

ROANOKE BAR REVIEW

Volume 7, Issue 1

Spring-Summer 2005

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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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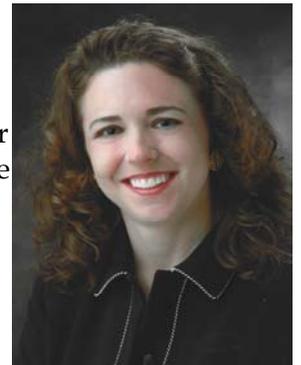
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LOAN REPAYMENT ASSISTANCE FOR PUBLIC SERVICE ATTORNEYS

BY VICKI L. WIESE

Very few attorneys who graduated in 1990 or thereafter had the luxury of graduating and owing little or no money for their law school education. The cost of a law school education, public or private, continues to increase every year while the market for new associates remains steady or becomes more competitive.



These two factors continue to have a great influence on those willing or able to practice law in the public sector. With the starting public defender pay in Western Virginia barely exceeding an annual income of \$38,000 for new attorneys, it is financially impossible for most recent graduates to even remotely consider working for a government agency.

If you are currently considering public sector employment, or if you are already in the public sector, there exists a federal program worthy of your consideration. There is extensive information available on the internet regarding the Income-contingent Repayment Option of the William D. Ford Federal Direct Lending Program, or the "IRC."

The IRC program is available to all borrowers with federal direct loans, and to borrowers who consolidate their federally guaranteed loans into federal consolidation loans. The IRC limits monthly repayment amounts to an affordable percentage of the borrower's income. Any remaining debt is forgiven after 25 years of repayment under the IRC plan.

However, some borrowers do not wish to participate in the IRC plan because some borrowers want to repay their loans in less than 25 years -- even though a different repayment plan can be subsequently elected at any time. Also, if a borrower is married, the IRC plan takes into account the income of both spouses thus possibly penalizing married two-income but one debt couples.

The American Bar Association is currently lobbying Congress to amend the current IRC plans by suggesting that: 1) forgiveness occurs after only 15 years of repayment as opposed to 25 years; and 2) that the "marriage penalty" aspect of the IRC plan be reduced or completely eliminated.

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LOAN REPAYMENT ASSISTANCE FOR PUBLIC SERVICE ATTORNEYS

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To find out more about the current IRC plan, or proposed IRC plan amendments, please contact ABA staff contact person Kenneth Goldsmith at 202/662-1789 or Professor Philip G. Schrag, Vice-Chair of the Com-

mittee on Government Relations and Student Financial Aid of the Section of Legal Education at schrag@law.georgetown.edu. *The author acknowledges that a significant amount of the information for this article was taken from the American Bar Association Fact Sheet dated Feb-*

ruary 2005 which was distributed at the 2005 ABA Mid-Year Meeting in Salt Lake City, Utah.



PRESIDENT'S COLUMN

BY ELIZABETH K. DILLON



I recently had the opportunity to attend the Virginia State Bar's professionalism course. I was astounded at the number of respected, experienced, professional attorneys and judges who gave generously of their time and experience to present an exciting, educational program. As I was leaving the program, feeling invigorated, I overheard an attendee comment that the way to better the program was to eliminate it.

I was furious! How dare this attendee speak poorly of such a wonderful educational opportunity. As time passed, my anger

turned to sadness. Available for those willing to listen were lessons learned over many years. As all of us know, law school does not teach a lawyer everything he or she needs to know to practice law. We learn from experience - our own experience and the experience of others. Unfortunately, as Douglas Adams said, "Human beings, who are almost unique in having the ability to learn from the experience of others, are also remarkable for their apparent disinclination to do so."

You had an opportunity to learn from the experience of others. The RBA sponsored three CLEs this past year and will be offering more next year for the benefit of the Foundation. The

money raised assisted in funding the James Kincanon scholarships and allowed the Association and Foundation to award five \$2,500 scholarships. The recipients were pleasantly surprised to discover that the scholarship amounts had increased over the \$1,000 amounts awarded in previous years. These five students will use the money to continue their educations in law-related fields.

