

ROANOKE BAR REVIEW

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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.

Editors

Wade Anderson - 725-3370
wanderson@faplawfirm.com

Bryson J. Hunter - 983-9325
bryson_hunter@gentrylocke.com

Samuel F. Vance, IV - 224-8013
svance@gfdg.com

Kathleen L. Wright—983-9360
kathy_wright@gentrylocke.com

Layout and Design

Sharlene Sherman

PERSPECTIVES

BY M. FREDERICK KING, JUDGE 23RD JUDICIAL DISTRICT COURT

On Thursday, November 1, 1973, I reported to the Roanoke County Commonwealth's Attorneys office to embark on a career in the practice of law. For the next three and a half years I handled the usual cases that are traditionally assigned to a young prosecutor. January 1, 1978, fresh off of my first election victory, I officially assumed the responsibilities of Commonwealth's Attorney for the City of Salem, the office I would occupy for the next 27 and a quarter years. On Friday, April 1, 2005, I arrived at the Salem Courthouse to start my last day as Salem's elected prosecutor. At noon, I was sworn in as the newest of the five judges in the 23rd Judicial District. Monday, April 4, 2005, after 31 years as a trial advocate, I arrived at the Roanoke City Courthouse to start my new role as a district court trial judge.



I've discovered the transition from that of trial advocate to trial judge has brought with it a series of new realities. As Commonwealth's Attorney, a typical day was full of interaction with people outside the courtroom. Attorneys, laws enforcement personnel, clerks and members of the public came and went throughout the day. I would often find myself meeting with investigators in their offices to review case developments or exhibits as well as visiting various crime scenes. As a district court trial judge, my day is spent either on the bench or in my office. Unfortunately, few lawyers venture back into chambers along the rear of the second floor of the Roanoke City Courthouse. My predecessor, the Honorable George W. Harris, Jr., cultivated and welcomed attorneys to his chambers where discussions ranged from fishing, sports and the occasional legal hot topic "de jour." I hope to develop that same sense of welcome during my tenure on the bench.

Life on the bench is a sedentary existence. As Commonwealth's Attorney I spent a considerable part of my day on my feet moving about. I often stood in court especially on those days I was handling the docket in general district court. When not in the courtroom, I

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PERSPECTIVES

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frequently moved between offices and buildings sitting only to speak with visitors, take phone calls, read reports or do research. Now I go on the bench perhaps as early as 8:15 a.m., sit and do not engage in significant physical activity until the “lunch break” which frequently arrives as late as 1:00 p.m. During “rookie” judge school, new judges were encouraged to take short breaks to clear the cobwebs, stretch or otherwise regroup to refocus on the tasks at hand. I need to learn this skill. A good day permits a lunchtime walk down around the City Market before hearing contested civil cases in the afternoon.

I am most conscious about my background in criminal law and procedure as it impacts my

I would be remiss if I did not recognize the understanding and patience of those members of the bar practicing in the district court.

responsibilities while hearing civil cases. I have one comfort level in traffic or criminal court and another entirely different level in civil court. My prior experience does not presently allow me to

walk into the civil arena with the sense of self-assuredness that I hope to develop. Changing roles from that of a prosecutor to presiding over cases, ruling on motions, deciding guilt and innocence in addition to deciding a wide range of civil disputes, has been eye opening.

Obviously my intent as judge is to get it “right” in every case, to apply the correct law to the facts and then fashion a disposition in which “justice” is tempered with “mercy.” Fortunately, the Virginia Supreme Court has assembled a series of materials and developed a number of pre-bench and new judge training sessions to bring new judges up to speed on topics they may not have seen in years. I am extremely grateful for the assistance of my fellow district court judges. All of my new colleagues have been most helpful in guiding me during this period of my career. I am especially thankful to be sharing the back hallway of the courthouse with Judges Jacqueline F. Ward Talevi and Francis W. Burkhart, III. I have turned to them, seeking the benefit of their collective knowledge and experience, on numerous occasions and they have been very generous with both their time and advice.

I would be remiss if I did not recognize the understanding and patience of those members of the bar practicing in the district court. Without saying so, these individuals have gently employed what the military refers to as the “KISS” principle and have done their best to Keep it Simple (for) Stupid. During 31 years in prosecution, I responded to hundreds of motions for discovery or to suppress



evidence, but I never had defense counsel “crave oyer.” I have friends who crave chocolate but it took a quick referral to Black’s Law Dictionary to put this particular craving into proper perspective. The bar has been most helpful in helping me recall that which was once a part of my vocabulary but which began to fade from memory due to nonuse shortly after the bar exam.

