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The views expressed in the Roanoke Bar Review do not represent the policy or carry the endorsement of the Association unless specifically noted.

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GENERAL DISTRICT COURT: PRACTICE DEVELOPMENTS

NEW REQUIRED PROCEDURES FOR DEBT COLLECTION

BY THE HONORABLE JACQUELINE F. WARD TALEVI

The General District Court Judges of the 23rd Judicial District shall require all litigants who prosecute debt collection actions, including secondary consumer debt purchase cases, in the General District Courts of the 23rd Judicial District to comply with the following **Best Practices Guidelines** beginning January 1, 2013.

Best Practices Guidelines for Debt Collection Cases

Preamble: The National Judicial College reports there has been a significant increase in the number of secondary consumer debt cases being filed in courts across the country. Many courts have responded with specific guidelines that inform litigants of the necessary minimum documentary proof requirements needed to obtain a judgment in these cases. Courts across the Commonwealth, including but not limited to Fairfax County, Newport News, and Richmond General District Courts have adopted Best Practices Guidelines, which set forth specific proof requirements to ensure the integrity and validity of judgments entered by the Court in these cases. The Judicial Education Committee of the Supreme Court of Virginia has responded to this issue by providing educational training to general district court judges at the District Court Judicial Conference 2012 outlining proof issues that may occur in these cases.

Therefore, the General District Court Judges of the 23rd Judicial District to ensure fairness to all litigants, to better manage consumer debt collection litigation, and to improve efficiency in the administration of justice find it prudent and consistent with sound public policy and due process to implement **Best Practices Guidelines** in consumer debt collection actions. Such guidelines shall inform all litigants of the court's expectations and proof requirements regarding these cases. Implementation of the **Best Practices Guidelines** shall commence January 1, 2013 in all the General District Courts of the 23rd Judicial District.

Best Practices Guidelines:

Supreme Court of Virginia Rule 1:4 (a) and Rule 7A:8, "General Provisions as to Pleadings" require counsel tendering a pleading to give assurance as an officer of the Court that it is filed in good faith. In addition to the Rule requirements, the General District Court Judges of the 23rd Judicial District shall require in consumer debt collection actions including secondary consumer debt purchase claims the following:

1. Identifying the Parties to the Claim: If the claim is a secondary consumer debt purchase claim, then the claim shall be filed in the name of the current creditor as assignee of the original creditor notwithstanding the provision in Va. Code Section 8.01-13 that permits the assignee to sue in his own name. By bringing the claim in the name of the current creditor as assignee of the original creditor, the consumer debtor will be apprised of the basis of the lawsuit. For example: *We Own the Debt Now, Inc., Assignee of We First Loaned the Money, Inc., Plaintiff v. I Don't Owe A Thing, LLC., Defendant.*

2. Basis for the claim: If the basis for the claim is a written contract, note, or other written instrument, then the original document shall be produced and tendered to the

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PRESIDENT'S CORNER

BY THOMAS H. MILLER, ESQ., PRESIDENT



It has been said that service to others is the rent we pay for the privileges we enjoy. Members of our Association are privileged. We are privileged to live in a beautiful Valley with a relaxed pace of life. We are privileged to practice in a profession which provides us with the opportunity to earn a comfortable income. More importantly, we are privileged to be a part of a profession with a charge to insure fairness in the judicial process while promoting justice for all. Being so privileged, we do have a responsibility to give back to our community and this Association has had a long history of service to others. The first three months of this new administrative year have been no exception.

Barrister Book Buddies

We kicked off the year with the 13th Annual Barrister Book Buddies program. Thirty-seven of our lawyers and judges have and will read in thirty-three classes in four schools in the City of Roanoke as we serve our community in helping to emphasize the importance of reading in the hope of improving reading scores in K-5 classes. We are especially proud of this ongoing, award-winning program in partnership with Roanoke City Schools.

Rule of Law Day

On October 22, 2012, our Association, with the Roanoke County/Salem Bar Association, participated in the Rule of Law Day in the Valley. Both Bars jointly provided instruction for seventy-three civics classes in Roanoke City, Roanoke County and Salem to emphasize the importance of the rule of law and to help develop a better citizenry. Again our cooperation with the three local school systems is an excellent example of our service to the community. (For more information, see John Koehler's separate article about Rule of Law Day.)

Santa in the Square

On a festive note, on December 3, 2012, we held the 7th Annual Santa in the Square event to make the upcoming Holiday Season a little brighter for some of those in our community who are less fortunate than ourselves. This year we were again hosted by the Roanoke Transportation Museum and we thank the Museum for its hospitality. Photos with Santa, arts and crafts, delicious pizza and snacks were definitely a hit. Enjoy the photos throughout this issue of the Roanoke Bar Review! The real highlight, though, is the trip into "Santa's Sack" where children can select and wrap a special holiday gift to give to a family member or a care provider this Christmas. While children are often the recipients of gifts at holiday parties such as Santa in the Square, it is rare for the children, themselves, to be able to select and wrap holiday gifts to give to family members as well. All who participated had their hearts warmed!

