

FAIRFAX BAR

JOURNAL

Newsletter of the Fairfax Bar Association

www.fairfaxbar.org

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INTERVIEWS — NEWEST JUDICIAL ADDITIONS TO THE J&DR AND GENERAL DISTRICT COURTS



Hon. Glenn L. Clayton, II
J&DR District Court

After a few months on the job, what observations do you have about being a judge?

I'm struck by the level of dedication exhibited by the staff; their willingness to help and to teach this "rookie" how things operate behind the scenes, insuring a smooth transition for me. I love the work. Each day presents a new set of challenges which I take on both eagerly and earnestly. The goal, of course, is to maintain that kind of zest over the long haul, and it is that level of dedication observed in my co-workers that makes me believe that I can.

Describe your transition from practicing law to becoming a judge.

I was selected by the NOVA Delegation in July 2006. The original plan was for me to be sworn in as an interim appointment. An arbitrary date was set for me to be sworn in on August 28, 2006.

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Hon. Thomas P. Mann
J&DR District Court

Judge Mann took the Fairfax County Juvenile & Domestic Relations District Court Bench in February 2006. Prior to that he was a civil and criminal trial lawyer practicing primarily in Fairfax City since 1990.

During your first year on the job, what observations do you have about being a judge?

One, it's harder than it looks; two, the administrators and staff of the Court Services Unit, the clerks in the courthouse, the Sheriff personnel and the teachers and staff at the JDC/Less Secure Shelter are my heroes.

Describe your transition from practicing law to becoming a judge.

The transition is very gradual and I am still in that process. The truth is, everything and nothing has

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Hon. Lisa Mayne
General District Court

by Charles E. Collins

As you look back over the journey from your George Mason University School of Law days, through your 20+ years of practice, is there any particular point in time or key experience that awakened your interest in becoming a judge?

The principal reason I went to law school was that a law career offered the opportunity to make a difference in people's lives and while I was in private practice, the cases that were the most personally satisfying were those in which I helped to right a wrong or otherwise obtained a just result. And so, when a General District Court Judge suggested almost ten years ago that I should consider running for the Bench, a seed was planted. I began to take note of the kinds of matters that the Court was seeing and I spent time sitting in various courtrooms watching and learning.

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PRESIDENT'S COLUMN

Dumb Lawyers

by Steven W. Ray



(Left) Steven W. Ray taking the
Cub Scout Oath, 1968

*"My dog can find your honor student lost in the woods."
(Bumper sticker on a K-9 search and rescue vehicle)*

I was born and raised in California and began my legal career in Northern California before moving to Virginia. The California bar exam is known to be one of the most difficult bar exams with the lowest pass rates in the country (yes, I did pass on my first try), which contains a full day of essay exams, a full day for the Multistate exam and a third day in which you are given a case study and required to draft an opinion letter to a client. The test also contains a significant portion relating to ethics. Because the test is so difficult and has such a strong emphasis on ethics, I took comfort in believing it helped to keep out the less-scrupulous and less-intelligent individuals who would seek a license to practice—at least until I read an article in a recent issue of the *California Bar Journal* concerning a particular attorney who was disbarred and sent to prison for an insurance fraud scam.

The insurance scam was disturbing on several fronts. First, the absolute brazenness of this attorney in his attempt to defraud the insurance company out of millions of dollars was astounding. But even more disturbing was the attorney's stupidity in the execution of the scam and believing he would not get caught.

According to the *California Bar Journal* article, a Beverly Hills lawyer (right away you know that trouble is around the corner), was convicted of 16 counts of conspiracy, mail fraud, wire fraud and perjury and sentenced to seven and a half years in federal prison for leading two other associates in a plan to sink his luxury yacht in order to collect \$3.5 million in insurance money. The lawyer, who was a former insurance adjuster, bought a \$1.9 million 76-foot yacht and then boosted its value to \$3.6 million through a series of phony transactions. The yacht was used by the lawyer to entertain movie stars and moguls and was "tricked out" with custom Mercedes Benz engines, his and hers bathrooms with Italian marble and a state-of-the-art navigation system (I'm guessing it will show up at some point on a "Pimp My Ride" episode).

The attorney and his two accomplices (one was a camera man who helped with the business transactions and the other knew how to captain a yacht) attempted to sink the yacht on its maiden voyage off the coast of Italy by drilling holes in its hull with power tools. When their efforts failed to completely sink the yacht, they abandoned the ship in a lifeboat and were subsequently rescued by the Italian Coast Guard. You would have thought the attorney would have perfected the methodology of sinking yachts since the later investigation by the insurance company disclosed that he had received nearly \$500,000 for three other yachts that were supposedly lost

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Fairfax County's High-Tech Courtroom

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Fairfax Circuit Court's Courtroom 5E, the prototype high-tech courtroom located in the Jennings Judicial Center, was officially introduced on October 10th by U.S. Representative Frank Wolf, Chancellor Professor and Director of Courtroom 21 Project Fred Lederer, College of William and Mary Law School, and Clerk of the Fairfax Circuit Court John Frey. This prototype will guide the technology needs for the courthouse expansion and renovations currently underway and provide flexibility and adaptability to incorporate future changes in technology and court proceedings.