I welcome sound guidance from every source. Clerks and deputies have made important contributions to my initiation as the new guy on the bench, and I hope that I will never quit listening to what others have to share with me about how I can better serve the community in whatever capacity I find myself. I trust that it is apparent from the tenor of my comments that I feel extremely fortunate to be serving as a judge in the 23rd judicial district. This job is just what everyone said it would be: the best job there is.

My transition from advocate to jurist continues and with it I will continue to seek and welcome guidance from every source. I greatly appreciate all the kindnesses that have been extended to me and hope to prove myself worthy of the trust and confidence which so many have placed in me.

PRESIDENT'S COLUMN— "FIELDS OF LAW"

BY STEVEN L. HIGGS

"I have done everything I've been asked to do. I didn't understand it, but I've done it. And I haven't once asked 'what's in it for me?'"

"What are you saying, Ray?"

"I'm saying . . . 'What's in it for me?'"

"Is that why you did this? For you?"

This delightful and pivotal exchange between Kevin Costner as Ray Kinsella and Ray Liotta as Shoeless Joe Jackson from the movie *Field of Dreams* has long been one of my favorites. In it I see many of us, doing everything that we are asked to do by family, friends, clients, professional organizations, religious organizations, and charitable organizations, all without once asking, "What's in it for me?"

Then-VSB President Jean Patricia Dahnk, in a 2003 speech to the Roanoke Bar Association, referred to attorneys as "the usual suspects"—not in the *Dragnet* sense, but because attorneys serve on most community, religious and charitable committees and boards; they volunteer with Scouting, they coach young athletes, and they can be counted on to give money or to raise money for a universe of good causes.

Meanwhile, lawyer jokes still circulate at cocktail parties, on golf courses and in editorial pages. We are characterized as greedy, self-motivated and uncaring. Nothing could be further from the truth.

In August 2005, the American Bar Association (ABA) Standing Committee on Pro Bono and Public Service produced a national survey that captured the amount of pro bono work being

done by lawyers in the United States.

The survey found that:

- Two-thirds of respondents (66%) reported doing some level of free pro bono services to people of limited means and/or to organizations serving the poor.

- Attorneys surveyed, on average, reported providing approximately 39 hours of free pro bono service to persons of limited means or organizations serving the poor.

- Attorneys surveyed, on average, said they provided an additional 38 hours of free pro bono service to individuals or groups seeking to secure or protect civil rights, to community organizations and other non-profits and toward efforts to improve the legal system.

- 46% of the lawyers surveyed met the ABA's aspirational goal of providing at least 50 hours of free pro bono services.

In the Roanoke Valley, our contributions have been even more impressive. In 1999, then-RBA president Frank W. Rogers, III conducted a survey of active and associate members of the RBA. Although the results were self-reported and therefore not scientifically random, the high percentage of response to the survey was statistically significant. That survey revealed that responding RBA members contributed, on average:

- 123 hours annually to community service activities

- 31 hours annually to professional service activities

- 33 hours annually to pro bono publico legal services

The 177 reporting attorneys provided service to 117 community organizations, 57 professional organizations, 24 local churches and 18 local schools.

In 2004:

- 57 Roanoke Valley attorneys, including more than 50 members of the RBA, contributed at least six hours of their time to the Youth Court program.

- 28 Roanoke attorneys pledged to the Virginia Bar Association Community Service Project to contribute 50 hours of community service or 50 hours of pro bono publico legal services, or both.

- 74 attorneys participated in providing pro bono publico legal services. We recognized 16 RBA members at our Law Day celebration last year for their extraordinary contributions of over 40 hours of pro bono publico legal services.

- 62 RBA members and their staff participated in the Barrister Book Buddies program.

- 23 Roanoke Valley attorneys participated in the Wills for Heroes program.

- The Roanoke Bar Association Foundation provided \$12,500.00 to Roanoke Valley students interested in studying law through the James N. Kincanon Scholarship program.

While some attorneys are represented in more than one of these categories, in terms of sheer numbers, well more than half of the members of our Association



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participate in these community service activities sponsored by our Association.