This project was the brainchild of Lori Thompson seven years ago, and she still does an excellent job as "Mrs. Claus"! It is the highlight of the year for many. Santa in the Square was made possible by the Roanoke Law Foundation and many generous sponsors. If you have not had an opportunity to contribute financially to support Santa in the Square and would like to do so, information is available on the Association's website at www.roanokebar.com.

Oliver Hill House Mentorship Program

And, last, but certainly not least, as we move from the magic of this Holiday Season to the anticipation of a New Year, there is a new volunteer opportunity available to members of our Association

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GENERAL DISTRICT COURT: PRACTICE DEVELOPMENTS

INTRODUCING: THE *DISTRICT COURT JUDGE'S BENCHBOOK*

BY JUSTIN E. SIMMONS, ESQ.

"I pity the fool who don't use the *District Court Judges' Benchbook*."

Okay, that's not exactly what Roanoke City General District Court Judge Francis W. Burkart III had to say about those of us who don't use the recently updated *District Court Judge's Benchbook* in our district-court practices. But what he did say was not that far off: "I think it's a tremendous resource for lawyers. I think that . . . you would be foolish not to [use it]." And I couldn't agree more.



I must confess, though, that I didn't know that the District Court Judge's Benchbook even existed until about a month ago when I was assigned to write this article. And I'm sure that many of you who are reading this are just now learning about it for the first time. So allow me to give you a brief overview of what the Benchbook is, where it can be found, and how it can help you in your district-court practice.

Like its two older cousins—the *Virginia Criminal Benchbook for Judges and Lawyers* and the *Virginia Civil Benchbook for Judges and Lawyers*—the *District Court Judge's Benchbook* is a comprehensive yet fairly concise reference volume written by those who know the law best—judges. Unlike those other resources, however, you won't have to pay Lexis an arm and a leg to get it. In fact, it's free—just click on the link found on the General District Court's Web site at <http://www.courts.state.va.us/courts/gd/home.html>. (Okay, it's not entirely free if you include the cost of printing it out, but it's as close to a free lunch as you're going to get when it comes to legal publications.)

The *District Court Judge's Benchbook* is composed of three sections—District Courts – In General, General District Court, and Juvenile and Domestic Relations District Court. Each section is then divided up into chapters, which cover nearly every legal issue you're likely to come across in your district-court practice. Say, for instance, you need to find out whether the district court's \$25,000 jurisdictional limit applies to detinue actions. No problem. The *Benchbook's* got you covered: In the detinue chapter, you'll learn not only that the answer is "yes," but also find a citation to the Code section that says so. Using the *Benchbook* to discover this kind of information is so much quicker than using any other resource that I can think of—the search literally took just seconds.

For new lawyers like me, the *District Court Judge's Benchbook* is an invaluable resource. Indeed, as Judge Burkart, who worked on updating the criminal procedure chapters, said: "If you hit the *Benchbook*, it's going to get you to the Code sections that you need. . . . It would speed along your education." But new lawyers are not the only ones who can benefit from the *Benchbook*. It's also helpful to "those who have been practicing for some time but appear infrequently in district court" as well as "the public," said Roanoke County General District Court Chief Judge Jacqueline F. Ward Talevi, who also had a hand in updating the criminal procedure chapters.

When I asked Judge Burkart if he had any pointers for those of us who practice in district court, he said: "The best thing that you can do is be prepared—know the law and the facts." Chief Judge Talevi offered similar advice: "Read the statutes." Familiarizing yourself with the *District Court Judge's Benchbook* will undoubtedly help you follow both judges' counsel by pointing you to the law that you should know

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GENERAL DISTRICT COURT: PRACTICE DEVELOPMENTS

COURT TRANSLATION SERVICES: A WELCOME CHANGE

BY THE HON. JACQUELINE F. WARD TALEVI



In 2011, the General District Courts in the 23rd Judicial District tried roughly 69,390 criminal and traffic cases. During that same year, litigants filed approximately 30,000 civil cases. Increasingly, court personnel observed that many defendants did not speak or understand English. Courtroom communication often depended upon a language line interpreter whose translation was so garbled as to be unintelligible because an out dated phone system worked only if the judge remembered to

stand facing east balanced on her left foot with her right foot pointed outward while crossing the ring and pinky fingers of her left hand and simultaneously yelling into the telephone speaker box that was positioned approximately 4 feet away from all the parties.

After raising the issue of our judicial district's growing need for an interpreter, I am pleased to report that the Office of the Executive Secretary for the Supreme Court of Virginia has hired an interpreter to provide in-court translation for the District Courts of the 23rd Judicial District. LeAnne Karlinsky is a certified Spanish interpreter who has served the courts of the Commonwealth of Virginia and Tennessee since 1999. Ms. Karlinsky earned an Associate of Arts Degree from Angelina College, in Lufkin, Texas. After graduating from college, she held positions as an instructor of Spanish at several educational institutions including the Dayton Learning Center, Wytheville Community College, Carroll County Public Schools, and Angelina College. She has been employed as a translator for Twin County Regional Hospital, Woodstock Clinic, and Solutions Employee Assistance Services.