Courtroom 5E's new technologies include a universal interface for laptop computers, document cameras and multiple flat-screen monitors that allow the judge, witness, jury and gallery to view the digital presentation of evidence at the same time; an enhanced system for simultaneous assisted listening and language interpretation; the capability for remote testimony, video arraignment and secured-witness testimony utilizing videoconferencing technology; touch panels controlled by judges, clerks, and attorneys to facilitate courtroom proceedings via multiple technologies; and electronic docket displays.

Several trials have been conducted utilizing the high-tech courtroom's facilities. For the first time in Virginia, the court was able to present digitized 3-D medical graphics and animation to the jury. Through the videoconferencing technology, a young "protected witness" in a child-abuse case testified from a remote area of the courthouse instead of being in the same room as the defendant. A plaintiff in a chancery case was able to provide testimony from her native residence in Turkey. These cases highlight the success of the prototype project and represent a major breakthrough for the adjudication process in Fairfax County and throughout the world. Other courts in the Commonwealth, the United States, including the U.S. Army's military courts, and Canada have approached the county to research and emulate this project.

The high-tech courtroom is a joint effort between the county's three courts—Circuit Court, General District Court, and Juvenile & Domestic Relations District Court—and the Center for Legal and Court Technology, formerly known as the Courtroom 21 Project supported by the College of William and Mary's Marshall-Wythe School of Law. In addition, the Fairfax County Sheriff's Office, Department of Information Technology, Department of Management and Budget, Department of Cable Communications and Consumer Protection, Department of Public Works and Environmental Services, Department of Purchasing and Supply Management, and the Facilities Management Department all played integral roles in the development and implementation of the high-tech courtroom. ■



Wielding "gold" wire cutters for the Courtroom 5E cable-cutting on October 10th are (left to right): Celine Robinson and Afsaneh Tibbs, General District Court; State Delegate Dave Albo; Clerk of Court Jennifer Flanagan, George Spack, J&DR; Chief Judge Teena Grodner, J&DR; Clerk of Court Nancy Lake, General District; David Bartee, DIT; Clerk of the Fairfax Circuit Court John Frey, Drew Kassick, Circuit Court; Paul Maltagliati, Sheriff's Office; Fairfax County Attorney David Bobzien; Judge Jane Roush, Circuit Court; U.S. Representative Frank Wolf; Judge Dennis Smith, Circuit Court; City of Fairfax Attorney Brian Lubkeman
(Photo by Kimberly Morris)

FAST FACTS: FAIRFAX COURTS AND COURTROOM 21 PROJECT

Evidence Presentation

The technology-friendly judge's bench podium and attorneys' tables provide:

- Video and sound laptop connections.
- Document camera (ELMO) for viewing physical documents, pictures or other non-digital evidence.
- Capability to display images of the evidence on multiple monitors throughout the courtroom.
- Elimination of the need for boxes of documents.
- Magnification of selected areas of evidence for easier and directed viewing.
- VCR/DVD capability.
- Audio cassette player.
- Printing of any text or images displayed by the system.
- 17" monitors for every two jurors, on attorney tables, and in podium and witness areas with annotation capability.
- 42" monitors for gallery viewing and jury deliberation.
- Simultaneously transmitted assisted-listening devices and multi-language interpretation capabilities.
- Touch panel controls for judges to raise or lower volume for speakers and microphones; introduce sidebar white noise; initiate videoconference or protected witness calls; switch between image of evidence; and preview evidence prior to introduction to jury.
- Touch panel controls for attorneys to toggle between evidence images and to send print requests to the video printer.

Remote Applications and Miscellaneous Information

Remote applications provide judges, attorneys, and the public with:

- ISDN lines to connect to any ISDN compliant videoconferencing system in the world.
- 16" display screen mounted in the witness area.
- Ceiling-mounted cameras to capture all aspects of the court proceeding to include the judge, witness, podium, defendant, plaintiff, and overview.
- Connection to the Adult Detention Center for video arraignment.
- Permits protected witnesses to testify from a remote location.
- VCR/DVD capability.

Miscellaneous information & How to Use Courtroom 5E:

- To date, 13 judges have used Courtroom 5E.
- Approximately 30 cases have been heard in Courtroom 5E.
- A case initiated in Turkey was heard in Courtroom 5E.
- Requests for use of Courtroom 5E are honored on a first-come, first-served basis.
- To reserve Courtroom 5E, use the following link:
http://www.fairfaxcounty.gov/courts/circuit/Evidence_Presentation.htm



What Becomes a Legend Most?

FBA Presents Jurisprudence Award to Local Legend Hon. Johanna L. Fitzpatrick

by Yvonne C. McGhee, FBA Executive Director



The Fairfax Bench has always been the source of envy, pride and legends. Judge Johanna L. Fitzpatrick's exemplary career is one of the main factors in creating our legend, so it should come as no surprise that the Fairfax Bar honored her upon the occasion of her retirement as Chief Judge on the Virginia Court of Appeals with its highest accolade: the FBA Jurisprudence Award.

On the evening of November 27, 2007, approximately 360 lawyers, friends, and family of Fitzpatrick gathered to pay tribute to this distinguished jurist. "We are very pleased to have the opportunity to honor Judge Fitzpatrick and appreciate all of the members of the bench and bar who attended the event," noted Steve W. Ray, FBA President.

