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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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## GEORGE W. WOOTEN, ESQ. 2012 WINNER OF THE FRANK W. "BO" ROGERS, JR., LIFETIME ACHIEVEMENT AWARD

George Wooten specialized in civil litigation with an emphasis in medical malpractice defense for almost 40 years. His colleagues in the Roanoke Bar Association were pleased to honor George Wooten and recognize his long and distinguished career by naming him the 2012 recipient of the Bo Rogers Lifetime Achievement Award. Supreme Court of Virginia Justice Lawrence Koontz, retired, presented the award to George Wooten at the RBA Law Day Celebration on May 1, 2012, and offered the following summary of his career.



George graduated from Marshall University in 1962, and continues to be an avid fan of the Thundering Herd. During his collegiate studies, George distinguished himself as a leader. He was elected Kappa Alpha Order Social Fraternity President, The Robe (Leadership Honorary) President, and Interfraternity Council Vice President, in addition to being named a member of Omicron Delta Kappa (National Leadership Honorary). A distinguished member of his college's basketball team, George was named to Who's Who Among Students in American Universities and Colleges.

George earned his LLB *cum laude* from Washington & Lee University School of Law in 1966, where he continued to lead his peers, contributing to Law Review, being an active member of the Student Bar Association, the American Law Students Association, the Omicron Delta Kappa fraternity, and a member and Marshall of Phi Alpha Delta Legal Fraternity.

From 1966-1971, George practiced law with Hunter, Fox & Trabue in Roanoke, Virginia. In 1971, he achieved partnership at WootenHart, PLC (formerly Fox, Wooten & Hart PC), also in Roanoke, until he announced his retirement from full-time practice in December 2005. George continues to work on a part-time, as needed basis, for Carilion Medical Center.

In addition to practicing law, George served in various professional organizations throughout his career. He served six years as a member of the Board of the Roanoke Bar Association, and served as President of the Association from 1991-1992. George served on the Board of Governors of the Virginia Trial Lawyers Association for five years, followed by serving as Vice-President from 1981-1983, President-Elect in 1983, and President from 1984-1985. George also served on various committees of the Virginia State Bar, including the Law School Liaison Committee and the Committee on Professional Efficiency and Economics. He previously served as a member of the Judicial Performance Evaluation Task Committee and was appointed by the Chief Justice of the Virginia Supreme Court to a four-year term on the Judicial Council of Virginia.

Respected among his peers, George Wooten is listed in the *Best Lawyers in America*, holds the rank of Advocate, American Board of Trial Advocates and is a Fellow of the American College of Trial Lawyers. In 1992, George was named "Boss of the Year" by the Roanoke Valley Legal Assistants Association (RVLSA), and in 2004, he

## THOMAS E. STRELKA, ESQ. 2012 YOUNG LAWYER OF THE YEAR



At the Roanoke Bar Association Law Day Celebration on May 1, 2012, Justice Lawrence Koontz presented the RBA Young Lawyer of the Year Award to his former law clerk, Thomas E. Strelka. Justice Koontz offered the following summary of Tommy's career and accomplishments.

A native of Salem, Virginia, Tommy graduated from Glenvar High School in 1998 where he was voted "Most Likely to succeed." He attended Glenvar alongside his identical twin brother, Andy, who is now a trial attorney with the Department of Justice in Washington,

D.C. In high school, both he and his twin were state high school tennis champions, a distinction shared by their older brother Dan Strelka.

Tommy received his undergraduate degree from the University of Mary Washington in Fredericksburg, Virginia, before receiving his law degree from the University of Richmond School of Law. He served as Editor-in-Chief of the Richmond Journal of Law and the Public Interest and was recognized by the Family Law Section of the Virginia State Bar and the American Academy of Matrimonial Lawyers as "a top graduating student demonstrating great promise and potential in the practice of family law."

After his first year of law school, Tommy completed a summer law clerkship with the United States Attorney's Office for the Western District of Virginia where he met his wife, Leigh Strelka (an event that Justice Koontz described as one of Tommy's greatest accomplishments).

Upon graduating law school, Tommy served as judicial law clerk to the Honorable James C. Turk in the United States District Court for the Western District of Virginia. Judge Turk said, "I was extremely pleased to learn that Tom Strelka received the award as Young Lawyer of the Year. He's first rate in every respect and certainly most deserving of this award."

Immediately after his clerkship at the Supreme Court of Virginia, Tommy joined Art Strickland and Correy Diviney to form the law firm of Strickland, Diviney, and Strelka. "As a former federal clerk and a clerk on the Virginia Supreme Court, Tommy brings great experience and intellectual firepower to our firm. But Tommy's best quality as a lawyer is that he genuinely likes people, and he brings an enthusiasm to the cases he takes," says Art Strickland.

In the years he has practiced with his partners, Tommy has developed a thriving criminal defense practice and a plaintiff's employment practice. He has represented criminal defendants charged with virtually every type of criminal violation in the Virginia Code, from major drug trafficking to first degree murder. His favorite, though, was defending a neighbor, pro bono, charged with having a "Nuisance Cat." In his employment practice, alongside his wife, he has successfully litigated many federal civil claims involving discrimination of age, race, and gender, sexual harassment cases, and cases arising under both the Family Medical Leave Act and the Fair Labor Standards Act.