As a certified foreign language interpreter for the Supreme Court of Virginia, Ms. Karlinsky provides word-for-word translation and is obligated to fulfill the ethical duties the Code of Professional Responsibility for Foreign Language Interpreters imposes upon certified interpreters. The Code of Professional Responsibility for Foreign Language Interpreters prohibits augmentation, supplementation or explanation of statements made by an attorney or a client (Canon 1) and (Canon 7). Moreover, the Code of Professional Responsibility for Foreign Language Interpreters prohibits interpreter disclosure of confidential information including discussions between the attorney and the client (Canon 5).

Once a criminal or traffic case is filed with the General District Court and the court has notice that the defendant requires an interpreter, the Clerk shall notify Ms. Karlinsky of the defendant's name and court date. Ms. Karlinsky or her designee will be present in court that day to provide translation assistance on that case. If counsel is appointed, the Clerk shall notify Ms. Karlinsky of the appointment of counsel and counsel's contact information. The Clerk shall provide court appointed counsel with Ms. Karlinsky's contact information by written notation on the copy of the warrant or summons. Upon request by counsel, Ms. Karlinsky will provide translation assistance to attorneys during consultation with the client at the attorney's office, at her office in Roanoke City or at the jail. Counsel must contact Ms. Karlinsky directly to schedule an office appointment or jail visit. She will appear in court with the accused and counsel and provide interpretation during the hearing. At this point, she will provide interpreta-

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VIEWS FROM THE BENCH: JUDGE DOHERTY

BY MICHAEL P. GARDNER

Whenever I feel like I've led a somewhat uneventful life, I need only spend a few hours with Judge Doherty to confirm my suspicion. I doubt my career will involve getting caught in the middle of a shootout with escaped convicts, or working two Assistant Commonwealth's Attorneys jobs at once while running a private practice on the side. I sincerely hope I am never in a plane (or helicopter) crash (Judge Doherty has experienced both). I did not finish law school in two years, much to my loan holder's delight. Yet, despite the deflating effect Judge Doherty's recollections had on my aspiration to be interesting, I had no problem enjoying an afternoon listening to them.



If one common thread runs through Judge Doherty's narratives, it's his constant reference to the people he was with. The Judge is pretty good with names. And he makes sure not to let any discussion end without the proper acknowledgments. This trait speaks to an apparent value that rests high in the Judge's esteem: collaboration, or at least cooperation. Judge Doherty frequently admonishes, only half jokingly, that a lawyer has three responsibilities in court. "First, don't look dumb; second, protect yourself and your opposing counsel; and, third, since you're there anyhow, you might as well try to do some good for your client." Not all practitioners would agree with the Judge's view that counsel needs to protect the opposition (though I suspect that sentiment runs high in local practice). In the same vein, Judge Doherty does not appreciate offensive application of the rules to catch opposing counsel with a "gotcha" motion, much to the chagrin of many counsel appearing before Judge Doherty for the first time.

One should not, however, mistake the Judge's penchant for collaboration for an aversion to aggressive legal tactics. One piece of advice he passed along was: always try to visit opposing counsels' offices for some reason. Drop by to discuss a case or hand deliver a motion and while there, be a keen observer. Judge Doherty confided that when he saw a messy desk and an office full of files, he'd start pushing his case more aggressively because he knew that lawyer was busy. Or just messy. Either way, the Judge knew that he'd have an advantage in moving quickly.

The key touchstone in toeing the line between aggressive and inappropriate practice, according to the Judge, is fairness. He jokes that he finally gets the cellophane off of his rulebook sometime in late November. Never mind that he's been practicing or on the bench for forty years and knows the rules (and their history); his point is that he has little tolerance for technical applications of the rules that produce inequitable results. Such tactics run afoul of his notion of fairness and his understanding of how colleagues should practice.

During his days as a practitioner, Judge Doherty "specialized in whatever walked in the door." In the days before online research, a broad practice required a large library. And among the members of the Roanoke bar, a decent library was to be had as long as you knew whose office to visit for which books. This collective library was vital to practicing in the pre-internet era, and it gave Judge Doherty another excuse to visit offices and learn about his fellow bar members.

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ROANOKE LAW LIBRARY NEWS AND INFORMATION

BY JOSEPH KLEIN, LAW LIBRARIAN



About this time every year, I am shocked by how rapidly time has passed and that the holidays are fast approaching. 2012 has been no different. I hope that everyone in the Roanoke legal community enjoys the holiday season and that you all have as much to be thankful for as I do. One of the many things that I am truly thankful for is the wonderful relationships I have—personally, with the individual attorneys and staff members who

come into the law library, and organizationally, with the Roanoke Bar Association. I look forward to continuing and strengthening these relationships in the coming years. I am also thankful for my beautiful family, particularly my daughter Harper, who has enjoyed learning the subtleties of working the reference desk.



Westlaw Spotlight

Budget constraints and lack of space have caused the collection at the Roanoke Law Library to change considerably over the years. We used to be able to provide national coverage with our reporters and to maintain an exhaustive collection of treatises. Now, we have been forced to concentrate mostly on the Virginia resources that answer a large majority of all the questions our constituents face. The most used and useful part of our Westlaw subscription is the access it provides to annotated statutes and case law for all 50 states, as well as the United States Code. I would just like to take a moment to shine a spotlight on some of the many other useful Westlaw databases that you might not know about.