The event began with presentations from other associations. Fairfax J&DR District Court Chief Judge Teena D. Grodner presented Fitzpatrick an award on behalf of the Virginia Association of Women Judges and Mary Catherine H. Gibbs was the spokesperson for the Virginia Women Attorneys Association, Northern Virginia Chapter. The presence of these two groups highlighted the significant role Fitzpatrick has played for women in the law and on the bench.

Other notable legends of the Fairfax bench were on hand to recall and celebrate Fitzpatrick's career. The "benign roast" began on a high note when Moderator Chief Judge Michael P. McWeeny of the Circuit Court took to the podium with his unique mix of humor and sincerity that gave the attendees an affectionate overview of Judge Fitzpatrick's service on the Fairfax Circuit Court Bench.

Following McWeeny was Chief Judge Richard J. Jamborsky (Ret.), another peer of Fitzpatrick during her

term on the Fairfax Circuit Court Bench. Jamborsky related Fitzpatrick's labeling him as her "babysitter" in her judicial screening interview to counter queries on her ability to juggle her role on the bench with the needs of her small children. Fitzpatrick's dynamic sense of humor was a recurring theme throughout the evening.

Virginia Supreme Court Justice Barbara M. Keenan, a 1995 recipient of the Jurisprudence Award, rounded out the legends of Fairfax assembled to honor one of their own. Keenan reminded the attendees of the early years she shared with Fitzpatrick when the Fairfax bar was much smaller overall, and infinitely smaller for women. The two became fast friends and shared a rich history as they both rose to lead the way for women in the legal community within the Commonwealth.

The keynote speaker was Governor Timothy M. Kaine. Kaine was introduced and brought to the podium by colleague Paul Ferguson. Kaine, who spoke without any notes, shared his unique perspective on women on the bench from his marriage to the Hon. Anne Holton, a Richmond J&DR Judge who resigned once her husband became Governor. Kaine expressed his support of the independence of the judiciary in Virginia. Acknowledging his awareness of the Fitzpatrick legend, Kaine revealed to the honoree and the attendees that he had been advised by a highly regarded peer that if he wanted to have a top-notch ticket in Virginia, he would select Fitzpatrick as his running mate for the position of Attorney General!

Fitzpatrick provided a rebuttal to the friendly roast, returning affectionate and benign jabs to her peers. Regarding the event, Fitzpatrick confided to the crowd that her only choice for keynote speaker was Gov. Kaine,

and she was elated that he was able to join us on this occasion. Fitzpatrick was surrounded by her family as well as her many bar friends and colleagues as FBA President Steven W. Ray presented the FBA's Jurisprudence Award.

The "Jurisprudence Award," affectionately called the "Giants of Justice" award, is the highest honor bestowed by the Fairfax Bar Association recognizing exceptional contributions to our legal system. A singular honor, it is not presented annually, but only upon such occasions as the FBA may find a fitting and appropriate candidate. Judge Fitzpatrick joins ranks with a select group of prior recipients: the late William G. Plummer (1991), former judge of the 19th Judicial Circuit; Justice Barbara Milano Keenan (1995) of the Supreme Court of Virginia; famed Richmond civil rights attorney Oliver White Hill (1996); Senator Joseph V. Garlan, Jr. (2001); Honorable Harry L. Carrico (2003), Senior Chief Justice, Virginia Supreme Court; and most recently Judge Rosemarie Annunziata (2005), Court of Appeals of Virginia.

Judge Johanna L. Fitzpatrick has been a dominant figure on the Virginia legal landscape. Judge Fitzpatrick has been a member of the Court of Appeals of Virginia since September 3, 1992, and was elected by the Court to be its Chief Judge in 1997. From 1982-1992 she served as a Circuit Court Judge for the 19th Judicial Circuit and was a Judge on the Juvenile and Domestic Relations District Court from 1980-1982.

Carol Schrier Polak, FBA Past President stated: "Fitzpatrick embodies the spirit of the Jurisprudence Award. She was honored for her work not only as a Juvenile & Domestic Relations District Court, Circuit Court and Court of Appeals jurist, but also as a major contributor to community activities."

Fitzpatrick continues to actively participate in her community. Over the past several years, she has given over 150 speeches and educational presentations. Additionally, she taught Trial Advocacy at the University of Virginia Law School. Judge Fitzpatrick has been active in the ABA as a member of its Standards Committee and Chaired the White Paper on "Youth in the Criminal Justice System: Guidelines for Policy Makers and Practitioners." She was the 2004 Chair of the Education Committee of the Council of Chief Judges of State Courts of Appeals, is a founding member of the Board of Directors of the National Center for Family Law, and has served on numerous legislative and state bar committees, state and federal judicial committees, including the Judicial Council of Virginia, the State-

Federal Judicial Council, and the Judicial Performance Evaluation Project.

In addition to the FBA's Giants of Justice Award, Judge Fitzpatrick has garnered many accolades for her service, having been named the Virginia Women of Achievement in Government, the Outstanding Woman Attorney of the Year in Virginia, and Woman of the Year by the Fairfax Commission on Women, The Virginia Women's Attorney's Association, and a Fellow of the Virginia Bar Association. ■

The Fairfax Bar would like to thank the Task Force that planned the 2006 Jurisprudence Award Dinner honoring Chief Judge Fitzpatrick:

R. Mark Dare
Paul Ferguson
Sandra S. Marchenko
Steven W. Ray
Carol Schrier Polak

The Fairfax Bar also thanks the following law firms for their generous sponsorships to defray the costs of this event:

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FAIRFAX BAR PRO BONO PROGRAMS HONOR OUTSTANDING WORK

by Arlene K. Beckerman, Director of Pro Bono Programs

At the Fairfax Bar Association's State of the Judiciary Luncheon in January, awards were presented to honor outstanding *pro bono* and community service work.