Tommy has also litigated a number of notable cases in the Southwest Virginia area. Working alongside the Rutherford Institute, a first amendment advocacy organization, he represented an individual, pro bono, sued for comments made at a Roanoke City Council meeting. In another constitutional matter of free speech, Tommy

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## PRESIDENT'S CORNER

BY LORI D. THOMPSON, ESQ., PRESIDENT

### Law Day – A Great Time to Reflect on the Wonderful Profession to Which We Belong

The American Bar Association's theme for this year's Law Day celebration was "No Courts, No Justice, No Freedom." On May 1<sup>st</sup>, Attorney General Ken Cuccinelli shared with the Roanoke Bar Association members the case of Thomas Haynesworth, a vivid example of the significant role that attorneys and courts play in ensuring justice is done and freedom is preserved.

In 1984, Thomas Haynesworth was only 18 years old and living in Richmond. He left his home one February afternoon to go to the grocery store for his mother, an innocent act that caused him to be in the proverbial wrong place at the wrong time. A woman who had been assaulted days before in that area saw him on the street and identified Thomas as the man who had attacked her. After being placed into custody for that February 1984 assault, he was then identified by four other women as their attacker. He was tried, separately convicted for three of those assaults, and sentenced to 36 years in prison.

As it turned out, Thomas Haynesworth, who had no prior record, lived 3 blocks away from - and bore a striking resemblance to - another man named Leon Davis. Mr. Davis was a serial rapist who terrorized the Richmond community. By the end of 1984, he was charged with a dozen rapes that occurred in Richmond and sentenced to multiple life terms.

Thomas Haynesworth spent the next 27 years of his life in prison proclaiming his innocence. In 2009, DNA testing proved that Thomas was innocent of one of those convictions and that Leon Davis had been the attacker, but DNA evidence did not exist for the other two convictions. Thomas successfully took multiple polygraph tests about the other two convictions, but he remained in prison until attorneys for the Innocence Project presented his case to the Attorney General, who came to believe that an injustice had been done and who joined Thomas' efforts to establish his innocence. A process that had run incredibly slow suddenly gained momentum.

On March 18, 2011, Governor McDonnell revised the case and granted Thomas' request for parole. Thomas left prison after serving 27 years. With the help of Attorney General Cuccinelli, two commonwealth's attorneys, and attorneys from the Innocence Project, Thomas filed a petition with the Court of Appeals for a determination of actual innocence, which was subsequently granted by a divided Court on December 6, 2011.

At first blush, the dedication of resources by the Attorney General's office to work to free a man from prison may seem illogical, but as the Attorney General explained during the Roanoke Bar Association's Law Day celebration, "the Attorney General's job is not convictions. It's justice." Peter Neufeld, Co-Director of the Innocence Project, remarked that "This is the first time in America where the Attorney General and two local prosecutors joined us in seeking in exoneration . . ." In Thomas Haynesworth's case, the justice system made a mistake, and dedicated attorneys from both sides of the aisle worked together to see that justice was done.

On a separate note, at the Roanoke Bar Association's Annual Meeting in June, the Association recognized and honored the good work accomplished and dedication shown by Association members. Whether by volunteering with projects sponsored by the RBA and Roanoke Law Foundation, such as Santa in the Square, Barristers Book Buddies, You and the Law, and the Rule of Law, being active in



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## A VIEW FROM THE BENCH: JUDGE DORSEY

BY MICHAEL P. GARDNER



Just outside of his office **Judge Dorsey** keeps a pot of coffee on, and he'd like you to drop by for a cup. The Roanoke Bar has typically enjoyed excellent communication between counsel and the bench, whether it is casual or case-specific, and Judge Dorsey believes that the Bar benefits from the exchange. Keeping an open dialogue with the court—without, of course, violating the rules regarding ex-parte contact—helps with scheduling, preempts needless conflicts, reinforces the collegial nature of the Bar, establishes and develops relationships and ultimately benefits clients.

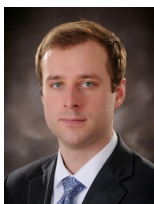
At a recent Virginia judicial conference, Judge Dorsey spoke with one judge from a large county with over 1,000 local bar members and one judge from a small county with less than 20 local bar members. The judge from the larger bar observed that it is difficult for him to speak casually with attorneys because, in a less collegial bar, such discussions create the appearance of impropriety. The judge from the smaller bar noted that, while creating a wall of separation between the bench and the attorneys is impossible in that environment, the appearance of politics and nepotism is enhanced in the smaller setting. Judge Dorsey says that, based on his experience, the Roanoke Bar hits the sweet spot of both being the right size and having the right mix of collegiality and professionalism to take advantage of the benefits that a dialogue with the Bench can generate. Call us the Goldilocks Bar.

The best features of our "just right" bar do not simply spring from the atmosphere; rather, they derive from the efforts of counsel. To paraphrase Ben Franklin, we have an ideal bar, if we can keep it. On this front, Judge Dorsey has one message: keep up the good work. Judge Dorsey says he is regularly impressed with the attorneys who practice before him and he is thankful that counsel for all parties will frequently meet with him—sometimes formally, sometimes casually—to discuss an upcoming matter or just to catch up. Judge Dorsey also applauded the individual and group efforts of the Bar members for their generous service to the community. The Judge's one lament was that, while the Bar does an excellent job of self-regulating, our efforts at self-promotion lag. While a full blown public service announcement about our greatness would (perhaps) be over the top, local attorneys should wear their pride in the Bar's good works on their sleeves.