My thanks to all of you who planned, presented and attended the CLEs. Thanks also to Gene Elliott who had the vision to make the CLEs available and the dedication to insure their success. Please join me again next year in learning from the experience of others.

KINCANON SCHOLARSHIP RECIPIENTS ANNOUNCED

BY WADE ANDERSON AND EUGENE M. ELLIOTT, JR.

The Roanoke Bar Association and Roanoke Bar Association Foundation have announced this year's five recipients of the James N. Kincanon Scholarships. The recipients are Matthew P. McDowell, G. Scott Binnings, Kathleen Nicole Adams, Michael D. Hermann, and Matthew D. Hermann.

According to Eugene M. Elliott, Jr., Chairman of the RBA Foundation, this year marks a particularly proud one for the RBA as the restructuring of Foundation investments and additional proceeds from three Continuing Legal Education seminars allowed for a 150% increase in the amount of the scholarship award. In past years,

the RBA and the Foundation have awarded five individual scholarships in the amount of \$1,000. This year, the five individual recipients will each receive \$2,500 scholarships.

"The quality of applications increases each year and the competitiveness this year was at an all

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KINCANON SCHOLARSHIP RECIPIENTS ANNOUNCED

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time high," Elliott said. These scholars demonstrated that they are well-rounded, highly motivated individuals who exhibit high academic achievement and show a great degree of involvement in their respective communities. The recipients are:

Matthew P. McDowell.

Matt is the son of John and Janet McDowell. He has won the scholarship two years previously. Prior winners are not always selected in the following year depending upon the competition of the present year, as the scholarship is a merit based scholarship. He will be a senior at the University of North Carolina. Matt is highly involved with the Honor Code and its enforcement. He serves as the Student Attorney General overseeing a staff of forty-two volunteer counsel. He also is a Habitat for Humanity volunteer. He has been elected to the Order of the Golden Fleece, UNC's highest academic society. He is also a member of Phi Beta Kappa and the Golden Key International Honor Society. He does all this while working 8-10 hours a week. His career goal is to practice law.

G. Scott Binnings.

Scott is the son of Clement and Joan Binnings. Scott will be a first year law student at Tulane University this fall. He is a graduate of William & Mary where he served as President of the National Society of Collegiate Scholars, an organization of over one thousand individuals; he also co-founded Global Awareness

Interdisciplinary Alliance, an environmental organization. He is a member of Omicron Delta Kappa, the National Society of Collegiate Scholars, the National Deans List, and many other campus organizations — all while maintaining close to a 4.0 average at William & Mary. He wants to be an environmental lawyer.

Kathleen Nicole Adams.

Kathleen is the daughter of Sandra Adams. Katie graduated from Salem High School and will attend the College of William & Mary this fall. In one letter of recommendation by an Assistant Principal she was described as "the best of the best that Salem High School has to offer". She is President of Student Council, a member of the National Honor Association, in Who's Who in American High Schools, and a member of the Distinguished Scholars graduating with a 4.0 GPA or higher. She is the Drum Major in the Band, member of the Track Team, member of the Fellowship of Christian Athletes, and has a list of other activities that would fill up another page. She wants to be a lawyer and she wants to serve her community.

Michael D. Hermann & Matthew D. Hermann.

These twin brothers are the sons of Glenn and Darlene Hermann. They have just graduated from Patrick Henry High School and will attend Washington and Lee University this fall. It is particularly difficult to distinguish between their individual accomplishments since they have identical GPA's of 4.4958 — the

result of having made straight A's all the way through Patrick Henry High School. They are both very much involved in the Youth Court Program at Patrick Henry and served as President and Vice-President of that organization. Likewise they are both Eagle Scouts, they both attended the Governor's School and serve as Governor's School Ambassadors. They also demonstrate a successful entrepreneurial spirit, having established their own lawn mowing service, which has helped them earn money towards their education. The scholarship committee was content to celebrate the successes of both of these young men together, knowing that each of them has earned his own success in his own right. They both intend to pursue a career practicing law.

