

JOURNAL

Newsletter of the Fairfax Bar Association

www.fairfaxbar.org

Winter 2023



Paralegal Food Drive 2023



PRESIDENT'S COLUMN

By K. Leigh Taylor, Esq., FBA President



AND THE OSCAR GOES TO . . .

While I enjoy several FBA events throughout each year, one of my absolute favorites is the State of the Judiciary Membership Luncheon. Why? My version of the Oscars is awarded during the event—the *Pro Bono Awards*! This year, our luncheon on November 29, 2023, honored the amazing *pro bono* work of David Hirsch, Esq., recipient of the prestigious James Keith Public Service Award; Louise Zwicker, Esq., recipient of the *Pro Bono* Attorney of the Year Award; The Geller Law Group, recipient of the *Pro Bono* Law Firm of the Year Award; and Hannah M. Littlefield, Esq., recipient of the *Pro Bono* Champion Award. These special attorneys and this wonderful law firm are commended for their dedication to providing legal services to the impoverished members of our Fairfax County community. Without their important and selfless work, I am certain their respective *pro bono* clients would have had no other options of dealing with their legal matters than to represent themselves *pro se* or drop their cases entirely. Thank you to David, Louise, Hannah, and the Geller Law Group!

The *pro* and *low bono* work of attorneys and law firms often goes unrecognized in our community. Luckily, we have Arlene Beckerman, the Director of Pro Bono Activities for our very own Northern Virginia Pro Bono Law Center (Pro Bono Law Center), to host these awards each year at the luncheon. Arlene has always been committed to ensuring the Bar recognizes deserving attorneys, particularly because they receive no other form of compensation. Arlene has fearlessly led the Pro Bono Law Center for over 20 years and is recognized in Virginia and nationally for her dedication to *pro bono* legal services. The Pro Bono Law Center and the many programs within it are possible through funding from the Fairfax Law Foundation (FLF). If you are interested in ensuring these important *pro bono* services continue under the Pro Bono Law Center, please consider donating to the FLF at the following link: <http://www.fairfaxlawfoundation.org/page/3>.

If you are reading this article, please know you could win an Oscar, too (ahem—a *Pro Bono Award*!) by contributing your time to one or more *pro bono* opportunities. Arlene is always seeking volunteers for the numerous programs within the Pro Bono Law Center that reach across several areas of the law. Family law, in particular, has the highest need. The Pro Bono Committee within the FBA, led by Co-Chairs, Cory F. Goriup, Esq. and Lily Saffer, Esq., selects the annual James Keith Award recipient (with FBA Board approval) and plays a pivotal role in assisting Arlene with volunteer attorney recruitment events, CLE work, fundraising, and the newly created Nights of Service events, which I mentioned in my prior *Journal* article. Cory and Lily are always looking for new volunteers to join their committee.

Pro bono work not only provides a service to our community but offers a unique opportunity for newly admitted attorneys and those already in our FBA Young Lawyers Section, to gain legal experience in and out of the courtroom. The *Pro Bono* Champion

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Celebrate the Fairfax Law Foundation This Winter Holiday Season

By Lily A. Saffer, Esq., President, Fairfax Law Foundation



We here at the Fairfax Law Foundation have a lot to be trepidatious about as the cold winter months set in. As I've mentioned on just about every platform I can think of in the past few months (including this one), we are having dire funding issues. Our grant funding is down. Our donations are down. And the need for our services in our community just keeps growing.

But, just as the lights of our respective joyful holidays bring sparkle and joy to the wintry darkness, we are buoyed by recalling that the Foundation has been in existence since 1982, and surely our legal community will not allow it to cease existing anytime soon! What we do is so necessary to support our courts, local students, and low-income members of our community. It is absolutely imperative that we survive in order to keep doing that work.

Without our Northern Virginia Pro Bono Law Center and amazing volunteer attorneys like you, hundreds of low-income Fairfax County citizens each year would be without representation in their estate planning, family law, landlord-tenant, consumer, and employment matters. Without our Conciliation Program and amazing volunteer conciliators like you, our Motions Dockets in the Circuit and J&DR Courts would be even longer, leaving citizens and attorneys alike to lose time while waiting for their cases to be called and leaving our judges with less time to adjudicate more cases. Without our Court Tours and other Law Related Education Programs and amazing volunteer tour guides, speakers, actors, and mentors like you, our local Elementary, Middle, and High School students would enter adulthood without a greater familiarity with our justice system, and without the leg-up this offers them as young adults who come into contact with that system.