To that end, Judge Dorsey wanted to recognize the career of Mike Fosbre, a Senior Probation Officer who has been with the Drug Court since its inception. Mike is retiring at the end of the year. If you see Mike, thank him for his dedication, service, and the great impact he has had on so many lives in the area. The ever-capable Jessica Kyle will take over for Mike, and both Judge Dorsey and the Roanoke Bar wish her the best and thank her for her service.

Oh, and one last piece of advice from the Judge: the new Rules of Evidence become effective on July 1. Read them before July 1.

*Mike Gardner is the first young lawyer to volunteer for this new series "Views from the Bench," which is a RBA mentoring program to help young lawyers get to know the judges of the 23rd Circuit and which serves to facilitate and enhance the dialogue between counsel and the court. After Mike has made a full rotation, additional young lawyers will be considered for this unique opportunity. Mike is an associate with LeClair Ryan. He graduated from the Washington and Lee School of Law in 2010 and had the honor of clerking for Judge Jackson L. Kiser in the Western District upon his graduation. Mike earned his B.A. in Philosophy from Hampden-Sydney College in 2005.*



## GEORGE W. WOOTEN, ESQ. - LIFETIME ACHIEVEMENT AWARD

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received the Scales of Justice Award from the National Association for Legal Professionals (NALS). George is currently a member of the RBA, the Virginia Association of Defense Attorneys, and the Ted Dalton Inn of Court.

In the community, George has given of his time to the Jaycees, serving as Secretary, Director, President, Chairman of the Board, and Virginia Director. A three-time winner of the Jaycee's Spark Plug Award in recognition of his accomplishments, George was awarded Lifetime Membership in 1974. George has also served his community as a member of the Board of Directors of Total Action Against Poverty (TAP), as a member of the Mayor's Special Committee for Development and Expansion of the Children's Zoo, as Chairman of the Roanoke Valley Council of Community Services' Committee on Delinquent Children Services, and as Chairman of the United Group Fund.

Justice Koontz gave his personal remarks about George Wooten, attorney at law:

In the practice of law, George exemplifies competence, integrity, and honor. He carries with him the qualities of a strong legal mind, preparedness, and fairness in all of the tasks required in the practice of law. He is a strong advocate, a skilled litigator, and an accomplished negotiator. In dealing with others, he is honest, forthright, and quick-witted. These qualities apply whether he is dealing with a client, co-counsel, or an opponent. He is an accomplished attorney, and he is a gentleman. In short, George has achieved both personal and professional distinction in his community, a prerequisite for this award.

Colleagues from LeClairRyan were pleased to offer their comments about George Wooten and his legal career. Paul Kuhnel remembered:

When he was still actively practicing, George was a great mentor, partner and friend. But above all he was a gentleman in how he dealt with everyone, no matter what their station. It was a privilege to practice law with him and, fortunately, I still get to see him on a regular basis.

Martha "Mollie" W. Elder said: "I have always been impressed with George's common sense approach to cases. He knows the law and human nature."

Charles Downs remarked:

I was privileged to have the opportunity to work with George and be mentored by George as a young lawyer. He taught me, and a number of other young lawyers who had the opportunity of working with him, the importance of professionalism and zealous advocacy in the practice of law. He also enlightened me on the passion for Marshall University football - GO HERD!

Senior U. S. District Court Judge James C. Turk remarked: "George Wooten is an outstanding lawyer, certainly deserving of the prestigious Bo Rogers Lifetime Achievement Award."



## TRANSITION FOR THE ROANOKE BANKRUPTCY COURT



The Roanoke bankruptcy bar is experiencing a time of transition, as one of the Western District's long-time bankruptcy judges moves into retirement, the standing Chapter 13 Trustee for the Western District of Virginia fills his place, and a new Chapter 13 Trustee has been appointed.

The changes were triggered in late 2011 when the **Honorable Ross W. Krumm** announced his retirement from the bench. Judge

Krumm has served the Roanoke Valley as a judge in the bankruptcy court since 1986. Judge Krumm obtained his B.A. from Gettysburg College, and his J.D. from the University of Virginia. Prior to his appointment as bankruptcy judge, Judge Krumm practiced in Charlottesville from 1972 through 1986, focusing on bankruptcy, estate planning, and small business representation. As a bankruptcy judge, Judge Krumm has presided over the cases filed in the Harrisonburg Division of the U.S. Bankruptcy Court for the Western District of Virginia, and has shared the docket of bankruptcy cases filed in the Roanoke Division. He served as Chief Judge of the U.S. Bankruptcy Court for the Western District of Virginia from 1993 until he announced his retirement.

In January 2012, the Fourth Circuit Court of Appeals announced its appointment of Rebecca Buehler Connelly to be Judge Krumm's successor. Ms. Connelly has been a Standing Chapter 13 Trustee and the Chapter 12 Trustee for the Western District of Virginia since October 1, 2000, overseeing the Trustee's Office's administration of all cases filed under Chapter 13 of the Bankruptcy Code in the Roanoke Valley and surrounding areas. Ms. Connelly began her legal career as the law clerk for the Honorable Martin V.B. Bostetter, Jr., Chief United States Bankruptcy Court Judge for the Eastern District of Virginia, before opening her own practice in Lexington, where she practiced bankruptcy law in the Eastern and Western Districts of Virginia. Ms. Connelly lives in Lexington with her husband and two children.