The James Keith Public Service Award was given to **Luis A. Perez** in recognition of his work to help those less fortunate and the community at large through his organizational and individual undertakings. For the past 15 years, Luis has been actively involved with the Fairfax Bar, the community, and the Juvenile and Domestic Relations District Court. Luis has demonstrated an unwavering commitment to serving the underprivileged. He provides extensive *pro bono* services for clients of Legal Services of Northern Virginia and the Fairfax Bar Pro Bono Program, has lectured at CLEs for the Fairfax Bar and Legal Services of Northern Virginia, and provides community guidance and counseling at churches and Hispanic forums on domestic abuse, family and immigration matters.

The Pro Bono Lawyer of the Year was presented to **Yahne Miorini**. Not content with using her legal skills and knowledge in private practice, Yahne began volunteering with the Fairfax Bar Pro Bono Program's Wills on Wheels, a project which matches experienced practitioners with low-income seniors and disabled clients. She does more than her share by taking additional clients until everyone is served. Yahne's clients have been extremely grateful for all her efforts and the peace of mind that comes with having their affairs in order.

The Hottell Malinowski Group was awarded **Pro Bono Law Firm of the Year**. Although the firm has been volunteering to take *pro bono* cases since 2002, Dennis and Chris felt that they could further their impact by involving the fellows of the American Academy of Matrimonial Lawyers (AAML) in representing indigent clients who would not usually be able to afford these legal services. Dennis spearheaded the effort that resulted in the AAML partnership with the Family Legal Assistance Project of the Fairfax Bar Pro Bono Program. This

partnership matches leading family lawyers with low-income and poverty clients with serious contested family law issues. Chris has continued to actively participate in this project as the AAML coordinator.

The Pro Bono Paralegal of the Year was **Maria Smith**. Maria's professional and volunteer choices reflect her dedication to helping others. When she came to this country having already learned English, she realized that there were many others with less education who were struggling with language barriers. She began volunteering through the Juvenile and Domestic Relations Court in Fairfax as an interpreter and Court Companion for the VIP Program. She also volunteered as an interpreter through Legal

Services of Northern Virginia, where she later worked as an intake specialist and paralegal, before joining the Legal Division at Freddie Mac, her current employer.

Later, Marie immediately responded to a request for paralegal assistance with the Fairfax Bar Pro Bono Program's Family Legal Assistance Project. Maria not only volunteered herself, but she also recruited her fellow paralegals at Freddie Mac to help with the intake, screening, and case analysis of applicants with contested family law matters.

If you are interested in participating in the Pro Bono Program, contact Arlene Beckerman, Director of Pro Bono Activities, at abeckerman@fairfaxbar.org; or 703.246.3779. ■



L-R: Luis A. Perez, Chris Malinowski, Dennis Hottell, Maria Smith, and Yahne Miorini

SAVE THE DATES:

Investiture of Helen Leiner
Friday, March 16, 2007,
4:00 p.m., Courtroom A
Fairfax County J&DR Court

Conciliation Training Program CLE
Monday, March 26, 2007
5:00-8:00 p.m.
Fairfax Courthouse Cafeteria
3 MCLE Credits pending

FBA Washington Wizards Night
Friday, March 30, 2007
Wizards v. Toronto Raptors
Contact FBA for more info

Fairfax Circuit Court Practice Manual CLE
Tuesday, May 22, 2007
Fairfax Government Center

Judge Clayton Interview

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Accordingly, I spent the rest of July and August “giving away” my law practice and finding new attorneys for pending cases. Sometime in mid-August, however, I was notified by the Executive Secretary of the Virginia Supreme Court that, because the General Assembly had called a “special session” to discuss transportation issues, an interim appointment was not possible and I needed to be appointed during that special session. I, therefore, had very little to do for the entire month of September. Needless to say, I was ready to get started.

Have you identified anything that needs to be improved in J&DR Court?

There is a constant need to accelerate court dates. For example, children who are the subject of disputed custody should not wait several months for resolution (a classic example of “justice delayed is justice denied”). The addition of the eighth judge was a step in the right direction by creating more available time for trials; we could probably already justify another judge. As a court, we must constantly manage the efficiency of our dockets to get cases heard as quickly as possible. This is an art form on which I need more refinement.

What do you think are your greatest strengths and weaknesses?

I often referred to myself as a “people lawyer,” someone who handled the routine, day-to-day type of cases for families in my community. After 28 years, I’ve developed a fairly good rapport with people, which I believe will serve me well as a judge in what I consider as Virginia’s version of the “people’s court.” My weakness is an eagerness or temptation to begin asking questions during direct or

cross-examination; some lawyer traits die hard.

What would surprise people to know about you?

My passion for sports is fairly well known, but I also love music. I sang in choirs and even performed in a few high school musicals. Nothing beats a live performance. Consequently, you might find me at a Redskins game one day and a concert or a musical the next.

If you had to use one word to describe a positive judicial characteristic, what would it be?