Think of me, if you will, as the Ghost of Christmas Yet to Come (or insert your holiday of choice or, ideally, as I am, imagine the Muppet version of the Charles Dickens classic). I point you to Tiny Tim's empty chair, to the grave of our very Foundation, only showing you what MAY yet come to pass. There is still time to change the future of the Foundation, and what better time to take action and do so than now? With a sea of love and a grateful heart, I ask you to consider giving again, or giving more, or giving for the first time, to keep our programs running, or even expanding for many more years to come.

If you are still curious about what we do, or ways to support us, please check out our website, www.fairfaxlawfoundation.org (where you can also conveniently make a donation), or you can contact me directly at LSaffer@maddoxandgerock.com. I am happy to candidly answer any questions you may have. Please also consider "liking" or following our accounts on social media—@FairfaxLawFoundation on Facebook and @FairfaxLawFndn on Twitter—to stay connected with what we're doing. Please check out our videos!

We wish you all a joyful and safe winter, and hope you keep us in your thoughts, as we will keep you in ours. ■

FAIRFAX BAR JOURNAL

*Official Newsletter of the
Fairfax Bar Association*

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Bringing Fairfax's Children and the Law Together

By Joanna Faust, Esq., Chair and Nathan Olson, Esq., Vice Chair, Law Related Education Committee

The goal of the Fairfax Bar Association's Law Related Education Committee (Committee) is to educate the children of Fairfax County regarding the legal system and the role of the judicial branch in government. For over 30 years, the FBA and the Fairfax Law Foundation (FLF) have worked together to implement a number of successful programs to accomplish that goal for students of all ages.

Fairfax County has one of the largest public school systems in the country with over 199 schools and educational centers, and a student population of more than 181,000. Private and home schools serve over 30,000 additional students. To reach these thousands of students, the Committee sponsors and coordinates different initiatives throughout the school year.

One of the most successful initiatives is the Court Tour Program, initially offered to eighth-grade FCPS students but now expanded to be available to private and home school students as well. Students spend the morning touring the Courthouse, speaking with Sheriff's deputies, performing a mock trial in front of a Juvenile and Domestic Relations District Court judge, and visiting General District Court or Circuit Court courtrooms to observe trials and motions. Each year, the FLF helps sponsor the Court Tour Program financially, using donations to pay for school buses to transport the students and for substitute teachers, to cover classes in the schools.

Volunteer support for the Court Tour Program is crucial—it could not exist without attorney volunteers giving up their mornings to shepherd a tour; without the kindness of the judges who take a few moments from their busy dockets to talk to the students; and without the donations received to fund the costs. The Committee would like to express deep gratitude for all the volunteers whose contributions have kept this Program going for so long and have reached so many of the children of Fairfax.

The Committee also works to bring the law and education to the students themselves. The LREC Children's Plays projects bring volunteers to local elementary schools to perform age-appropriate mock trials (*Wolf v. Pig* is a perennial favorite!) for the students. In addition, attorney speakers are requested throughout the year for high school government, civics, and business law classes, and to speak at Career Days.

Every February, the Committee sponsors events for the City of Fairfax's annual Chocolate Lover's Festival. First held in 1993, the Festival is an annual three-day event traditionally scheduled on the first full weekend of February, featuring activities for the whole Fairfax community to enjoy, but especially for children.

Each year, the Historic Courthouse is opened to the public and a selection of historical documents from the County's Archives (such as George and Martha Washington's will) are displayed. Judges and FBA members also come together to host a mock trial where children act as the "jury" to render their verdicts as to conflicts such as *Goldilocks v. The Three Bears* and the *Beauty and the Beast*-themed *Gaston v. The Prince*. Children also participate as contestants in the game show *So You Think You're Smarter Than A Lawyer?* (based on the hit TV game show *Are You Smarter Than a 5th Grader?*) with the chance to win prizes—chocolate, of course!—for correct answers.