In April 2012, the U.S. Trustee program for the Western District of Virginia announced the appointment of Christopher Micale as the new Standing Chapter 13 Trustee. Mr. Micale comes to Roanoke from Wichita, Kansas, where he was the staff attorney to the Chapter 13 Trustee. Mr. Micale is a graduate of the University of Missouri-Kansas City Law School. Prior to joining the Chapter 13 Trustee's office in Wichita, he was a project manager for EPIC Systems, a national software provider for Chapter 13 trustees.

The Bankruptcy Court will hold an open house honoring Judge Krumm on July 11, 2012 at 2:30 p.m., following his last Roanoke docket. Ms. Connelly will be sworn in during July, and will take the bench on August 1. A formal investiture ceremony for Ms. Connelly is planned for September 28, 2012 at the U.S. District Court in Roanoke. Mr. Micale's duties as the new Chapter 13 Trustee began June 1, 2012.

## YOU AND THE LAW

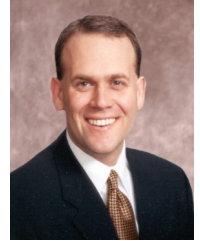
BY MICHAEL S. WHITLOW

In May, the RBA presented its third *You and the Law* series to the public. *You and the Law* is a public education project of the RBA designed to educate the public about the legal system, with an emphasis on topics where there may be a misunderstanding or lack of understanding on the public's part.

The series was held on two Wednesday evenings at the Roanoke Higher Education Center. At the first session, David Beidler made a presentation on the Legal Aid Society of Roanoke Valley, and Mike Whitlow discussed issues relating to choosing and working with a lawyer. On the second Wednesday, Melissa Giles presented on debt and debt-relief, and Lauren Ellerman discussed issues about long-term care in nursing homes.

The feedback from attendees has been very positive, and they conveyed a sincere appreciation for this opportunity to learn about the workings of the law and the legal system. Thanks to everyone who helped put this together.

*Michael S. Whitlow is a Partner at Whitlow & Youell, PLC  
And Chairman of the You and the Law Committee*



## 2011 VOLUNTEER SERVICE AWARDS

Since 2006, the RBA has recognized members who provide 25 hours or more annually of community service, charitable professional services, and *pro bono publico* legal services. The awards for 2011 were presented at the Annual Meeting on June 12.

### Presidents Volunteer Service Awards

#### Lifetime - 4,000+ Hours

G. Michael Pace, Jr. Steven J. Talevi

#### Silver - 250 - 499 Hours

Roy V. Creasy Alton L. Knighton, Jr.  
Gregory D. Habeeb Lori D. Thompson  
Macel H. Janoschka

#### Bronze - 100 - 249 Hours

Jennings T. Bird Todd A. Leeson  
John Eric Blanton Stephen W. Lemon  
David A. Cohan Thomas H. Miller  
Lindsey W. Coley Clinton S. Morse  
Martha W. Elder Brandy M. Rapp  
Eugene M. Elliott, Jr. Kenneth J. Ries  
Aaron Balla Houchens Henry L. Woodward

### RBA Certificates of Commendation

#### 50 - 99 Hours

Kimberly Boyer Banta Kevin W. Holt  
Wilburn C. Dibling, Jr. B. Webb King  
Ann Green Elizabeth G. Perrow

#### 25 - 49 Hours

William E. Callahan, Jr. Joshua R. Treece  
David J. Damico Christine F. Underwoods  
Lauren E. Davis Scott A. Webber  
William Calvin Smith

## LOCAL STUDENT WINS VSB ESSAY COMPETITION



**Isabel Edwards**, a junior at Patrick Henry High School (PHHS) in Roanoke, has been awarded first-place honors in the 2012 Law in Society Award Competition, an essay competition offered by the Virginia State Bar and its Litigation Section for Virginia high-school students. Isabel's winning essay is entitled "To Protect the Server and to Serve as the Protector: Richardson Middle School as the Cyberbully Police. Gene Elliot presented Isabel with her \$2,300 first place award on May 24, 2012, at the PHHS Junior Awards Ceremony.

Mary Stoney, a senior at Oakton High School in Vienna, and Joylyn Rushing, a senior at Greenbrier Christian Academy in Chesapeake, placed second and third, respectively, and received awards of \$1,850 and \$1,350. Five students each received a \$250 honorable mention award.

The VSB sponsors the Law in Society Award contest annually to increase appreciation of the legal system among high-school students. The hypothetical for this year's essay theme involved cyberbullying at a middle school, as described below:

Jennifer, a 12-year-old learning disabled student, has recently been mainstreamed, and her new classmates first tease and then avoid her. One 11-year-old student, Chris, frequently trips Jennifer when she walks past, despite past discipline for this behavior. To expand Jennifer's communications skills, the school system has encouraged her to use her school laptop to blog an online journal about her life, where teachers and friends make encouraging posts. Lately, several anonymous postings included mocking comments about Jennifer's learning disability and language skills, and one poster concludes hate-filled posts with the words "have a nice trip tomorrow." School administrators have learned that some of these posts have been made from school computers. To address the bullying without eliminating the benefits of the blog for Jennifer, administrators ask for parents' support and notify Chris's parents of the suspicion that he has been one of the offenders. Chris's parents believe these concerns are exaggerated and do nothing. The hurtful blog comments get worse. Normally a good student and active class participant, Jennifer now tells her teacher she wants to abandon the journal. Her grades have fallen significantly, and she is depressed and has made reference to harming herself. Jennifer's parents want the school to search Chris's school laptop, to determine whether Chris visited Jennifer's blog when harassing posts were entered. Jennifer's parents indicate that, if the search determines that Chris has been involved in the cyberbullying, they will call police and may sue Chris or his parents.