**EXTRA!
EXTRA!**

The Roanoke Bar Review needs:

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AND
EDITORS**

If you are interested,
please contact:

Bryson Hunter,
(540) 983-9325

or

Kathleen Wright,
(540) 983-9360

THE BENCH-BAR CONFERENCE: A GOOD (INFORMATIVE) TIME HAD BY ALL

BY KATHY WRIGHT

The Roanoke Bar Association enjoyed an interesting and well-attended Bench-Bar Conference on Friday, February 25, 2005. Similar in format to last year's



successful event, the conference included several presentations followed by group discussions between members of the judiciary and small groups of lawyers. Elizabeth Perrow, the Chair of the 2005 Bench-Bar Committee, began the afternoon with opening remarks and introduced the presentations on the State of the Judiciary in the 23rd Judicial Circuit.



Judge John Ferguson began by reporting on the Juvenile and Domestic Relations Court, followed by Judge Jonathan M. Apgar, reporting on the valley Circuit Courts. In the circuit courts, the number of civil cases commenced during 2004 decreased in Roanoke City and County, but increased in Salem. The number

of new criminal cases in Roanoke and Salem cities both decreased from 2003 to 2004, but Roanoke County experienced an increase in criminal cases. The courts were able to conclude 3,850 civil cases and 5,034 criminal cases during 2004.

Judge Apgar also discussed the Drug Treatment Court, and he announced that Judge Broadhurst will be both the docket and Drug Court judge this year. All six judges will now hear assigned divorce filings. Judge Apgar made a special request to Bar members to



comply with Supreme Court of Virginia Rule 4:12(a) (regarding motions to compel discovery) and Rule 4:15 (regarding motions practice in general), which require certification that counsel have conferred in good faith to attempt to resolve disputes prior to applying to the Court for assistance.

Judge Jacqueline F. Ward Talevi presented the State of the Judiciary presentation from the perspective of the area General District Courts. This court continues to handle a large volume of cases, with each judge averaging 21,336 cases during 2004. Judge Talevi pointed out some recent Virginia code section changes, in-

cluding the reduction of the legal interest rate to 6% as of July 1, 2004, and the changes to §16.1-88.03, regarding documents that may be filed by corporate parties in the General District Courts. She announced that forms for Affidavits in Default Judgment are available in the Clerk's offices for compliance with §8.01-15.2, the Service-member's Civil Relief Act. On the criminal side, Judge Talevi alerted everyone to the changes in punishment for DUI offenses, including the new mandatory minimum five-day jail sentence if the DUI offender's blood alcohol content exceeds a measurement of 0.15. This punishment applies even to first offenders. (See Va. Code §§ 18.2-266, -270, -271, and -271.1, and §§ 19.2-187, 46.2-391.2 for additional information.)



Vicki Wiese, a lawyer with the Frith Law Firm, discussed collaborative law, a new process for dispute resolution, which is particularly applicable to family law disputes. (See, "Why Litigate When You Can Collaborate? A Better Approach to Family Law" Roanoke Bar Review, Vol. 6 Issue 4 (2004)).

Brent Brown, of the Salem-based firm of Brown & Jennings,

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THE BENCH-BAR CONFERENCE: A GOOD (INFORMATIVE) TIME HAD BY ALL

(Continued from page 4)



discussed tort reform from the perspective of an injured plaintiff, and the effect of various historical



events, including the bankruptcy and liquidation of ANLIR and the physicians' march on the Richmond capital, on tort reform efforts in Virginia.