This year's Chocolate Lover's Festival will be held from Friday, February 2 to Sunday, February 4, 2024. The Committee invites FBA members of all ages to come out to the Historic Courthouse to view interesting old documents and see your fellow lawyers hamming it up in the mock trial and game show.

The FBA and the Law Related Education Committee are in great need of attorney volunteers to help all these events run smoothly, particularly the Court Tour Program. If you volunteered as an attorney guide in the past, please consider signing up again. If you are a new volunteer, we would love to have you and can pair you up with a seasoned court tour guide for your first tour. And if your schedule won't permit volunteer time, the FBA welcomes any donations to the FLF's Adopt-a-School Program. All donations are tax deductible and sponsorships can be made in the name of specific FCPS middle schools.

The FBA and our Committee would also love it if any and every FBA member who is looking to give back to the County's children would join our Committee. Do you have any ideas for new programs? Do you want to help us do more? We want to hear it! Please contact Courtnie Norris at cnorris@fairfaxbar.org, Joanna Faust at joanna.faust@fairfaxcounty.gov, or Nathan Olson at nolson@cgglawyers.com, for more information or to volunteer. ■

The McCammon Group

is pleased to announce our newest Neutral



Hon. William T. Newman, Jr. (Ret.)

Retired Chief Judge, 17th Judicial Circuit Court of Virginia, Arlington County

The Honorable William T. Newman, Jr. recently retired as Chief Judge of the 17th Judicial Circuit Court of Virginia after thirty years of distinguished judicial service to Arlington County and the City of Falls Church. Prior to his judicial service, he enjoyed a successful private practice specializing in civil litigation. Judge Newman is the recipient of numerous legal and community awards, including the Harry L. Carrico Outstanding Career Service Award and the William L. Winston Award, the highest award given by the Arlington County Bar Foundation. A legal, governmental, and community leader, Judge Newman is a Past Vice-President of the Arlington County Bar Association, a Founder and Past President of the Northern Virginia Black Attorneys Association, and a Council Member of the Old Dominion Bar Association Council. He now brings this record of excellence and achievement to The McCammon Group to serve the mediation, arbitration, and judge pro tempore needs of lawyers and litigants throughout the Commonwealth.

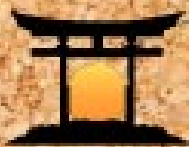
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Why Estate Planning is Critically Important Regardless of the Tax Laws

By Melinda Merk, Esq., Co-Chair of the Wills, Trusts, and Estates Section

Estate planning for estate tax purposes is not as important for most individuals under current law, given the significant increase in the Federal estate, gift, and generation-skipping transfer (GST) tax exemptions under the Tax Cuts and Jobs Act (TCJA) of 2017. Under the TCJA, the exemption amount (also referred to as the "Applicable Exclusion Amount" or "AEA" which is the amount of assets that one can give away during their lifetime and/or pass at their death without incurring any Federal gift, estate, or GST tax) was doubled from \$5 million to \$10 million, and is indexed annually for inflation. For 2023, the AEA is \$12.92 million and will increase to \$13.61 million in 2024. Generally, to the extent that assets gifted during lifetime or pass at death exceed the AEA, the excess is subject to Federal gift, estate, and/or GST tax at the rate of 40%.

In addition to the increased AEA, the ability to make a timely "portability election" upon the first spouse's death to transfer the deceased spouse's unused Federal estate and gift tax exemption (but not GST exemption) to the surviving spouse has also simplified estate tax planning for many married couples. Moreover, a majority of states (including Virginia) have repealed their separate state estate tax, although some states (including Maryland and DC) still retain a state estate tax which may necessitate special planning for individuals who live in those states.

Because of these significant changes in the estate tax laws, it is critical to review one's current estate planning documents to ensure they still accomplish their objectives. In many instances, the estate plan design can be simplified. For example, it may no longer be necessary or income tax efficient to automatically fund a "credit shelter" trust upon the first spouse's death, which was traditionally done as part of typical "A/B" trust planning for married couples when the AEA was much lower and the portability election had not yet been enacted. The use of joint revocable trusts has also become more popular for married couples with combined assets below the current AEA, provided the trust is designed properly to avoid potential tax and non-tax complications upon death or divorce.