In response to the hypothetical about Jennifer and Chris, essay competition participants addressed what actions the school should take and whether the school could be held legally responsible for any of the cyberbullying. They also addressed the issue of parental responsibility. Isabel Edwards' award-winning response to these hypothetical problems is reprinted here, with permission from Isabel and her parents, Evans and Ann Edwards.

"Lots of times adults express generalizations that the new generation is woefully inadequate to take over our future," says Gene Elliot. "Young people like Isabel and the other winners of this essay contest should give us hope, as fine examples of the great potential these future leaders bring to meet the challenges ahead of all of us."

For more information on the 2013 contest, beginning in November 2012, visit <http://www.vsb.org/site/public/law-in-society/>.

See the picture on page 10 and the essay in the next column.

## TO PROTECT THE SERVER AND TO SERVE AS THE PROTECTOR: RICHARDSON MIDDLE SCHOOL AS THE CYBERBULLY POLICE

BY ISABEL EDWARDS

This past fall, tens of millions of children headed back to one of nearly 100,000 public schools in the United States. These children are legally required to attend school, in order to learn the skills essential to our nation's continued success and receive the moral training and to become upright citizens. During the school day, public schools stand *in loco parentis*, bearing the same responsibility for the safety and welfare of every child entrusted to them that a parent or legal guardian bears outside of school. At Richardson Middle School in 2012, this responsibility includes the prevention and detection of cyberbullying committed by or against its students.

From this nation's very beginning, the operation of public schools has been the states' duty. The federal government has nevertheless found ways to influence the states' programs. One such way is through funding programs like the "E-Rate" discount program. The E-Rate program provides federal funds to states to make telecommunication and internet services more affordable in public schools and libraries. Assuming Austin County is among the thousands of school systems that use E-Rate, the county must comply with the Children's Internet Protection Act and the Neighborhood Children's Internet Protection Act (CIPA and NCIPA). These federal laws require Richardson Middle School to have an internet safety policy signed by every student and their parent(s) as well as an internet safety education program that addresses cyberbullying and the proper use of social media. Richardson Middle School now knows that its computers have been used to cyberbully Jennifer. The cruel comments made on Jennifer's blog are a blatant violation of the school's internet safety policy. The school must take further action to redress these comments or face non-compliance with CIPA and NCIPA.

Richardson Middle School should take all feasible steps to prevent cyberbullying through the use of the school's computers and while on school property. This is the best way to insulate the school from legal liability. Calling the parents of Jennifer's classmates to enlist their support in stopping cyberbullying and disciplining Chris for tripping Jennifer were reasonable steps for the school to take. So far, these steps have not stopped students from cyberbullying Jennifer. As requested by Jennifer's parents, the school should again instruct Jennifer's classmates not to post harassing comments to her blog. In addition, the school should password protect Jennifer's blog such that it cannot be accessed by anyone who does not know the password. This safeguard would keep unwanted posters off Jennifer's blog, yet still allow her teachers and friends to view Jennifer's posts and encourage her. The cyberbullying could resume, of course, if her password were given out beyond a select group of classmates. Were that to happen, the password could be reset and restricted to teachers only.

Jennifer's parents have also requested that the school force Chris to turn over his laptop to be searched for evidence of cyberbullying Jennifer. This request is more difficult for the school. It is crucial to keep in mind that the Fourth Amendment to the U.S. Constitution, which protects against unreasonable searches and seizures, applies to searches conducted by school personnel of a student's belongings. The school may have difficulty getting access to Chris's laptop at all. It is unclear whether the laptops that the school required students to purchase must be brought to school, or whether students can

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# The McCammon Group

is pleased to announce out newest Neutral

THOMAS E. ALBRO, ESQ.

HON. MICHAEL C. ALLEN (RET.)

HON. JOANNE F. ALPER (RET.)

HON. F. BRUCE BACH (RET.)

HON. JOHN E. CLARKSON (RET.)

HON. JEAN W. CUNNINGHAM

HON. DENNIS W. DOHNAL (RET.)

JOHN G. DOUGLASS, ESQ.

CHESHIRE I'ANSON EVELEIGH, ESQ.

FRANCES FITE, ESQ.

HON. JOHANNA L. FITZPATRICK (RET.)

HON. JEROME B. FRIEDMAN (RET.)

RICHARD S. GLASSER, ESQ.

ROBERT J. GREY, JR., ESQ.

HON. E. PRESTON GRISSOM (RET.)

ROBERT T. HALL, ESQ.

GRAYSON P. HANES, ESQ.

MICHAEL E. HARMAN, ESQ.

HON. ROBERT L. HARRIS, SR. (RET.)

SUSAN MASSIE HICKS, ESQ.

BARBARA L. HULBURT, ESQ.

JOHN A.C. KEITH, ESQ.

HON. DONALD H. KENT (RET.)

HON. LARRY B. KIRKSEY (RET.)

HON. STANLEY P. KLEIN (RET.)

HON. LAWRENCE L. KOONTZ, JR. (RET.)