Our subscription provides access to a wealth of resources in the American Jurisprudence collection. Most obviously, this data base offers access to American Jurisprudence 2d, the authoritative legal encyclopedia that provides comprehensive information on hundreds of the legal subjects. The collection also includes American Jurisprudence Legal Forms, including more than 22,000 business and general legal forms with drafting guides, checklists, practice aids, and notes. Another wonderful resource is American Jurisprudence Pleading and Practice Forms, with over 40,000 state and federal practice forms, checklists, and time-tables. Our subscription also provides access to American Jurisprudence Proof of Facts, featuring articles that look at a variety of civil litigation and criminal defense actions and identify the essential facts of each case and how to prove them. Additionally, your law library provides access to American Jurisprudence Trials, which looks at successful techniques and strategies used by some of the leading trial attorneys and legal experts and provides step-by-step instructions on how they litigated over 300 actual cases.

Our Westlaw subscription also provides access to hundreds of authoritative treatises on a variety of legal topics. With this resource, you can find up-to-date treatises on most topics. Williston on Contracts, Sutherland on Statutes and Statutory Construction, Norton's Bankruptcy Law and Practice, White and Summers Uniform Commercial Code, Wharton's Criminal Evidence, and Newberg on Class Actions are just a few of the treatises available with the library's Westlaw subscription.

Remember, we provide free access to Westlaw to everyone, whenever the Law Library is open, and a library staff member is always on hand to assist you. To find out if the library has a treatise on the topic you are researching—either in our collection or on Westlaw, or to ask any other research question, please give me a call at 853-2268.

RVLSA'S 47TH ANNUAL BOSSES' NIGHT

RVLSA, the association for legal professionals, held its 47th Annual Bosses' Night on Tuesday, September 25, 2012, at the historic Maridor Bed and Breakfast on Grandin Road. RVLSA hosts this event not only to honor the members' bosses, but also to help raise funds for a scholarship presented each year to a local high school or college student pursuing a career in the legal field.

RVLSA would like to extend their thanks to the RBA and its members for their continued support of our programs and scholarship efforts.

Greg Persinger, Director, Legal Policy & Compliance at Geospatial Systems, was named RVLSA's 2012 Boss of the Year. Greg's administrative assistant nominated him and spoke highly of his ethical behavior, his promotion of education and training, and the encouragement he gives his staff to achieve success.



Heather Hale, PLS, of Woods Rogers, was named RVLSA's 2012 Member of the Year. Last year's Member of the Year, Nancy Stewart, had the honor of presenting this award to her daughter. Heather has been involved with the organization for many years, and is truly deserving of this award. She has served on the RVLSA board for many years, and is currently serving on the state board of

the organization.

If you or anyone on your staff is interested in becoming a member of RVLSA, or would like additional information regarding our organization, please contact RVLSA's Vice President, Faye Vucich, fvucich@frankmillerwebb.com.



Dawn M. Nichols is Assistant to Greg Persinger at ITT Exelis

COURT TRANSLATION SERVICES: A WELCOME CHANGE

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tion for criminal and traffic cases only. If you have questions about her credentials, her availability, the Code of Professional Responsibility for Foreign Language Interpreters, or general questions about foreign language interpreters, please contact her. Ms. Karlinsky's contact information is: karlinsky@courts.state.va.us or 540-676-5246.

The Juvenile and Domestic Relations District Court may develop different procedures to utilize Ms. Karlinsky's expertise. You may wish to contact the Clerk's office of the Juvenile and Domestic Relations District Court to determine these procedures.

While I will miss the acrobatics and challenges posed by the old ways of "Can You Hear Me NOW" language line translation, I will get over it. I know you will welcome LeAnne.

Judge Talevi is the Chief Judge, General District Court, 23rd Judicial Circuit

ANOTHER SUCCESSFUL RULE OF LAW DAY IN THE ROANOKE VALLEY

BY JOHN S. KOEHLER, ESQ.

For the fifth time in four years, the two local bar associations of the Roanoke Valley joined together to bring the Virginia Law Foundation/Virginia Bar Association's Rule of Law Project to the Valley's middle school civics students. The Rule of Law Project was first presented in the local middle schools in February 2009 as a pilot project. The success of that effort resulted in the project becoming a regular program of the two associations starting in the fall of 2009, and also served as a model for similar programs by other local bar associations throughout Virginia. In 2011, the Project received an Award of Merit from the Virginia State Bar's Conference of Local Bar Associations.

The Roanoke Bar Association and the Salem/Roanoke County Bar Association have worked together each year on "Rule of Law Day," as it has become known, to bring local judges and attorneys into the civics classrooms of the three local public school divisions. Working with the civics teachers, the judges and lawyers bring the abstract concepts from the textbook to life with anecdotes from the courtroom, personal observations on how the rule of law has worked to improve life in America, and also discussing the reality that sometimes we fall short of that goal by not observing the precepts of the rule of law.