We all know that judges are sworn to uphold the law and to apply the law to the facts. A good judge, however, should also be mindful of the impact of their decision, i.e., the “big picture.” A particular ruling may not only affect the individuals appearing before the court, but possibly also members of their family, friends, schools, and even the community at large. Ascertaining and weighing those dynamics regularly is a positive judicial characteristic, but to reduce it to a single word is difficult. Perhaps it is “empathy.” ■

Judge Mann Interview

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changed. At home I am still the same husband and dad that I was before I became a judge. At work, I am still the same person. I look at every case from every perspective possible, just like I did when I was a lawyer. The best part of the transition was my immediate acceptance into the courthouse family—and it is a family.

Other things have required a lot of adjustment. When I was lawyering, I made my own schedule, came and went as I pleased, never had to worry about personal/sick leave and was able to get a case covered if I needed

to see a doctor or attend my child’s school activities.

It’s difficult to do that now. It’s challenging to fit a doctor’s appointment into a busy docket which seems to get more jammed up every day. Since February, I have missed all of my child’s activities, award ceremonies and concerts because they occur during the day when I have a docket. That is very frustrating for me, even when my daughter says she understands that I am trying to help other families and children.

I really believed that I would have no learning curve at all. I thought I had done it all and had seen it all. I was as wrong as wrong could be. Every day I learn something new. Every day I have an “aha!” moment. Every day I say, “Oh! That’s what that is!” Those are actually my favorite moments.

Have you identified anything that needs to be improved in J&DR Court?

Before you can suggest improvement you need to really know how everything works and how all the processes of the court inter-relate. I am still learning the fine details.

I will say this: In the early 90’s, J&DR Court was perceived (and perhaps rightfully so) as a complicated and cumbersome place to practice. The court’s procedures have now created a very efficient and lawyer friendly place to practice and I wish I would see more of my old colleagues practice here more often. The court and the constituency it serves would really benefit from their participation to relieve the over-worked “regulars” who continue to provide good service to the court as court-appointed attorneys and guardians *ad litem*.

What do you think are your greatest strengths and weaknesses?

I have a fierce desire to get to the right result for the right reasons. I sincerely want to give polite, dignified, patient and excellent service to the parties and attorneys who come to Courtroom D.

Sometimes, when my desire to see the best result come to fruition is frustrated by people in the courtroom, I can get discouraged and I have to try very hard to remain patient—with people and the process.

Greatest strength: When it comes to families and children, I am a perfectionist—good enough is not ever good enough.

Greatest weakness: When it comes to families and children, I am a perfectionist—good enough is not ever good enough.

What would surprise people to know about you?

I spend my free time trying to figure out a way to convince Jim Dedes not to retire.

I love performing weddings.

I wish I could look good in cowboy boots.

I don't know why my hair is turning different colors and it bothers me.

If you had to use one word to describe a positive judicial characteristic, what would it be?

Tolerance. ■

Judge Mayne Interview

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The seed took hold and I came to realize that I was drawn to the General District Court Bench for reasons similar to those that

propelled me to law school. I could not imagine a more fulfilling way to use my legal abilities and to contribute to society than as a judge. There's the obvious societal benefit to having judges decide cases impartially and according to set principles. But a judge can also have a significant impact on an individual level. That impact may come in the form of providing closure in a civil dispute, or it might be in giving victims of crime redress and a sense that justice has been done so that any healing can begin, and sometimes it comes in the form of giving someone a chance to turn things around and get their life together. It's important work and I am drawn to it for that reason.

What has been your most memorable experience as an attorney?

My most significant cases in terms of money and effort were in the area of creditors' rights. I handled many cases in which judgment debtors concealed assets, necessitating multiple proceedings including fraudulent conveyance suits and the like. Some of my more memorable experiences were the "aha!" moments when I had finally figured out where the money was. One of these "aha!" moments ultimately led to my testifying in a federal criminal trial and I would have to rank that among my more memorable experiences for a number of reasons and on a number of levels. For one thing, it seemed to be a just end to a saga I had begun years before when I filed a collection suit against the individual. After winning the trial, the real work of collecting the judgment began. Numerous commissioner hearings and subpoenas later, I discovered that the individual and his wife were using a Uniform Gift to Minors Act bank account to shield his assets. Immediately after my discovering this, the individual filed bankruptcy and so I associated with bankruptcy counsel and filed an objection to

discharge. I also filed a fraudulent conveyance suit in state court and shortly thereafter my client obtained payment of its judgement. Later on I learned that others were not so lucky and so, on one level, I was pleased that I had served my client well. Ultimately, the individual was charged with bankruptcy fraud and RICO violations and I was asked to testify at the trial about some of my legal work. Although I never fully understood my piece in the puzzle, so to speak, I discovered that many people had lost substantial sums of money at this gentleman's hand, and so, on another level, I took satisfaction from the fact that I had a role, small as it may have been, in preventing others from being victimized.

Finally, the experience was also memorable for another reason. By being forced to testify, I experienced personally how imposing an unfamiliar courtroom can be and I discovered how much I disliked being the witness rather than the lawyer. The entire experience gave me much more empathy for clients who must testify and, I think, caused me to reevaluate the way I prepared witnesses for court appearances. In the end, I think it made me a better lawyer and, hopefully, what I learned from the experience will help make me a better judge.

