and federal judges throughout the United States now routinely meet with students in a similar manner. Judges dutifully continued this work during the pandemic. In September 2021, for example, FBA members met with more than 550 students from 12 high schools by video conference for a one-day civics event held in conjunction with the FBA's annual meeting.

#### **Civics Committees and Websites**

Many circuit and district courts now have a civics committee and/or maintain a civics website. The websites provide constitutional and other educational materials to teachers and students; the civics committees ensure that civics education remains an important part of the court's work.<sup>9</sup>

#### **Magistrate Judge Training**

All newly appointed magistrate judges attend two weeks of training sponsored by the Federal Judicial Center (FJC). Thanks to the efforts of FJC Senior Education Attorney Jim Chance, the FJC invited Rebecca Fanning, Magistrate Judge Kristen Mix from the District of Colorado, Magistrate Judge Shaniek Maynard from the Southern District of Florida, and me to present at these training sessions to encourage newly ►

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appointed magistrate judges to engage in civics education. Our discussion emphasized that civics education is not just something magistrate judges can do; it is something they *should* do. It is now quite exciting to hear that magistrate judges around the country are driving civics education efforts in their courthouses.

### **Celebration of Constitution Day and Bill of Rights Day**

Rebecca's commitment to civics education is remarkable. Working with the FBA, she championed the idea that every middle school and high school student in the United States should know the importance of Constitution Day and Citizenship Day (September 17) and Bill of Rights Day (December 15).

In the last few years, she has asked judges to hold naturalization ceremonies on these particular dates to celebrate these special days. One year, she worked with major and minor league baseball franchises to host naturalization ceremonies before and during games. Another year, federal judges conducted naturalization ceremonies at national parks.<sup>10</sup>

### **Court Camps**

Court camps have been a model of successful civics education, and local FBA chapters throughout the country have supported these efforts. Two such programs stand out:

- **Eastern District of New York.** The Eastern District of New York Court

Camp — started in 2015 by Judge Joseph Bianco with the assistance of career law clerk and then-EDNY FBA chapter president Dina Miller and with the support of the Second Circuit's Justice for All: Courts and the Community program — proved incredibly impactful. During the five-day court camp (the first of its kind in the United States), high school students participated in a naturalization ceremony; argued before the court; and heard from Mary Beth Tinker, the named plaintiff in the 1960's Supreme Court school First Amendment case *Tinker v. Des Moines Independent Community School District*.<sup>11</sup> Campers were paired with law student mentors who guided them through the

<sup>1</sup> Perhaps due, in large part, to the rise in civics education, this number has grown from 26 percent in 2016 up to 56 percent in 2021. *Compare Americans' Knowledge of the Branches of Government Is Declining*, ANNENBERG PUB. POL'Y CTR. (Sept. 13, 2016), <https://www.annenberg-publicpolicycenter.org/americans-knowledge-of-the-branches-of-government-is-declining/> (stating that a 2016 survey "found that just 26 percent of people can name all three branches of government"), with *Americans' Civics Knowledge Increases During a Stress-Filled Year*, ANNENBERG PUB. POL'Y CTR. (Sept. 14, 2021), <https://www.asc.upenn.edu/news-events/news/americans-civics-knowledge-increases-during-stress-filled-year> ("U.S. adults who correctly named all three branches of government increased to 56%, the highest since the survey began in 2006.").

<sup>2</sup> See, e.g., *Americans' Civics Knowledge*, *supra* note 1 (When asked what a Supreme Court 5-4 ruling means, just "61% correctly [identified that] 'the decision is the law and needs to be

followed.' A third of respondents incorrectly chose either 'the decision is sent back to Congress for reconsideration' (19%) or 'the decision is sent back to the federal court of appeals to be decided there' (15%).")

<sup>3</sup> All of the FBA's civics efforts discussed herein were the result of genuine teamwork. The FBA's executive director, Stacy King, and its board leadership were then, and remain, fully committed to civics education. I commend Stacy for her support and likewise thank and commend the FBA's 2020-21 national president, West Allen, for his exceptional civics work.