This year, seven judges, our two local Congressmen, and over 40 other citizen lawyers participated in Law Day, visiting more than seventy classes and interacting with over 2000 students. In every class, a ten-minute video prepared by the Project was shown to the students. The film depicts a typical teenager speaking directly to the audience about the rule of law, with commentary on the questions she poses provided by former Governor Gerald Baliles and the late Chief Justice of the Supreme Court of Virginia Leroy R. Hassell, Sr., among others.

Typical of the response from the Rule of Law Day volunteers was this observation by Judge Philip Trompeter, "The teacher was excellent, and prepared the class to discuss these issues. Because I visit schools and talk to students regularly in these settings, I found that the Rule of Law Project gives me—and anyone who participates—an excellent framework to showcase the importance of this topic in a fun and thought-provoking way."

Many volunteers commented on the obvious perception of many of the students which showed a knowledge of the personal effect that the law can have on individuals beyond what one might expect in young teens. Ellen Stick, Social Studies Supervisor for the Roanoke City Schools, agreed. "Middle school students come to us with a depth of experience as well as a lot of questions. Providing valid conversations and discussions as a result of this program will, in the least, help them to understand the facets of our Constitution and encourage them to advocate for justice in today's society," Stick said.

Local attorney Mike Pace, who created the Rule of Law Project during his tenure as President of the VBA, thanked all of the participants for another successful year. "What occurred [on Rule of Law Day] was truly remarkable and significant," said Pace in an email to the volunteers. "Through the efforts of our volunteers, these students received a rule of law education they will remember. As I like to say, they now have a personal relationship with the rule of law they can stick in their pockets and walk around with the rest of their lives."

Pace also expressed his continued admiration for the administrative support provided by RBA Executive Director Cathy Caddy. Pace noted that Caddy, along with the SRCBA's Corresponding Secretary, John Koehler, and Pace's administrative assistant, Sharon Thomp-

POFF FEDERAL BUILDING RENOVATION UPDATE

BY JENNIFER LEWIS RA, LEED AP

Phase 1A of renovations to the Richard H. Poff Federal Building, funded by the American Recovery and Reinvestment Act ("ARRA"), will end in late December. Work soon to be complete includes the new window wall facing Franklin Road, renovated restrooms on the west end of the building, and new heating and air conditioning systems on the north side.

The Clerk's Office, Probation, and Chambers' Staff will move into newly renovated areas on the north side of the building, and work on Phase 1B will begin in January. Work in this phase will include improvements to lighting and mechanical systems. Phase 2 work will begin in the spring, and will focus on improvements to the south-facing window wall. The project is on schedule for a January 2014 completion.

Emergency work unrelated to the ARRA funded renovation project was begun on November 16 to address concerns about failed brick tie connections on the west face of the building. The General Services Administration ("GSA") determined that the brick was unsafe and needed to be removed. Removal involved the use of a crane and shear plate, which separated brick from the building and dropped it to a sand bed in the parking lot below. Work will continue at the edges of the wall using a swing stage and hand-removal of bricks close to windows. Removal of brick on the east face will also be necessary, but has not yet been scheduled. GSA has determined there is no danger of failure on the east face.

The Clerk's Office recommends that visitors to the Poff Building allow an additional 15 minutes for parking and building access during construction. Currently, to enter the building, members of the public must use a covered ramp walkway from the corner of Franklin Road and Second Street.

Jennifer Lewis is Project Manager/Architect at the United States District Court for the Western District of Virginia

son, "handle all of the logistics and make it look easy when it is not. They are our backbone. We are unable to do what we do without their tireless efforts."

Along with Timothy Isaacs, the VBA's Education Director for the Rule of Law Project, Pace has recently founded the Center for Teaching the Rule of Law which will be hosted by Roanoke College in Salem. The Center will continue to promote the Rule of Law Project throughout Virginia and, according to Roanoke College President Michael Maxey, "will serve as a forum for discussion and debate involving national and international rule of law advocates, scholarly research and writing on related topics, and collaborative initiatives with other organizations and institutions."

A "mini" Rule of Law Day will be held in the Roanoke County Public Schools next February so that the Project can be presented to second semester Civics students under the County's block scheduling program. Additional information about volunteering to participate in this event will be forthcoming.

John Koehler serves as Corresponding Secretary for the SRCBA, partner with the RBA in the Rule of Law Day project



SANTA IN THE SQUARE- DECEMBER 3, 2012





SANTA IN THE SQUARE- DECEMBER 3, 2012



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 Dudley and Natalie Woody

YOUNG LAWYERS ORIENTED TO STATE AND FEDERAL PRACTICE

On November 30, 2012, the RBA welcomed nineteen young lawyers to The Practice of Law in the 23rd Circuit and the Western District of Virginia, an orientation seminar for Roanoke-area lawyers with less than five years' practice experience. The program opened with breakfast in the Roanoke City Law Library and opening comments by Judge Clifford R. Weckstein, Chief Judge of the 23rd Circuit, and the Honorable Brenda S. Hamilton, Clerk of the Circuit Court for the City of Roanoke. Law Librarian Joey Klein hosted the opening session and oriented the young attorneys to the resources available in the Law Library. A brief tour of Ms. Hamilton's clerk's office followed.