The next time you hear a lawyer joke, appreciate it for what it is, then let the teller know about how hard Roanoke Valley lawyers work for their community. Better yet, share a story about reading to your Barrister Book Buddies, or about the interesting students you met while helping a Youth Court jury solve problems

on a high school campus, or about the estate plan that you wrote for an emergency responder.

The membership of the Roanoke Bar Association is unusually broad and deep for an urban bar association, and our members serve the bar and the public to an extent that is not seen in many larger cities. One of the things that we need to do better as an organized bar is to get out the good word.

The Roanoke Bar Association continues to be blessed with a Board of Directors that is bright, energetic, and motivated. We are working to increase the value that you receive for your membership dollars, for your attendance at meetings, and for your active involvement in the community. In the next issue of the Roanoke Bar Review, we will talk more about “What’s in it for me?”

RVLSA

THE ASSOCIATION FOR LEGAL PROFESSIONALS BY AUDRA CHAMBERS, RVLSA PRESIDENT

Wow! What an amazing year we have had so far. I can’t believe it is already October. I hope that everyone is enjoying the cooler weather and the beautiful foliage surrounding our Roanoke Valley. We are lucky indeed to live in such a beautiful community.

We began our year with new officers:

Audra Chambers (Gentry Locke Rakes & Moore) - President

Heather Hale, PLS (WoodsRogers) - Vice President

Angee Shreffler (Gentry Locke Rakes & Moore) - Secretary

Jenny Booth, PLS (The Krasnow Law Firm) - Treasurer

Cathy Freeman, PLS (Moss & Rucovich) - Governor

Karen Switzer, PP, PLS (Wooten Hart) - Alternate Governor

Faye Vucich (Frankl, Miller & Webb) - Parliamentarian

One of the primary objectives of this organization is continuing education. In July, NALS, our national affiliate, held the Region

2 meeting in Natural Bridge, Virginia. Professor Roger Groot from Washington & Lee Law School spoke about “Death in Virginia,” a very interesting and thought-provoking insight into the death penalty. Jean Dunbar gave us a re-education in “Logical Writ-

ing.” Jan Allen, a motivational speaker, received an enthusiastic response to her professional development course.

Our education continued in August as David Paxton, Esq., of Gentry Locke Rakes & Moore spoke to us about “Harassment in the Workplace.” It is astonishing to hear that there are still those, male and female, that don’t or won’t recognize boundaries to appropriate behavior. David brought examples of claims that

had been filed just that week. Everyone left the meeting with a new appreciation of our workplace policies that offer a “no tolerance” work environment.

September brought not only fall, but Matthew W. Broughton, Esq., of Gentry Locke Rakes &

The life of many a person could probably be changed if someone would only make him feel important. - Dale Carnegie

Moore, whose topic “From Ethics to Hurricanes” covered a variety of issues. Ethics was particularly poignant. He reminded us that we all need to be vigilant, not just of our own work and habits, but also of our peers to maintain truth, integrity and professionalism in the law. Our discussion of the recent hurricanes showed how much everyone has been affected. Matt made us realize how important a role the law played in helping

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RVLSA—THE ASSOCIATION FOR LEGAL PROFESSIONALS

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protect those that are reaching out to others.

VALS, our state affiliate, held its annual Fall Institute in Charlottesville, Virginia on October 1, 2005. We had several speakers with topics ranging from the Terri Schiavo controversy, bankruptcy, and construction, to using technology to develop cases. It was a full day!

RVLSA is proud to offer at least one scholarship each year to a local student continuing their education at the college level. Through donations and hard work, we have been able to give two \$1,000.00 scholarships in the past two years! This year the Roanoke Bar Association gave us a generous donation as a thank you for assistance we have provided to them in the past. I can honestly say it is our pleasure and benefit to be affiliated with such a wonderful organization.

The major fund-raising event for scholarships is our annual

Bosses' Night. This was held at the Maridor on September 22nd. Cathy Freeman, PLS, of Moss & Rocovich was named Member of the Year and Jeff Krasnow of The Krasnow Law Firm was Boss of the Year. It was very relaxing as most of us ended the evening dancing bare-foot in the grass!

RVLSA also volunteers at the Roanoke Civic Center working the concession stands for numerous events. Our profits come from a percentage of what we sell. We work hard, have fun, and get to project a positive message for our legal community.