The breakout sessions provided additional helpful information on both local and larger issues. Parking around the Roanoke



County courthouse was discussed, as well as technology in the courtroom, the latitude of *voir dire* questioning, and the strictness with which pre-trial scheduling orders may be interpreted. One underlying theme of the conversations was communication. Communica-

tion can always be improved, not only between counsel, but between counsel and Court, within the parameters of the ethical rules. Listening to Court proceedings to avoid unnecessary repetition will always be appreciated, especially in light of the sheer volume of work our judiciary is handling.

Thanks to all who participated, and we look forward to seeing and hearing from everyone at next year's conference.



RBA WINS STATEWIDE RECOGNITION FOR SEVERAL PROGRAMS

BY KATHY WRIGHT

The RBA Newsletter Staff would like to congratulate the RBA on the awards it received from the Conference of Local Bar Associations (CLBA). Gene Elliot was named as the 2005 Local Bar Leader of the Year for his service leading the RBA. This award reflects his creation of the RBA CLE program, chairmanship of the Roanoke Bar Foundation, and support of the Youth Court and Barrister Book Buddies programs, as well as his other community service and involvement. The

CLE program has particularly paid off this year, as the increased income from the programs allowed the RBA to increase the amount of its Kincanon scholarships (see the article in this newsletter regarding the scholarship winners). Congratulations to Gene!

Two RBA programs received Awards of Merit from the CLBA: Youth Court and Wills for Heroes. The Youth Court program is the first of its kind in Virginia, and the Wills for Heroes program provided important estate documents

for many of our areas first responders. These programs were described in the Roanoke Bar Review Summer and Winter editions, 2004-05. (Vol. 6, Issues 3, 4).

The RBA program "The Practice of Law in Southwest Virginia" received a CLBA Certificate of Achievement. This CLE program introduced new lawyers in the area to the federal courthouse, bankruptcy court, and Roanoke City courts and Clerk's office. See the Roanoke Bar Re-

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RBA WINS STATEWIDE RECOGNITION FOR SEVERAL PROGRAMS

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view, Vol. 6, Issue 4 for our earlier article on this wonderful program.

The Newsletter staff also congratulates the Roanoke Chapter of

the Virginia Women Attorneys Association for its receipt of a CLBA Certificate of Achievement. This group, which holds monthly meetings open to any interested attorney, began its own CLE lunch

program, which was well attended, informative, and convenient.

M. FREDERICK KING BECOMES JUDGE IN 23RD CIRCUIT

BY KATHY WRIGHT

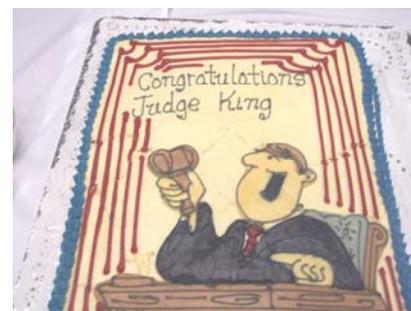


On April 1, 2005, at the Roanoke County Courthouse, Frederick King was sworn in as a new judge in the Twenty-Third Judicial Circuit by The Honorable Robert P. Doherty, Jr. The ceremony was attended by a large

group of well-wishers who stayed afterward for the reception in the courthouse library. The Roanoke Bar Association congratulates Judge King.



Congratulations are also in order for Charlene Day, who will act as the new Salem Commonwealth's Attorney, stepping into the position vacated by Judge King.



RBA MONTHLY MEETING RECAPS

BY KATHY WRIGHT

February: The RBA hosted City Attorney William Hackworth and Brian Townsend, Director of Roanoke's Planning, Building and Development department, who discussed the development of a new zoning ordinance for Roanoke City to reflect the goals and policy of Vision 2001-2020, Roanoke's Comprehensive Plan. We also learned about the history of Roanoke City planning and zoning.