Conducting your own self assessment, what are the greatest strengths you bring to this new role? What weaknesses might you have to overcome?

Philosophically, I believe that the most important trait for a General District Court Judge is judicial temperament. It's always been important to me to treat people fairly and courteously and I think a judge has to possess those qualities especially in a situation like coming to court which can be intimidating. You have to be a good listener and, for the most part, I think I am. A judge has to have the

aptitude to understand the issues, and thankfully, I've been blessed with intelligence and common sense. But most of all, a judge should have good judgment and I believe I do. In terms of weaknesses, I don't like to do anything unless I can do it well and so the challenge lies in balancing the time to elicit what is needed to reach the just result with the need to move the heavy dockets. I'm sure I'm not breaking any speed records at the moment.

Since you have now been presiding over cases, have there been any major surprises in your view from the bench?

In law school, we nicknamed one of our professors "let's change the facts" because of his frequent use of the phrase in his teaching. Having served as a Substitute Judge for two years, I felt I had been exposed to a lot of what the Court hears on a daily basis. And I was, but not to all the nuances and variations that can come into play. Take the high speed reckless cases, for example. So many factors can contribute to the ultimate sentence: the particulars of the offense, the absence or presence of prior speed convictions, calibrations and other actions taken by the individual since being charged. The better lawyers treat these cases as fact-specific, encourage their clients to be proactive, find a way to distinguish their clients and often obtain a more individualized result. While I always felt as an attorney that it was important to master the facts, I have an even better appreciation for that skill now.

That skill also comes into play on direct examination. As a practicing attorney, I bought books on cross examination, attended CLE courses and aspired to become a better cross examiner. I felt it was the end all of litigation skills. And it is an important part of trying a case. But, I have found in my short time as a judge that most

cases are won or lost on the strength of the direct testimony. Facts are often what distinguish your case from the routine case and most facts come to the court's attention through direct testimony. Preparing the witness and drawing those facts out are skills to be mastered.

For those attorneys who find ourselves pacing nervously back and forth outside of your courtroom wondering how you might rule on a particular issue, can you give us some insight into your judicial philosophy?

My judicial philosophy and my goal as a judge are the same: to do justice in each case I hear. To me, justice is a moral concept involving fairness, equal treatment under the law, an understanding that in the eyes of the litigants there are no small cases and a striving to do what is right given the law and the circumstances. It means being willing to listen not only to the concerns of all the litigants but also to withhold judgment until everyone has had their say. That point was driven home to me during one of my first criminal trials as a full time judge. After listening to one of the Commonwealth's witnesses, I was pretty much convinced that I was going to convict the defendant. But the evidence didn't end there and at the end of the trial the pendulum had swung. The experience reinforced in me the importance of keeping an open mind. And so, if I have a judicial philosophy, I guess it would be a dedication to the process of justice rather than any particular outlook or approach to an issue. That probably doesn't provide much insight into how I might rule on a particular issue and that's probably as it should be given that a judge cannot issue advisory opinions. What I can tell you is that I will listen to what you have to say, I will consider any authority you might have with you,

and I will do my best to arrive at the correct result given the law and the circumstances.

What advice might you offer to the attorneys who will be appearing in your court?

I spent a good part of my life as a lawyer and so I won't lose sight of what it takes to make a living practicing law. At the same time, lawyers need to understand the pressures that judges face. We're trying to move a lot of cases while minimizing the inconvenience to the public. Lawyers help with that process by being on time, by letting someone know if they must be in another courtroom and by checking back periodically so that people are not left waiting unnecessarily. Judges expect and appreciate that courtesy.

As many of you know, our rotation is such that we generally concentrate on one subject matter for a month at a time: traffic, criminal or civil. The challenge in starting a new rotation is to jettison the rust and bring yourself back up to speed in the new area. This is particularly true for the civil rotation since we generally spend only two months out of the year in that rotation. And so, it sometimes falls on the lawyer to refresh the judge's recollection of the applicable law, particularly on the more obscure points. Don't be shy about handing up jury instructions or cases on point. I don't think I'm alone in saying I appreciate the effort and I will read and consider any authorities you might proffer.

Be realistic in your evaluation of your case. There are going to be times when the best you can do is damage control and hitting a home run is not realistic. Let your client know that. If you are not sure what the case is worth, talk to other lawyers. Most of the lawyers I know are more than

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Dumb Lawyers

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at sea and never found. The court documents indicated that one of the yachts was allegedly stolen by Peruvian coffee merchants (maybe they had too much caffeine); the second one was sunk off the coast of Italy; and the third yacht disappeared after a series of suspicious explosions off the coast of Los Angeles (hey, things are always blowing up in movies and TV shows based in L.A.).

The story gets better. After being rescued by the Italian Coast Guard, the defendants told the Italians that a former Russian submariner and two of his associates, whom they had hired to sail the yacht, held them at gunpoint and locked them below deck. They presumed the submariner was a drug smuggler who decided to sink the vessel when he realized it was too slow to avoid capture. The smugglers then escaped on a speedboat bound for Libya they told the authorities. Although the Italians were skeptical, they released the defendants because they had no evidence on which to hold them.