Our members are dedicated to serving the Community. Here are just a few of the things we have participated in this year: Red Cross Donorama, Concert in the Park, Ronald McDonald House, Adopt-A-Highway, Samaritan Inn, Turning Point Shelter, Meals on Wheels, and Relay for Life. We have many more events planned.

We have a special program every year called Day In Court. We invite students from surrounding high schools to participate in a mock trial. This year's theme was "We the People." Betty Jo Anthony and others from the Roanoke City Commonwealth Attorney's office generously donate their time and knowledge to give students a first hand look at how the law affects their lives. We asked the students to bring small teddy bears in plastic bags which we in turn distributed to local law enforcement agencies to hand out to small children in crisis periods.

I am proud of the dedication and teamwork of RVLSA. It means a lot to have the support and encouragement of the attorneys with whom we work and of our peers. As we all continue to be busy and to be reminded that life is not always pleasant, including tragedy and disaster, let us offer support whenever we can and in whatever way we can to those around us.

YOUNG LAWYER NEWS—MARK YOUR CALENDARS!

BY SAMUEL F. VANCE, IV, ESQ.

The Young Lawyers Committee is pleased to announce the events that it is coordinating for the 2005-2006 Roanoke Bar Association year.

The Young Lawyers, in conjunction with the Roanoke Bar Association Board of Directors, are organizing Law Day to be held on Monday, May 1, 2006. The speaker for Law Day will be announced at a later date.

The Young Lawyers Committee has chosen February 24, 2006, as the tentative date for the Bench Bar Conference. CLE credit will be available for attendance at the

Bench Bar Conference.

The Young Lawyers Committee is currently working on setting up another session of Wills for Heroes and also plans to set up a session to draft Advanced Medical Directives for local First Responders.

Finally, the Young Lawyers Committee will again this year organize the Roanoke Bar Association Golf Outing and Picnic. If there are any questions about any of these events, please feel free to contact any member of our Committee listed below:

Elizabeth G. Perrow, Chairperson
Wade T. Anderson
Jessica Cook
Charles L. Downs
Robyn S. Ellis
Leah S. Gissy
Kevin W. Holt
Bryson ("Bryce") J. Hunter
Joseph M. Rainsbury
Michael ("Mike") C. Richards
S. Leighton Richards
Russell ("Rusty") T. Schundler
Richard ("Ric") D. Scott
Samuel ("Sam") F. Vance, IV

2005 GOLF OUTING A SUCCESS

BY BRYSON HUNTER

On August 19, 2005, an over-worked group of attorneys and judges stared down their busy schedules and hit the links at Ashley Plantation. The threesome of Judge Pattisall, James Sublett and Dan Frankl got its mojo working early and took first place with a 10-under 63. Second place went to the 9-under team of Jack Altizer, Brett Martson, Tom Roe and their ringer, Cooper Youell, followed closely by the third place team also at 9-under of Scott Gardner, Bryce Hunter, Brian Jones, and Kai "Michelle Wie doesn't have anything on me" Memmer. Rounding out the finishing order for the golf outing teams was the Commonwealth Attorney foursome of Wanda Dewease, Patrick Kenney, Andrew Stephens and

Seth Weston. Said Dewease, "We weren't far off the mark this year and will be actively recruiting scratch golfers to the Commonwealth Attorney's office for 2006."

Most importantly, the event raised \$1,436.76 for the RBA scholarship funds.

Participants appeared to approve the new venue of the Ashley Plantation, but if you have comments about venue or other recommendations for the 2006 golf outing, please contact Bryce Hunter at 983-9325 or Bryson_hunter@gentrylocke.com. Many thanks to my fellow Golf Outing Committee members: Mike Richards, Ric Scott, and Sam Vance. Special thanks goes to Cathy Caddy for all her help in preparing for the event.



SUPPORTING OUR FELLOW LAWYER

BY MATTHEW BROUGHTON

As many of you already know, family law attorney, Cheryl Smith, was involved in a terrible accident on October 1, 2005. It is one of the highest impact, most deadly and most life-altering accidents that has ever happened in our area. It is certainly the nightmare that none of us thought would ever happen to us, or to a member of our Bar who is so competent and giving of her time to her clients, fellow attorneys and our community.

Cheryl was driving a van on the way back from King's Dominion. Her two children, Caitlin and Connor, and two of their friends were in the van. Additionally, one of Cheryl's close friends was a passenger in the front seat. They were traveling at night on a two-lane road near Charlottesville. An oncoming vehicle passed a Ford F350 at a high rate of speed and collided with the front of the vehicle driven by Cheryl. This turned her van broadside at which time it was struck by the Ford F350.