**Hon. Larry B. Kirksey (Ret.)**

Retired Judge,  
28th Judicial Circuit Court of Bristol, VA

Larry Kirksey recently retired after more than eight years of distinguished service to the 28th Judicial Circuit and two years as Commonwealth's Attorney for the City of Bristol. Preceding his service to the bench and the Commonwealth, he enjoyed a broad civil litigation practice representing both plaintiffs and defendants throughout southwestern Virginia for thirty years. During that time, he served terms as President of the Bristol Bar Association and as a City Councilman for Bristol. An accomplished mediator and arbitrator, Larry was a Member of The McCammon Group from 1998-2002 before beginning his public service career. Now, upon his retirement from the bench, he rejoins The McCammon Group and brings his diverse skills and experience to serve the mediation, arbitration, judge pro tempore, and special master needs of lawyers and litigants throughout the Commonwealth and beyond.



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HON. WESTBROOK J. PARKER (RET.)

HON. BARRY R. PORETZ (RET.)

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HON. DIANE M. STRICKLAND (RET.)

HON. ALFRED D. SWERSKY (RET.)

HON. JAY T. SWETT (RET.)

BRUCE E. TITUS, ESQ.

GUY K. TOWER, ESQ.

HON. KENNETH E. TRABUE (RET.)

HON. GLEN A. TYLER (RET.)

HON. ARTHUR B. VIEREGG (RET.)

HON. ROBERT W. WOOLDRIDGE, JR. (RET.)

HON. WILEY R. WRIGHT, JR. (RET.)



## TO PROTECT THE SERVER AND TO SERVE AS THE PROTECTOR

*(Continued from page 5)*

instead rely on the school's own computers during the school day. If Chris does not already bring his laptop to school, the school cannot force him to do so. School officials can and should still reach out to Chris's parents in an effort to convince them to turn over his laptop voluntarily to be searched.

If Chris does bring his laptop to school, the school can search the laptop consistent with the Fourth Amendment as long as the school has a reasonable suspicion that he has posted bullying comments to Jennifer's blog in violation of school policy. Probable cause is not required before a school can search a student's belongings. Because Chris has repeatedly tripped Jennifer, and because one anonymous poster frequently concludes his posts with "have a nice trip tomorrow," the school has a reasonable suspicion to believe that Chris has cyberbullied Jennifer.

Assuming the school can prove Chris has been involved in cyberbullying, his parents can be held legally responsible for his actions. Chris is an 11 year-old. He is a minor, and his parents have been put on notice by his school of specific suspicions of cyberbullying yet have apparently chosen to do nothing to put an end to the conduct. Evidence that Chris's parents refused to turn over his laptop voluntarily when confronted with the school's suspicions would further hurt their legal position. The tort system is designed to provide legal damages, usually money, to an individual harmed by another. Here, Jennifer has been emotionally harmed. Her grades have fallen, she has shown signs of depression, and has made references to harming herself. The combination of Chris's repeated physical bullying, his cyberbullying, and Jennifer's emotional injuries would allow Jennifer's parents to sue Chris and his parents for intentional infliction of emotional distress.

Part of the role of public schools today is to teach children the difference between right and wrong, particularly where parents like Chris's fail to do their job. Jennifer has the right to join her classmates in regular classes. Her presence there does not harm anybody's education, and nobody has the right to interfere with hers. By disciplining Chris for physical bullying, by adopting policies mandated by CIPA and NCIPA, by password protecting Jennifer's blog, and by searching Chris's laptop if it is found on him at school based on reasonable suspicion of his cyberbullying, Richardson Middle School will have fulfilled its obligations to protect its computer server and to serve as Jennifer's protector.

*Isabel Edwards is a Junior at Patrick Henry High School and the winner of the VSB 2012 Law in Society Award Competition*

## ROANOKE LAW LIBRARY NEWS AND INFORMATION

BY JOSEPH KLEIN, LAW LIBRARIAN

Summer is once again upon us, and I am hoping that you all have wonderful vacation plans in your near future. As I do most years, I wanted to remind you about the more recreational aspects of our offerings here at the Roanoke Law Library and at the Roanoke Public Libraries. Before I do that, though, the Bar Association's recent generous donation reminded me once again how much I appreciate my relationship with the Roanoke Bar Association and all the attorneys that I am so fortunate to work with. I am a public servant; my job is to help people answer their legal research questions using the resources that are available to me. The Roanoke Bar Association built the Roanoke Law Library collection and transferred the administration of that collection to the City of Roanoke to allow for more public access. I have been proud to continue that tradition of public access and service. It is a challenging and rewarding job and one that I enjoy very much, I thank you for your continued support.



### Summer Diversions

Whether you are looking for the latest James Patterson or Charlaine Harris novel to read on the beach, or the latest new release DVDs to keep your teenager occupied on a rainy summer day, the Roanoke Law Library (RVL) is your source. We get new popular fiction and DVDs every week and have the same lending policies for these materials as all Roanoke Valley Library Branches. You can also return materials you check out from the Roanoke Law Library to any other RVL branch and return their materials here. We even have a return slot in the wall to the right of our front door to return materials after we close. So if you are in the Court House with some time to kill, please stop by and check out our collection. I think you'll be pleasantly surprised.

### Summer Reading Program

Every summer the Roanoke Public Library offers a summer reading program to encourage kids and teens to keep reading during their summer breaks to keep their literacy skills from regressing while school is out. Additionally, there is an Early Literacy Summer Reading program that targets kids from birth to age 4 and is designed to help these young children build reading and language skills. These wonderful programs positively affect the lives of thousands of children. If you are interested in getting information about any of these programs, please contact the youth services department of the Roanoke Public Library at 853-2955, or look on the library's web page (at URL [www.roanokeva.gov/library](http://www.roanokeva.gov/library)).