April: Sen. John Edwards and Delegates William H. Fralin, Jr. and Onzlee Ware talked about the 2005 Legislative Session and provide a summary of the bills

passed by Virginia's General Assembly. The budget surplus was used to pay down state debt, provide a revenue steam for rail transportation improvements, and provide a one-time cash infusion toward other transportation improvements. Additional funds for transportation projects, including the proposed construction of I-73 and widening of I-81, were not provided. The politicians also answered questions related to teacher pay rates, designation of the Virginia big-eared bat as the official bat of the Commonwealth, and merger of the legal and equitable court systems.

May: Law Day Celebration (See page 8)

June: At the most recent RBA Lunch, the Kincanon scholarships were awarded to five impressive and deserving young adults from the Roanoke Valley. Additionally, following the election of a new board of directors, President Elizabeth Dillon passed the gavel of leadership on to new RBA President, Steven Higgs, who promptly adjourned the meeting. We thank Elizabeth for her service as President, and look forward to working with Steven Higgs in the coming year.

ROANOKE LAW LIBRARY NEWS & INFORMATION

BY JOSEPH KLEIN

Announcements

Good news! On February 17th, the Roanoke Law Library expanded its hours of operation and is now open on Thursdays. Despite current budgetary constraints, the library administration and I both feel that it is important to have the law library open the entire work week. The staff of the Roanoke Law Library is committed to offering the public and the Roanoke legal community the best possible access to legal research information. Now, thanks to the library administration and the City Manager's office, we will be able to meet your legal research needs on Thursdays.

Public Library Services at the Law Library

Why wait to return borrowed library materials to your neighborhood library branch? You can return library materials borrowed from any Roanoke Valley library location to the law library. As a further convenience, library materials requested online through www.rvl.info (Roanoke Valley Libraries on-line catalog) can be delivered to the law library for pickup.

It is also possible to search the collection of the law library at www.rvl.info. If you want to search the law library's collection simply choose the Roanoke Law Library from the list of collections.

The Roanoke Law Library has a conference room that is available to be used for free whenever the law library is open. The conference room will hold 15-18 people and has a television and videocassette player. Give us a call at (540) 853-2268 with questions or to reserve the room.

Another wonderful service that the public library system provides is online access to the Find it Virginia reference databases (at URL <http://www.finditva.com>). Anyone with a library card and access to the Internet can log on to this system and search over 20 databases for free. National and international newspapers, company information and investment reports, encyclopedia, biographical information, health and wellness information, literary criticism, scholarly journals on most subjects, military information, government resources, and legal information are among the many resources that are available twenty-four hours a day.

Many of the databases on Find it Virginia include full text articles and imaged files directly from the publications. Also keep in mind that if you find sources in these databases that are not available in full text, the library system also provides interlibrary loan services that can get this information for you.

LegalTrac

Find it Virginia has a legal resource database called LegalTrac. LegalTrac allows you to search over 1000 legal publications and provides full text access to over 100 legal journals. You can view the complete list of LegalTrac offerings at URL <http://www.gale.com/tlist/sb5088.pdf>. LegalTrac allows for searching of author, title, subject, date, and keyword or any combination therein. This is a terrific tool that allows anyone to research legal publications anywhere they have access to the Internet.

I hope you will give LegalTrac a try. If you have any questions about using Find it Virginia, searching LegalTrac, or if you have found legal citations on LegalTrac or another source that you need help accessing please give me a call at (540) 853-2268.



WELCOME...JOEY!

A reception was held on March 30, 2005 at the law library welcoming our new librarian, Joey Klein. *Pictured left to right are:* Judge Charles Dorsey, Joey Klein, and Judge William Broadhurst.