The collision resulted in the immediate death of Bridget Stoops, Cheryl's close friend, and John Thomas Graham Mosier, Caitlin's best friend.

Caitlin had life-threatening injuries including a severe lung injury and three spinal injuries, including an incomplete injury of the spinal cord which resulted in partial paraplegia.

Connor remains in a deep coma at Kluge Children's Rehabilitation Center in Charlottesville. He has numerous broken bones and a severe lung injury as well.

Cheryl's injuries included a

severely broken right arm and spleen injury. She is recovering well and spending the vast majority of her time with her children.

In the last few days, Caitlin has been able to move her left leg, somewhat, which is exciting news for everyone. She still has not been able to move her right leg. We simply do not know her ultimate prognosis.

John Thomas Mosier's mother and two siblings are having a very difficult time with his death. However, like the other families, they get great strength from their affiliation with Glad Tidings Christian School and their church community.

Cameron Stoops' physical injuries have largely healed since the accident; however, his mother's death came as a crushing blow to this seven year old boy who lost his father in a similar auto accident in May of 2005. Cameron has now been relocated to live with his aunt and uncle in West Virginia. He has already started at a new Christian school. He is beginning to ask very difficult questions regarding his mother and friends.

All three of these families need our help. It is truly a situation which could have happened to any one of us. The devastation is huge and long-lasting. Neither Cheryl, nor her husband, Chuck, have been able to return to work and to our community.

As a result of the need, a Fund Raising Committee has been established. The committee has set up a Trust at Glad Tidings Church. We hope you will feel led to make a donation to the Trust and encourage others to do likewise. Our goal

is to raise over a million dollars to help these families. If you would like to make a donation, you can make the check payable to "Glad Tidings" and send it to Joe Copola at 7422 Deer Branch Road, Roanoke, Virginia 24019.

The committee also plans several fundraisers including raffling off two footballs which have been signed by the players and coaches of both UVA and Virginia Tech. Raffle tickets should be available next week at The Roanoker and Home Place Restaurants and at other locations at a cost of \$10 per ticket. Additional raffle items include a Thomas Kincaid print and a golf package from The Homestead.

We also hope to have a benefit concert. We are searching for well-known performers who might donate their time and effort to this cause. If you know someone who could bring such an individual to Roanoke, it could make a huge difference in our fundraising efforts.

We have placed collection boxes at over thirty restaurants in the Roanoke Valley. We are also planning benefit dinners at the Roanoker Restaurant and the Home Place Restaurant.

Any ideas you have for raising funds would be greatly appreciated. Please email your ideas or questions to me at matthew_broughton@gentrylocke.com or to Kelly Hickey at kelly_hickey@gentrylocke.com or call us at 983-9300.



ROANOKE LAW LIBRARY NEWS & INFORMATION

BY JOSEPH KLEIN

I have been at the Roanoke Law Library for almost a year, and what an exciting year it has been. It has been a year spent getting to know many of the wonderful people of the Roanoke legal community, and I have enjoyed working with and serving you. I would like to thank you all for making me feel so welcome. The reopening of the Law Library on Thursdays seems to be greatly appreciated and the free Lexis access is getting more and more use with members of the legal community. We are constantly looking at our print collection and electronic resources to try and make sure that our collection is as thorough and complete as possible. In that vein, I really want to encourage you to make any suggestions or comments to me personally when you are in the law library, by phone at (540) 853-2268, or by email at jklein@roanokegov.com.



WiFi

As some of you may know, the City of Roanoke has made wireless access to the internet available in several downtown locations. The Roanoke Law Library, as well as all of the other branches of the Roanoke Public Library System, has recently gained wireless internet access as part of the Roanoke WiFi Zone, which means it is possible to access the internet with any

personal computer that has a wireless network adapter (that utilizes the 802.11b standard), so feel free to bring your laptop to the law library and get online. For more information please call the law library or visit www.roanokewifi.com.

Comprehensive Library Study

The Comprehensive Library Study that has been ongoing for the past 18 months was recently completed and presented to Roanoke City Council. The consultants have made their recommendations and now comes the exciting part: seeing what the city does with those recommendations and how it affects the law library and the entire City of Roanoke. Every branch of the public libraries, including the law library, has copies of the Roanoke Library Comprehensive study available to check out. The study and the PowerPoint presentation to City Council are available online at www.roanokeva.gov/library.