As you might expect, the trial did not go well for the defendants. I'm guessing this is one of those cases that would be a criminal defense attorney's worst nightmare. The judge in the case called the defendant lawyer a "lawyer conspirator" who was "without any credibility as a witness." During the trial the judge told the defendant's lawyers: "You're asking me to put together unlikely plus unlikely plus unlikely plus unlikely plus unlikely plus unlikely plus unlikely and then say the net results of all those unlikelys is likely."

Not surprisingly, the jury did not find credible the defense's argument that the sinking by the Russian submariner was true or that the insurance company was simply trying to avoid paying the claim.

It is good to see justice prevail and a bad lawyer removed from the practice of law. It is unfortunate, however, that he got in the door in the first place. While such a case is obviously outrageous and an aberration in the egregiousness of its facts, it is an unfortunate reminder that there are individuals in our profession who willingly violate ethical canons that govern our profession as well the rule of law. And, incidents such as this undermine the profession in the eyes of the public and ultimately erode the entire legal system. Consequently, it is important that we as lawyers continue to take seriously our ethical obligations and self-police our profession to prevent the injury that occurs each time a lawyers acts unethically.

Last month's question: Last month's question was a bit too easy to research on the Internet and I received several correct answers. The question was: How much water does an average adult cow drink each day? The correct answer was between 25 and 50 gallons depending on the air temperature. The winners last month were Courtnie Norris, John Tran and Lenore Garon.

This month's question: After we purchased the farm, we had a dam built to create a pond. Our accountants advised us that were able to depreciate the pond. What is the primary factor used to determine the amount of the yearly depreciation percentage of the cost of building the pond? (Hint, it is not based on a set depreciation schedule issued by the IRS).■

FBA FAMILY LAW SECTION ELECTION RESULTS!!!

A sincere *thank you* to all section members who volunteered their time to serve on the Family Law Section Board, and to all those who voted in our election on January 22. The nine section members elected to the Board are as follows:

Marc Astore
Dick Byrd
Carol Ehlenberger
Laurie Forbes
Dan Gray
Richard Gray
Shirley Keisler
Christopher Malinowski
Wendy Schwartz



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JUDGE MAYNE INTERVIEW

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willing to answer questions and share information. In criminal trials, remember there are two parts to the trial—the guilt phase and the sentencing phase. I have encountered lawyers who appear to believe their job is over once guilt has been determined. There are still sentencing alternatives to be considered and arguments to be made. And tell the judge what you are looking for—you may not get it, but if you don't ask, the odds increase that you won't.

Finally, particularly for traffic court, be aware that judges are mindful of the fact that they have an audience and of the potential effect on that audience of rulings made early on in the docket. Judges have to consider the message that will be sent to the *pro se* defendant who will be told he can have one continuance to hire an attorney while they are considering attorney continuance motions at the beginning of the docket. A judge faces similar constraints when considering unusual sentencing requests. I have heard it said in chambers that there are some matters that are better saved for the end of the docket and I would have to concur.

When the time comes many years from now to hang up that robe and move on with the rest of your life, how will Lisa Mayne hope to be remembered as a Fairfax County Judge?

Hopefully, people will say, "She was fair, she did what she thought was right and, for the most part, she got it right." ■

Save the Date
Fairfax Circuit Court Practice
Manual CLE
Tuesday, May 22, 2007
Fairfax Government Center

Congratulations

In recognition of their efforts to solve issues concerning Virginia's clogged roadways and other key issues, **VIRGINIA STATE DELEGATES DAVID ALBO** (R-42nd) and **THOMAS RUST** (R-86th), co-authors of the **Albo/Rust Transportation Bill** have been selected as recipients of the 2006 Apartment and Office Building Owners Association Leadership Award. The two men were presented with the award at a luncheon on January 31.

Nine attorneys from the law firm **McCANDLISH & LILLARD, P.C.**, were recently recognized by *Virginia Business* magazine as being among Virginia's "Legal Elite" for 2006.

The attorneys honored include **PETER A. ARNTSON, GARY W. BROWN, DANIEL P. LYON, R. PEYTON MAHAFFEY, J. ROBERT McALLISTER, II, LAWRENCE J. McCLAFFERTY, DOUGLAS J. SANDERSON, RANDOLPH A. SUTLIFF** and **RALPH M. TENER**.

ARLENE BECKERMAN, Director of *Pro Bono* Activities at the Fairfax Bar Association was selected as one of The Legal Elite for 2006.

Local Professional Mediator, **PHILIP MULFORD, J.D.**, launches national Internet radio talk show, "Divorce Mediation: Myths & Facts" on the VoiceAmerica network, voiceamerica.com.

This live one-hour talk show airs every Thursday at 2:00 p.m., on voice.voiceamerica.com. For more information about the show please go to muylfordmediation.com or voice.voiceamerica.com. Mulford Mediation has two office locations: Fairfax and Warrenton.

Notice

We are looking for anyone who may have prepared a Will for James S. Renton, 2601 Park Center Drive #C1504, Alexandria, VA. Mr. James S. Renton died in 2006. His sister, Judith Bruno Yanky, was told that a Fairfax attorney prepared a Will for James in 2005-2006. If you prepared a Will for James S. Renton, please contact P. Elizabeth Pirsch at 703.548.5182.

Congratulations to the following FBA Paralegal Section members for being honored by the National Capital Area Paralegal Association (NCAPA) during the Annual Members Meeting and Dinner held in Washington, D.C., in December. Receiving the President's List Award for 2006 are:

Justine Nguyen
Roy C. Warner
Suellen Honeychuck, RP
Cindy Jeffries
Karen Nelson, RP

The annual award of recognition is presented by NCAPA to each member who has participated or volunteered in excess of 11 hours to NCAPA activities during the past year.