ROANOKE BAR LAW DAY 2005

BY SAMUEL F. VANCE, IV, ESQUIRE

This Law Day 2005 was certainly one for the books. After President Elizabeth Dillon’s opening remarks, the Directors for Blue Ridge Legal Services recognized the outstanding contributors to the Pro Bono program here in the Roanoke Valley. In all, sixteen attorneys were honored for outstanding contributions including: *John D. Eure, Kenneth J. Reis, Frank W. Rogers, III, E. Scott Austin, Karen M. Coon, H. David Gibson, Kevin W. Holt, Gregory R. Hunt, Bryson J. Hunter, J. Barrett Lucy, K. Brett Marston, Jason G. Moyers, Victor S. Skaff, III, Melissa Amos Young, and Tara A. Branscom.*

Again this year topping the list was Anthony “Tony” Russell, who was presented with a special plaque.

Following the Pro Bono recognition we had a very animated speaker, Rodney A. Smolla, Dean of the University of Richmond School of Law and Allen Professor of Law. After his introduction by the Honorable John L. Brownlee, Dean Smolla proceeded to nominate all RBA members in the audience as Associate Justices of the Supreme Court of the United States of America. Dean Smolla proceeded to present both sides of a case involving the exercise of war powers abroad. As Dean

Smolla made oral argument as counsel for each side of the issue (justiceability), members of the audience in their roles as Associate Justices did not hesitate to question him, cut him off, and show their legal prowess in their judicial roles. In the end, by a fairly close vote, our RBA member-Associate Justices of the Supreme Court voted by majority that the issue was non-justiceable. Without a doubt, it was a great celebration of a day in which we recognize our Nation’s commitment to the rules of law and to the rights and privileges that all Americans share equally.



L to R: John Brownlee, Dean Smolla (Richmond Law School) and Elizabeth Dillon (RBA President)



Anthony Russell (Outstanding Volunteer)



L to R: John Whitfield (Executive Director of Blue Ridge Legal Services, Inc.), Susan Proctor and Henry Woodward (Head of Legal Aid Society in Roanoke)

ANNOUNCEMENTS



New Members

The Roanoke Bar Association welcomes the following new active members: **Elizebeth Hope Cothran, Esq.**, Woods, Rogers & Hazlegrove, PLC, P.O. Box 14125, Roanoke, VA 24038-4125; **Ann McGee Green, Esq.**, Anderson & Desimone, PC, 4923 Colonial Ave., Roanoke, VA 24018; **Lena S. Hill, Esq.**, Crandall & Katt, 306 Elm Ave., SW, Roanoke, VA 24016; **Rachel E. Jackson, Esq.**, Office of the

Public Defender, 210 First Street, SW, Suite 420, Roanoke, VA 24011; **Patrick Michael McGraw, Esq.**, Williams Law Firm, 2721 Brambleton Ave., SW, Roanoke, VA 24015; **Pauline Elgin Hollar Pauley, Esq.**, Gentry Locke Rakes & Moore, LLP, P.O. Box 40013, Roanoke, VA 24022-0013; **Andrew E. Stephens, Esq.**, Office of the Commonwealth Attorney, 315 Church Ave., SW, Roanoke, VA 24016; **Ashley E. Sweet, Esq.**, Anderson & Friedman, 1102 Second Street, SW, Roanoke, VA 24016; **Nicole Sims Terry, Esq.**,

Gentry Locke Rakes & Moore, LLP, P.O. Box 40013, Roanoke, VA 24022-0013; and **Spencer McLaughlin Wiegard, Esq.**, Gentry Locke Rakes & Moore, LLP, P.O. Box 40013, Roanoke, VA 24022-0013.



Save-The-Date

RBA Picnic - July 28, 2005 - 6:00 pm, Loch Haven

RBA Golf - August 19 - Noon, Ashley Plantation

Details will be provided at a later date.

Office Space for Lease

Location: Downtown Roanoke, 3 blocks from Market Square.

Description: Historic building located across from the Courthouse and Municipal Building. (At the corner of 2nd and Kirk - formerly Angler's Café)

Address: 310 Second Street
Roanoke, VA 24011

- * Entire first floor available; total of 1,600 square feet of commercial space; street level; front windows
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