The seminar then changed venue to the Poff Federal Building. In the maze of construction safety barriers, we successfully dodged any falling bricks and meandered our way to the ceremonial courtroom on the first floor where Judge Michael Urbanski and other U.S. District Court personnel led a discussion about practice in the U.S. District Court for the Western District of Virginia. Judge Urbanski arranged interesting presentations from a deputy clerk, the jury coordinator, the court's IT specialist, a probation officer, and the U.S. Marshall's office. Judge Urbanski concluded the program, emphasizing to the young lawyers the importance of professionalism and civility in the practice of law.

We heartily invite all of the seminar participants who are not already RBA members to apply soon for RBA membership and to lend their time and talents to the many RBA service projects.

PRESIDENT'S CORNER

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in 2013 that should be very exciting. Our Association, in collaboration with the Ted Dalton American Inn of Court, the Oliver Hill Foundation, Roanoke City Schools, and Big Brothers/Big Sisters, is sponsoring a mentorship program for Roanoke City School students after school at the Oliver Hill House on Gilmer Avenue. Oliver White Hill played an important role in ending segregation and seeing to it that all children are educated equally so that all share in the same bright future this land of opportunity affords. Mr. Hill's childhood home has been preserved and will be the center for two things that he held most sacred: children and their educational needs. What our Association can provide is volunteer help. Be a special interest presenter, a tutor, a greeter, an attendant, or a Big Brother/Sister to mentor these children to help insure that their educational needs are met, to impress upon them the importance of the heritage of Oliver Hill, and to be a positive influence in their lives. Our Association's Young Lawyer Committee is looking forward to finding volunteers to serve in these various roles and to the possibility of designing a special project for the month of May, Law Month, to culminate our administrative year.

There are many ways to get involved in service to our community. Please avail yourself of the opportunities before you. You will find your experience personally fulfilling, greatly appreciated by your community, and a great opportunity to experience the collegiality and civility that distinguishes our Bar.

Have a wonderful Holiday Season and a Happy New Year!

Thomas H. Miller is a Partner at Frankl Miller & Webb, LLP

REMEMBERING JUDGE GLEN WILLIAMS

Western Virginia has lost a long-serving, well-respected jurist. The Hon. Glen Morgan Williams, Western District Judge for 34 years, died on November 4, 2012, at age 92. Appointed by President Gerald Ford in 1976, Judge Williams presided over cases, primarily in the Big Stone Gap and Abingdon Divisions of the Court, until his retirement in February 2010. His former law clerks



include the Hon. Cynthia Kinser, Chief Justice of the Supreme Court of Virginia, United States Magistrate Judge Pamela Meade Sargent, and George Allen, former Virginia governor and former United States Senator. Judge Williams' daughter, Judith Williams Jagdmann, is a former state attorney general, now serving on the Virginia State Corporation Commission.

A native of Jonesville, Virginia, Glen Williams was valedictorian of Jonesville High School's Class of 1936 and graduated magna cum laude from Milligan College in 1940. The day after the December 1941 attack on Pearl Harbor, Williams joined the United States Navy. He fought in the Atlantic, Pacific, and Mediterranean theaters, as well as in the Allied invasion of southern France.

After the war, Williams continued his education and graduated in 1948 from the University of Virginia School of Law, where he was a member of the Order of the Coif, the Raven Society, and the Virginia Law Review editorial board. Williams then engaged in the private practice of law for 30 years in southwest Virginia. During that time, he served as Commonwealth's Attorney for Lee County and as magistrate judge for the United States District Court for the Western District of Virginia from 1963 to 1975. Judge Williams also served in the Virginia Senate and on the founding committee and board of the University of Virginia at Wise.

The Roanoke Bar Association applauds Judge Williams' years of dedicated public service and mourns with his family and friends at his passing.

INTRODUCING: THE DISTRICT COURT JUDGE'S BENCHBOOK

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and the statutes that you should read—which in turn will not only help you win your case, but also make you look smarter in front of the judge and (more importantly) your client in the process. (And at the end of the day, isn't that all we really care about?)

If you'd like to read other views on how the *District Court Judge's Benchbook* can help you in your district-court practice, check out Peter Vieth's article "Benchbook Bounty: Judge's guidebook helps busy lawyers," which was published in the September 24, 2012 edition of *Virginia Lawyers Weekly*.

Justin Simmons is an Associate with Johnson, Ayers & Matthews, PLC

JUDGES NEEDED FOR CLIENT COUNSELING COMPETITIONS AT W&L

Washington and Lee University will be hosting the ABA Regional Client Counseling Competition on February 16-17, 2013. In order to successfully run this event, the W&L Moot Court Board is calling for lawyers to serve as judges for each individual round of competition. Anyone who works as an attorney and/or holds a Juris Doctor can serve as a judge.

The competition schedule is as follows:

Saturday, Feb. 16: Preliminary rounds, requiring 36 volunteer attorney judges, to arrive no later than 9:00 a.m., with all rounds completed around 1:00 p.m.

Saturday, Feb. 16: Semi-final rounds, requiring 12 volunteer attorney judges to arrive no later than 1:30 p.m., with all rounds completed around 4:30 p.m.