Check out the library's Adult Summer Reading Program again this summer as well. This program offers you the opportunity to register to win prizes just for reading. Case law does not count, unfortunately. You can find details at Roanoke Law Library.

The Roanoke Public Libraries also offer adults lots of great cultural and educational programs all year long--too many for me to mention here. Check out the library's web page for more details, or stop by the Law Library and pick up a copy of "The Spot," our monthly newsletter that lists all the great events going on at the Roanoke Public Library. If you have questions, comments or requests, please call me at 853-2268, or email me at [joseph.klein@roanokeva.gov](mailto:joseph.klein@roanokeva.gov).

### 2011-2012 BARRISTER BOOK BUDDIES



4 Roanoke City Schools  
33 Classes  
34 Judges, Lawyers, Staff Members  
642 Books Distributed to Students

## BENCH BAR CONFERENCE REPORT



Judges from the federal and state courts in the Roanoke valley shared views with attorneys over lunch at the RBA's annual Bench Bar Conference, held on March 30, 2012, at the Roanoke Higher Education Center. The program opened with a presentation by **Monica T. Monday** entitled "How to Preserve Error and Avoid Waiver in Virginia's Courts." The judges on the panel then offered commentary on the

topic as well. Then, individual judges reported on the state of their respective courts, including caseloads, trends, and the judiciary. The judges offered a few practice tips as well and took questions from the audience.

The RBA thanks Monica Monday and all the judges who participated in the Bench Bar event.

## JAMES N. KINCANON SCHOLARSHIPS RECIPIENTS ANNOUNCED

The Roanoke Law Foundation honored the recipients of the 2012 James N. Kincanon Scholarships which were awarded on June 12 at the Annual Meeting of the Roanoke Bar Association.



The scholarship program was established in 1997 in honor of James N. Kincanon, Esq., in recognition of his fifty years of service as Secretary/Treasurer of the Association. With the 2012 awards, the RLF has awarded over \$135,000 in scholarships and grants since it was established in 1997.

The 2012 recipients are:

Anna Paden Carson, a graduate of Patrick Henry High School, who will be attending Washington and Lee University.

Christina Leigh Crawford, a graduate of Cave Spring High School and Virginia Tech, who is attending the University of Richmond School of Law.

Brooks Alexander Duncan, a graduate of Northside High School and the University of Virginia, who is attending the University of Virginia School of Law.

Kristina Joanne Ferris, a graduate of Patrick Henry High School and the University of Virginia, who is attending the University of Richmond School of Law.

Elizabeth Kathleen Higgs, a graduate of Patrick Henry High School, who will be attending the University of Virginia.

See pictures on page 10.

# YOUR AD HERE!

## REASONABLE RATES

## REACH OVER 500 RBA MEMBERS

## CONTACT ANY EDITOR FOR DETAILS



## THOMAS E. STRELKA, ESQ. 2012 YOUNG LAWYER OF THE YEAR

(Continued from page 2)

represented the Sons of Confederate Veterans. Along with his partners, Tommy represented Morgan Lockett, the mother charged with the murder of her own child, Aveion Lewis.

Kevin Gick, Assistant Commonwealth's Attorney for Roanoke County commented, "As an ACA, I have appeared across the courtroom from Tommy on a number of occasions. He is a forthright, earnest, and zealous advocate for his clients."

Tommy is a member of the Roanoke Bar Association, the Salem Bar Association, the Virginia Trial Lawyers Association, the National Employment Lawyers Association, and the Virginia Employment Lawyers Association. Tommy currently participates in the RBA Pro Bono Hotline and the VBA Rule of Law Program, and recently served on the Board of Directors of the West End Center for Youth. Tommy has also been a dedicated and stellar member of the Barrister Book Buddies Program, going so far as to arrange and accompany a field trip to Richmond, Virginia, for his two Barrister Book Buddy fourth grade classes, where they toured the Capitol and Supreme Court of Virginia buildings and met with several Justices and legislators.

"To Tommy, law is not just a business, it's a profession," says Art Strickland. "Tommy takes a case because he genuinely wants to help people solve their problems."

### MARK YOUR CALENDAR!

#### 2012 - 2013 RBA Meetings

**September 11, 2012**

**October 9, 2012**

**November 13, 2012**

**December 11, 2012**

**January 8, 2013**

**February 12, 2013**

**March 12, 2013**

**April 9, 2013**

**June 11, 2013**

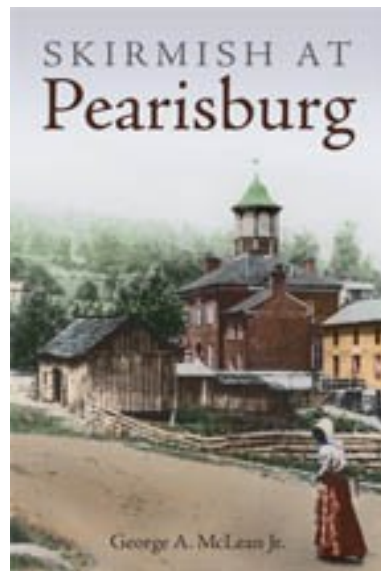
**The Shenandoah Club  
24 Franklin Road, SW  
Roanoke, Virginia  
12:00 noon**

## RBA MEMBERS IN THE NEWS GEORGE A. "AL" MCLEAN, JR.

Al McLean has authored a book entitled *Skirmish at Pearisburg*. The book is about a small but fascinating Civil War fight that began in Al's hometown of Pearisburg, Virginia. A Union regiment coming from what is now West Virginia took the town and hoped to continue to destroy the railroad at Dublin. Of the 600 Union troops involved in the battle, two soldiers, Rutherford B. Hayes and William McKinley, became United States presidents.