<sup>4</sup> In meeting with Rebecca and working with her to create this initiative, I quickly realized that there was an existing "civics network" of like-minded judges and court officials who had worked quietly for years — and continue to do so to this day — to make civics more accessible to school students. I thank, among many others, Justice Sonia Sotomayor and Justice Neil Gorsuch, who both gave graciously of their time to read middle and high school civics essays and

deliver awards to winners of the FBA's civics essay contest; Chief Judge Robert Katzman of the Second Circuit Court of Appeals and U.S. District Judge Victor Marrero of the Southern District of New York who, together, created the Justice for All Judicial Learning Center in Manhattan and hosted the first, national civics conference for the federal judiciary in 2019; Hon. Jeremy Fogel and John Cooke, the former and current director of the Federal Judicial Center, the education arm of the federal courts; then U.S. District Judge (and, now, Second Circuit Judge) Joseph Bianco, who worked to create the first week-long court camp in a federal courthouse in the United States in 2015; Chief Judge Rodney Sippel of the Eastern District of Missouri and chair of the Committee on the Judicial Branch, the Judicial Conference Committee working on civics education in the federal courts; United States Magistrate Judge Candace Dale, who helped organize the three-day-long Teacher's Institute in Boise, Idaho, for many years; and Rachel Marshall, an employee of both the Eighth

program and explained the constitutional significance of each step.

• *J. Reuben Clark Law School at Brigham Young University*. In 2017, national FBA leader and board member Rob Clark, from Salt Lake City, met with Rebecca and Judge Bianco to see if the EDNY Court Camp model could work in a law school setting. The resulting successful effort, now known as the Civics, Law and Leadership Youth Camp held at BYU Law School, was different in one respect: It was an overnight civics court camp. The students met with multiple federal judges, traveled from Provo, Utah, to Salt Lake City to argue before those judges in the federal court-

house, heard from a justice of the Utah Supreme Court, and learned about leadership from the BYU Law dean, among many others.

### Conclusion

I am delighted that the FBA has continued its strong, national commitment to civics education, and I thank the FBA for doing so. The future of civics education with the FBA's participation is bright, and I look forward to the next evolution: expanded opportunities for adults (see related story on adult civics education programs on Page 23).

As anyone who has done this work will tell you, once you see a child's eyes light up for the first time when you talk about justice, due process, and fairness, you are hooked as a civics

educator — it's something you want to keep doing and never stop. I thank Jim Duff, Rebecca Fanning, and all those in the FBA who gave me a great gift — the opportunity to teach civics to the next generation. I will be forever grateful.



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Circuit Court of Appeals and the U.S. District Court for the Eastern District of Missouri, who manages the Judicial Learning Center in the Thomas Eagleton U.S. Courthouse in St. Louis. These individuals, and many others, deserve our credit and our thanks for tirelessly promoting civics and teaching the next generation about the Constitution, our founding documents, and the workings of our federal courts.

<sup>5</sup> Hon. Michael J. Newman & Dina Miller, *Federal Bar Association's National Civics Initiative* (Apr. 27, 2018) (on file with author); FED. BAR ASS'N, *Report to the Judicial Conference of the United States Committee on the Judicial Branch* (May 2017) (on file with author); *Civics Education Resources, About Our Initiative*, FED. BAR ASS'N, <https://www.fedbar.org/about-us/outreach/civics-education-resources/about-our-initiative/> (last visited Jan. 25, 2022).

<sup>6</sup> The FBA civics essay contest includes two divisions, one for middle school students and one for high school students. Each division awards prizes to first, second, and third place recipients.

See *Civics Essay Contest*, FED. BAR ASS'N, <https://www.fedbar.org/about-us/outreach/civics-essay-contest/> (last visited Jan. 3, 2022).

<sup>7</sup> *Scholar Exchange Program*, FED. BAR ASS'N, <https://www.fedbar.org/about-us/outreach/constitutional-education/scholar-exchange-program/> (last visited Nov. 16, 2021).

<sup>8</sup> Other FBA-related future civics undertakings, not mentioned here, might include: (1) encouraging the construction of additional Judicial Learning Centers (perhaps, someday, one per Circuit); (2) asking federal judges to hold more naturalization ceremonies outside of federal courthouses (so adults and children can see the Constitution in action, firsthand); and (3) requesting other law-related organizations, when holding national meetings or conventions, to set aside a half or full day, before or after a national meeting or convention, so lawyers and judges in attendance can meet one on one with local students.

<sup>9</sup> In the Southern District of Ohio, where I sit, for example, we have a Civics Education Committee,

as does the Sixth Circuit Court of Appeals. I take this opportunity to thank the Sixth Circuit's former Chief Judge, the Hon. Guy Cole, and the Southern District's current Chief Judge, the Hon. Algenon Marbley, for their mutual, steadfast support of civics education in their respective courts. I also thank Judge Curtis Collier, co-chair of the Sixth Circuit Civics Committee, for his longstanding civics work, including his many newspaper columns and editorials designed to educate the public about this important topic.

<sup>10</sup> Videos of these moving events can be found on the United States Courts' YouTube channel. See United States Courts, YOUTUBE, <https://www.youtube.com/user/uscourts/videos>.

<sup>11</sup> *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969).