Sunday, Feb. 17: Final round, requiring 3 volunteer attorney judges, to arrive no later than 9:00 a.m. The competition will conclude by 1:00 p.m.

Please consider serving as a judge for this competition. ABA competition rules mandate that the judging assignments be completely random. This rule all but eliminates W&L faculty members from serving as judges, because they might be assigned to judge a W&L team, thus creating the appearance of unfairness.

To volunteer to be a judge, or for more information about the competition, please email Christopher L. Edwards, Chair-Washington & Lee Moot Court Executive Board, Washington & Lee School of Law: Edwards.C@law.wlu.edu Or call Chris at (304) 550-5331.

Discount for Trial Ad Course

Interested Roanoke Valley attorneys may take advantage of a discount toward tuition for the 32nd National Trial Advocacy College, to be held at the University of Virginia School of Law from January 5-10, 2013. The Hon. Clifford R. Weckstein, Judge of the 23rd Judicial Circuit of Virginia, has served for many years on the faculty of this esteemed educational program, which is considered "the country's premier trial advocacy program for lawyers." The sponsor of the program has authorized faculty members to make it known that registrants can obtain a \$250 "faculty sponsor" discount on their registration fee, simply by using the coupon code **FACULTY** when registering on line or by mail.

Information about the college is available at www.trialadcollege.org. Law firms seeking details about discounts for sending multiple lawyers to the College may contact Brian J. Bill at brian.j.bill@vacle.org or 434-951-0054.

VIEWS FROM THE BENCH

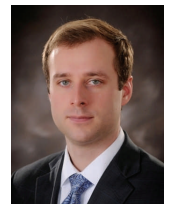
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One might draw the conclusion that Judge Doherty bemoans the advent of online research, given the attendant consequence that counsel now learns more about Boolean search terms than they learn about their colleagues. In fact, Judge Doherty loves the convenience of online research. He sees no excuse to be ignorant of recent decisions that affect counsels' cases given the ease of following legal developments in the internet age. The Judge prides himself on his up-to-date knowledge of Supreme Court of Virginia decisions via that Court's website. He makes sure to read every opinion summary in Virginia Lawyers Weekly and pulls many of the opinions from the internet to read in full.

Yet, as the practice of law does draw us more towards our computer screens and away from the resource pooling that was essential in his early career, Judge Doherty believes that the Bar has an obligation to encourage and develop a collaborative, interactive practice. Though the Judge gained a competitive advantage when he visited other counsels' offices, he was also visiting for the sake of catching up with friends. The reality is that we are less likely to engage in unfair tactics when we are friendly, or at least acquainted, with the other side. Moreover, the dissolution of reliance on other attorneys for research and advice leads to important values and ethics not being shared with the next generation of practitioners. Young attorneys may have better access than ever before to case-law dictating when certain motions can and cannot be made; however, Judge Doherty believes that experienced local practitioners need to provide continued guidance on when certain motions *should* or *should not* be made.

Ultimately, Judge Doherty's message is quite simple. There have been wonderful advancements in practice during his career, but the nature of those changes dilute some important advantages that accompanied older methods of practice. The onus is on us to ensure that the reduced necessity for collaborative effort does not lead to a reduced valuation of the same. Whether it is engaging in community service, such as Santa in the Square, or making the effort to attend the Bar luncheons, or stopping by counsel's office for some "friendly recognizance," the Judge is a firm believer that collaborative interaction is one of the keys to a successful, enjoyable career.

Of course, in light of these emotive themes of fairness, togetherness, teamwork and cooperation, it is easy to forget that this whole discussion revolves around Judge Doherty's *second* piece of advice for practitioners. I intend to pay equal or greater respect to his initial suggestion: "first, don't look dumb." Easier said than done, I have found.



Michael P. Gardner is an Associate with LeClairRyan

Bench Bar Conference

Friday, February 22, 2013

Details Coming Soon!

NEW REQUIRED PROCEDURES FOR DEBT COLLECTION

(Continued from page 1)

Court unless production of the original is excused by the Court for good cause or by statute. Rule 7B:5. If the original document cannot be located, a lost document affidavit shall be submitted. Va. Code Section 8.01-32.

3. Proof of Assignment: Plaintiff shall attach to the Warrant in Debt all documents supporting the full chain of the assignment or other documentary evidence establishing that the plaintiff/creditor is the owner of the debt. If the debt has been assigned more than once, then each assignment or other writing evidencing transfer of ownership must be submitted to establish an unbroken chain of ownership. Each assignment or other writing evidencing transfer of ownership must contain the debtor's name and the account number associated with the debt.

4. Proof of Amount Owed: Plaintiff shall submit all documents containing the amount claimed as currently owed, broken down by principal due at the time of default, interest, fees, and other charges. If the claim is based upon a credit card account, then the plaintiff shall produce, in addition to the above, at least one statement showing defendant's actual use of the credit card during the default period.