On May 10, 1862, the Federals were attacked by a force of about 2000 Confederates. Instead of a stand up battle, the fight was a rearguard action that continued for seven miles. Among the Confederates was Col. George S. Patton the grandfather and namesake of World War II Gen. George Patton. While fighting at an area known as the Narrows, Colonel Patton was shot in the stomach. Normally, this would be a fatal, but Patton was saved because the bullet bounced off of a gold piece in his vest pocket.



Al says, "Had I and the house I was raised in existed in 1862, I could have watched the first part of the battle from my living room window."

*Skirmish at Pearisburg* is available for purchase at the Giles County Historical Society museum shop or online at [www.gilescountyhistorical.org/museumShop.htm](http://www.gilescountyhistorical.org/museumShop.htm).

### PRESIDENT'S CORNER

(Continued from page 2)

community organizations such as Kiwanis and Rotary, serving on non-profit boards, assisting faith-based organizations, helping with the PTA, or coaching little leagues, our colleagues have made a positive difference in the Roanoke community in ways that should make us all proud. Moreover, attorneys in the Association have had a significant and positive impact on the administration of justice by their demonstrated commitment to professional and ethical conduct in their professional careers and their pro bono service.

Law Day is an excellent time to reflect with pride on the good work accomplished by attorneys and to dedicate ourselves in the coming year to volunteer for a cause that energizes us. The Association invites you to participate in our recurring public service projects, and as you see needs in our community and identify improvements that you would like to make, we invite you to bring your good ideas to the Association. Each of the Association's service projects got started with one person's good idea. We hope you'll share your good ideas so that our Association can continue to be a catalyst for positive change in our community.

Lori D. Thompson is a Shareholder at LeClairRyan

## 87TH ANNUAL MEETING OF THE ROANOKE BAR ASSOCIATION



2012 James N. Kincanon Scholarship Recipients: Christina Crawford with her parents Danielle and Steve, Brooks Duncan with his parents Bentley and Vena, and Kristina Ferris with her parents Terri and Ray. Not pictured: Anna Paden Carson and Elizabeth Higgs. Scholarship certificates were awarded by Lori Thompson, Roanoke Law Foundation Trustee.



VSB 2012 Law in Society Award Competition Winner Isabel Edwards with Lori Thompson, Gene Elliott, and her mother, Anne Edwards.



Tom Miller, newly installed 2012 - 2013 RBA President, congratulates Lori Thompson, 2011 - 2012 RBA President, on a very successful RBA year.



Executive Director Cathy Caddy is recognized for 15 years of service to the RBA and RLF.



Many thanks to Chris McMillan, Lisa Woodson, and other members of the RVLSA for their continued support and assistance at RBA meetings and events.

# ANNOUNCEMENTS

## NEW MEMBERS

The Roanoke Bar Association welcomes the following new Active Members:

**Lauren Stockburger Eells**  
Gentry Locke Rakes & Moore

**Frank H. Hupfl, III**  
Woods Rogers, PLC

**Justin M. Lugar**  
Gentry Locke Rakes & Moore

## CLE CONFERENCES

Payment of your 2012-2013 RBA dues entitles you to the opportunity to receive four (4) hours of CLE at no charge. Be sure to provide the RBA with your email address in order to receive notices about CLE sessions that are available.

**Handling Section 1983 Civil Rights Cases in Federal Court**, approved for 3.5 hours of CLE, has been rescheduled for Friday, September 14, 2012. This session is free but is not considered part of the CLE hours covered by your dues payment.

## UPCOMING EVENTS

### Roanoke Bar Association Meetings 2012- 2013

September 11, 2012

October 9, 2012

November 13, 2012

December 11, 2012

January 8, 2013

February 12, 2013

March 12, 2013

April 9, 2013

June 11, 2013

Go to [www.roanokebar.com](http://www.roanokebar.com) for more information on these and other RBA events.

## OFFICERS:

Lori D. Thompson President	510-3011
Thomas H. Miller President-Elect	527-3510
Steven W. Lemon Secretary-Treasurer	982-1000
Francis H. Casola Past President	983-7716
Catherine L. Caddy Executive Director	342-4905

## BOARD OF DIRECTORS:

Wade T. Anderson	725-3375
Michael A. Cleary	345-8344
David N. Cohan	983-9395
Tracy A. Giles	981-9000
Linda L. Gustad	857-5100
Aaron B. Houchens	983-7734
Richard C. Maxwell	983-7628
Richard D. Scott	400-7997
Amanda E. Shaw	224-8019
Jennie L. M. Waering	857-2905
Michael S. Whitlow	904-7835



**DON'T FORGET TO CHANGE YOUR ADDRESS!**

Name: \_\_\_\_\_ Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**Complete and Forward to:** Roanoke Bar Association, P.O. Box 18183, Roanoke, VA 24014  
Fax: (540) 342-1252 Email: [roanokebar@earthlink.net](mailto:roanokebar@earthlink.net)



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ROANOKE BAR ASSOCIATION