KATHY and **CHUCK COLLINS** of The Compassionate Friends Burke/Springfield/Fairfax Chapter have been selected to serve as regional coordinators for the State of Virginia and Washington, D.C. You can contact Kathy and Chuck anytime for help with chapter problems or concerns at: Chuck & Kathy Collins, 4505 Rachael Manor Drive, Fairfax, VA 22032; 703.425.9504; ccollins21@cox.net.

Positions Available/Wanted

DOMESTIC RELATIONS ATTORNEY—Law firm with offices in the District of Columbia, Maryland, and Virginia is seeking a domestic relations attorney to join its team in their Northern Virginia office. Applicants must be licensed in Virginia and have a minimum of two years of experience in domestic relations. The candidate must be self-motivated, hardworking, and enjoy client contact. We offer an excellent benefits package, competitive salary commensurate with experience, and a pleasant work environment. Please fax resumé and references to Mark Ebert at Robert A. Ades & Associates, P.C., 703.750.0963.

Office Space Rent/Lease

Windowed offices, next to Fairfax court house, Class A office, conference room, reception area, kitchen plus copier, fax, and Internet usage. Call Sara at 703.591.5901/Skim@chaselawfirm.com.

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Announcements

BEAN, KINNEY & KORMAN is pleased to announce the relocation of their office to 2300 Wilson Boulevard, 7th Floor, Arlington, VA 22201; 703.525.4000; Fax: 703.525.2207; www.beankinney.com.

COOPER GINSBERG GRAY, PLLC., is pleased to announce that NATHAN J. OLSON has become associated with the firm. The firm has not moved but their address has changed to: 10201 Fairfax Boulevard, Suite 520, Fairfax, VA 22030; 703.934.1480; Fax: 703.934.1479; www.cgclawyers.com.

CULIN SHARP AUTRY & DAY P.L.C., is pleased to announce that JOHN C. COWHERD has become associated with the firm. 4124 Leonard Drive, Fairfax, VA 22030; 703.934.2940; Fax: 703.934.2943; jcowherd@csadlawyers.com.

GREEHAN, PANDAK & STONER, PLLC, and J. PATRICK TAVES, former Deputy Fairfax County Attorney, are pleased to announce the formation of a new firm: GREEHAN, TAVES, PANDAK & STONER, PLLC, with offices at 14520 Avion Parkway, Suite 210, Chantilly, VA 20151; 703.378.5770; Fax: 703.378.5771; and 4004 Genesee Place, Suite 201, Woodbridge, VA 22192; 703.680.5543; Fax: 703.680.5549. The firm's practice focuses on representing local governments and other governmental agencies in Virginia.

LAWSON, TARTER & CHARVET, LLC., is pleased to announce a Reciprocal

Of-Counsel relationship with Morris A. Nunes, Attorney, P.C.; 6045 Wilson Blvd, Arlington, VA 222205; 703.534.4800; Fax: 703.534.8225; man.apc@verizon.net.

RAGLAND and SLUGG, P.C., is pleased to announce the relocation of its office to 6878 Fleetwood Road, Suite B, McLean, VA 22101; 703.241.5573; Fax: 703.241.9187.

IN MEMORIAM

F. Shield McCandlish, Jr., of Alexandria, VA, passed away on January 6, 2007, due to complications from Alzheimer's Disease. He is survived by his loving wife of 63 years, Priscilla "Pat" McCandlish; devoted father to his son, Fairfax and wife, Joanne of Williamsburg; his daughters, Barbara Moore McCandlish and her husband, John Van Dyke of Santa Fe, NM, and Margaret L.M. Darby of Clifton, VA; caring brother of Mary Walton Livingston and the late Nancy Montague Prichard; invaluable grandfather to Mackey, Joanna and Gavin McCandlish, Michael Shield McCandlish, Carole Lindsay Darby and the recently deceased, Robert Stuart Darby, III. Services were held at Truro Episcopal Church, 10520 Main Street, Fairfax, VA 22030 on Thursday, January 25 at 11:30 a.m., followed by burial at Fairfax City Cemetery. Memorial contributions in his name may be made to the Alzheimer's Association, 11240 Waples Mill Rd, Suite 402, Fairfax, VA.

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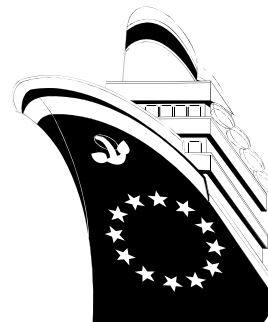
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September 30, 2007 through October 5, 2007



The FBA is listening to its membership. In the May 2006 survey, you overwhelmingly said you were in favor of a CLE Cruise to Bermuda. Now, we proudly present a special nautical adventure—the first ever Fairfax Bar Association’s CLE AT SEA Cruise to Bermuda!

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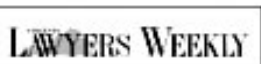
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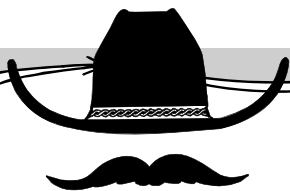
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