5. Open Account: If the claim is a secondary consumer purchase debt claim and is based on an open account, then plaintiff must produce a copy of the account if there is one. Va. Code Section 16.1-88. To establish the account, plaintiff may submit a copy or copies of billing statements generated by the *original* creditor or, if not available, other records with sufficient indicia of reliability which may include electronic files so long as they contain detailed information such as the date the account was open, with whom, the original account number, debit/payment histories, the date the account was charged off, and the amount due on the account.

6. Attorney's fees: Absent a signed cardholder agreement, attorney's fees shall not be allowed. If plaintiff tenders a signed cardholder agreement, plaintiff should highlight or circle the relevant provision in the signed agreement.

7. Interest: Absent a signed cardholder agreement, interest awarded will be awarded at the judgment rate established by Virginia statute unless the Virginia rate is preempted by a specific federal law or regulation or by exportation of the laws of the home state per federal law, in which case the preemption must be documented for the Court. Plaintiff should highlight or circle the relevant provision in the signed agreement.

8. Compound Interest: Not allowed unless provided by the contract or preemption of Virginia law by a specific federal statute or regulation or exportation of the laws of the home state per federal law, in which case the preemption must be documented for the Court. Plaintiff should highlight or circle the relevant provision in the document.

9. Affidavit: If judgment is requested on the affidavit, then, the affidavit must contain sufficient allegations of fact to:

- Inform the defendant as to the basis of the plaintiff's claim and include the identity of the original creditor
- Establish the chain of transfers of the account from the original creditor to the current plaintiff
- Statement that the affiant is not only familiar with the account but has examined the documents establishing the basis of the plaintiff's claim including documents which establish chain of transfer of the account and plaintiff's ownership of the account
- The affiant must be authorized by the law firm to sign the affidavit on behalf of the law firm that is bringing the claim

10. Return Day: Upon default of defendant, the plaintiff shall submit the case to the court for entry of judgment with all documentary evidence attached as required by the Court's **Best Practices Guidelines**. The Court shall note the default, then at the conclusion of the docket, retire to chambers, and closely examine each case to determine the completeness and accuracy of the case documents. If the Court finds the file is complete and satisfies the **Best Practices Guidelines** requirements, then the Court shall enter judgment as requested. If the Court finds the file is incomplete or fails to satisfy the **Best Practices Guidelines** requirements, then the Court shall dismiss the case without prejudice pursuant to Section 8.01-428 (B). The Clerk will not contact counsel or the parties to notify counsel or the parties of the Court's decision; rather, the Court shall notify counsel or the parties electronically via the Court's website www.courts.state.va.us. See Section 8.01-428 (C)

Upon default of defendant, the plaintiff may ask the court to note the default on the file and schedule the matter for another date on the court's return docket to present **ex parte proof**. The **ex parte proof** hearing date shall be set not more than 90 days from the original return date. If the authenticity of the claim cannot be established on the **ex parte proof** hearing date, then the court shall dismiss the claim without prejudice or, upon plaintiff's motion, the court may enter an order of non-suit providing no previous non-suit has been entered by a court on this claim brought by the current plaintiff or any preceding claimants in the chain of transfer.

If the defendant appears and confesses judgment, then the Court shall enter judgment on the case as filed.

If the defendant appears and disputes the claim, then the Court shall set the case for trial on the court's contested trial docket.

11. Trial: If the plaintiff/creditor is not prepared for trial on the assigned contested trial date and the defendant/debtor appears and is ready for trial, the Court may:

- Dismiss the claim with or without prejudice;
- Take other action such as continuing the case at the request of either party;
- Enter such order(s) as justice requires, including awarding costs to the defendant/debtor

If the defendant/debtor either fails to appear or is not ready to proceed to trial on the assigned trial date, but the plaintiff/creditor does appear and is ready for trial, the Court may:

- Grant judgment by default if defendant does not appear pursuant to the Court's procedure as outlined herein; or
- Take such other action such as continuing the case at the request of the plaintiff/creditor; or
- Enter such order(s) as justice requires, including awarding costs to the plaintiff/creditor.

If neither the plaintiff nor the defendant appear on the assigned trial date or both parties appear and neither is ready to proceed to trial, the Court may:

- Dismiss the claim without prejudice; or
- Take other action such as continuing the case; or
- Enter such order(s) as justice requires.

Judge Talevi is the Chief Judge, General District Court, 23rd Judicial Circuit

ANNOUNCEMENTS

NEW MEMBERS

The Roanoke Bar Association welcomes the following new Active Members:

Leslie S. Bowers

Gentry Locke Rakes & Moore

Powell M Leitch, III

LeClairRyan

S. Adeline McKinney

Coleman & Massey

The RBA welcomes the following new Associate Member:

Lauren J. Chen

Carilion Clinic

UPCOMING EVENTS

Roanoke Bar Association Meetings 2012- 2013

December 11, 2012

January 8, 2013

February 12, 2013

March 12, 2013

April 9, 2013

June 11, 2013

Bench Bar Conference

February 22, 2013

Roanoke Law Foundation Gala

March 15, 2013

Go to www.roanokebar.com for more information on all upcoming events.

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DON'T FORGET TO CHANGE YOUR ADDRESS!

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SAVE THE DATE!!

Friday, March 15, 2013

Roanoke Law Foundation Gala