Valley Bookfest

The Valley Bookfest, Roanoke Valley's annual public literary festival, will be held on November 11th and 12th at the Roanoke Public Libraries Main Library located at 706 S. Jefferson Street. This event is an opportunity for readers of all ages to celebrate reading, meet Virginia authors such as world renowned poet Nikki Giovanni, and attend book signings by these authors.

Of particular interest to members of the Roanoke legal community is the participation of David Roll, a partner in and

former chairman of Steptoe and Johnson, the Washington, D.C.-based law firm. Prior to joining Steptoe, Mr. Roll was the head of a team of antitrust lawyers at the Federal Trade Commission. He will discuss his book *Louis Johnson And the Arming of America: The Roosevelt and Truman Years*. The book deals with Lewis Johnson, the Assistant Secretary of Defense for FDR and the secretary of defense for President Truman, who played a vital roll in the shaping of United States' military policy in the second half of the twentieth century.

Also of interest will be Tracy Dunham, a Hollins University and T.C. Williams School of Law graduate, who will be discussing her mysteries featuring former attorney Tal Jefferson, *Wishful Sinful* and *Yes, the River Knows*.

If you would like more information regarding the Valley Bookfest and a complete list of authors attending this year's festival, please visit www.roanokeva.gov/bookfest or email ValleyBookfest@roanokeva.gov. Copies of many of the books written by the Valley Bookfest authors are available for checkout at the law library.



ANNOUNCEMENTS

News From the Courtroom

In the past several months, the judges of the General District Court of the City of Roanoke have noticed that a few lawyers are representing co-defendants in criminal cases. To address this issue, the judges of the General District Courts of the County of Roanoke and the Cities of Roanoke and Salem wish to notify you of the court's written requirement should an attorney represent co-defendants in criminal cases. The deputy clerks will make these forms available to you upon your request. For more information and a sample form, go to <http://www.roanokebar.com/events/MultipleDefendants.html>.

New This Year - Free Monthly CLE Sessions

One of the goals of the Roanoke Bar Association is to provide additional services to our members. Each month during this bar year, the RBA will offer to its members a free one-hour videotaped CLE program. Information on topics and dates will be updated monthly. There is no cost for RBA members, but space is limited and registration is required. More information and a registration form are available at www.roanokebar.com

Save-The-Date

RBA Membership Meeting - November 8, 12:30 p.m., Speaker: Roger D. Groot, Washington & Lee University Law Professor, Topic: The Internet, Jury Selec-

tion and Jury Deliberations. Register at www.roanokebar.com

Twenty-third Judicial Circuit Drug Court Training -

November 9 and November 17. For more information, go to www.roanokebar.com

Effective Negotiation Techniques for Lawyers, Part II: Negotiation Techniques -

November 15. Monthly CLE Session. For more information, go to www.roanokebar.com

BARRISTER BOOK BUDDIES

BY SAMUEL F. VANCE, IV, ESQ.

The Roanoke Bar Association has again kicked off its flagship service project, Barrister Book Buddies. This year Barrister Book Buddies will be taking place at four elementary schools, including Morningside, Garden City, Lincoln Terrace, and Preston Park. The response from attorneys was very good as there were more attorneys than teachers available to participate in the project. Accordingly, we have asked that Roanoke City Schools expand its program to perhaps one or two more elementary schools so that more children can benefit from the program.

Attorneys, including RBA President Steve Higgs, and teachers attended a kickoff meeting on October 24, 2005, and the program is now in full swing. Tracy Giles is the chairperson of the RBA committee that oversees Barrister Book Buddies, and the Barrister Book Buddies committee includes the Bar's administrator, Cathy Caddy, and the two co-chairs, Sam Vance and Robyn Ellis.

Questions relating to the program should be directed to Robyn Ellis who can be contacted at (540) 983-9365 or robyn_ellis@gentrylocke.com.

OFFICERS:	
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<i>K. Brett Marston</i> <i>President-Elect</i>	983-9391
<i>Mark K. Cathey</i> <i>Secretary-Treasurer</i>	767-2205
<i>Elizabeth K. Dillon</i> <i>Past-President</i>	387-2320
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<i>Tracy A. Giles</i>	981-9000
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ROANOKE BAR ASSOCIATION
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