

A Message from the Outgoing Chair

What a great honor and privilege to have had a turn at the helm of the Section, working closely with Tracee Davis and the other talented and collegial group of officers, committee chairs, and members—often in committees, working groups, and task forces. (And I thought Presbyterians held lots of meetings!) JetBlue and AirTrain became a regular commute from Rochester to New York City but the Section made noteworthy strides in shortening distances by technology. Videoconferencing connected an Executive Committee meeting—hosted in Buffalo—with Rochester, Syracuse, Albany, Binghamton and NYC, and also united three “thruway communities” for an upstate “tri-city” CLE program (linking Syracuse, Rochester and Buffalo courthouses). We got a glimpse of the future as the video and audio connections worked flawlessly and brought Section members together. Such technological advances will allow the Section to project its presence and programming to all four corners of the state, making this preeminent Section of the bar relevant and attractive to commercial litigators everywhere.



An outgoing chair’s message naturally is backward-looking. But as I look back on the past twelve months I am struck in equal measure by what has been added to the foundation of the Section for the future. In addition to making a renewed commitment to increasing our membership upstate, the Section is poised to continue two other significant initiatives established over the course of the past year: (1) the work of the faster-cheaper-smarter working group and (2) the minority moot court program to attract undergraduate students of color to law school.

More Faster-Cheaper-Smarter

The mantra of “faster-cheaper-smarter” has been invoked by judges at CLEs and by former State Bar President Steve Younger in the House of Delegates, and is captured in the final report of the FCS Working Group, adopted by the Section on June 12. The report identifies five specific initiatives to reduce the time-line and cost of traditional litigation: (1) aggressive early neutral evalua-

tion; (2) expanded mediation; (3) automatic non-binding arbitration in the Commercial Division for cases under a specified amount; (4) use of an a neutral search facilitator to help with e-discovery; and (5) amendments to the CPLR re e-discovery. The complete report is available on the Section’s website at www.nysba.org/ComFed. The “Davis Administration” is exploring how to build upon and advance the FCS agenda and the Chief Judge’s Task Force on Commercial Litigation in the 21st Century. The FCS Working Group’s efforts dovetailed with the Chief Judge’s Task Force and have given voice to client-centered reforms. I am deeply indebted to the FCS Working Group, especially the cadre of exceptional in-house counsel who drove the initiative under the leadership of Chair Mitchell F. Borger, Vice President and Associate General Counsel for Macy’s Inc. I look forward to seeing how these ideas may be implemented.

A Pipeline Initiative for the Ages

Diversity and inclusion are woven into the fabric of our Section, with the groundbreaking Smooth Moves program leading the bar. This year saw another groundbreaking event as the Section established a model pipeline program at UB law school: a moot court program aimed at undergraduate students of color. The inaugural competition at UB Law School will provide a template for undergraduate minority moot court programs at other law schools in New York. This pipeline initiative is multi-cultural in design with all minority law student associations participating. We expect competitions to be organized at several other law schools this next year. The goal is to eventually establish this feeder program at each law school in New York, working with the State Bar and its Committee on Diversity and Inclusion. I am deeply indebted to my partner, Sheldon K. Smith, for organizing the UB Law program, and Justice Ariel Belen of the Second Department for promoting the pipeline program downstate.

At the end of the day, the Section’s strength is its people. I am extremely grateful to have had the chance to serve the terrifically dedicated members of this Section.

Thank you.

David H. Tennant