From a non-tax planning perspective, as the use of durable financial powers of attorney has become more ubiquitous and highly scrutinized by financial institutions and title companies given increased concerns pertaining to elder fraud and financial abuse, it is generally advisable to update financial powers of attorney at least every five years to avoid the risk of the document being considered stale and potentially no longer valid. Going a step further and creating a properly funded revocable trust during one's lifetime that appoints a successor trustee to manage the trust assets upon the settlor's incapacity can be a much more robust and effective estate planning tool, rather than relying on an agent's power to act under a financial power of attorney. A properly funded revocable trust also avoids probate of the trust assets upon the settlor's death.

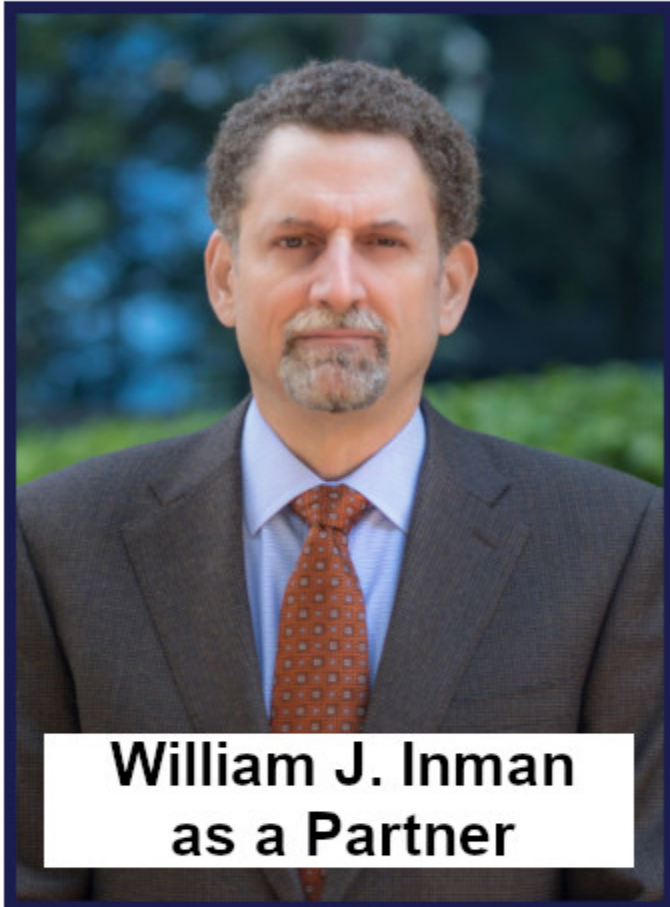
As discussed in the excellent article "Estate Planning for the Other 99%," by *Scott Swain, CPA, CFA, CFP, MT, and Nicole Rococi, CPA (The Tax Advisor, August 2019)*, estate planning remains critically important for various non-tax reasons, including:

- Appointing a guardian to have custody of minor children, as well as custody of their assets;
- Providing for how assets will be administered for the benefit of a surviving spouse, and protecting the assets from being potentially diverted to a new spouse and his or her estate;
- Determining how and when your children or other intended beneficiaries will receive their inheritance, whether outright or in trust to protect the assets from being potentially diverted to a future ex-spouse or other creditors
- Having a durable financial power of attorney and properly funded revocable trust in place to plan for incapacity and avoid the time and expense of a court-supervised guardianship proceeding during lifetime;
- Structuring asset ownership and having a properly funded revocable trust in place to avoid the time and expense of court-supervised probate at death;
- Having a durable health care power of attorney/living will in place to express your end of life treatment decisions and appoint a health care agent to carry out your wishes;
- Addressing complex family structures, including second marriages, stepchildren, etc., and designing your estate plan to avoid potential family conflicts;
- Addressing and providing for a beneficiary's special needs or financially irresponsible beneficiaries;
- Accomplishing charitable goals and objectives;
- Reviewing asset titling to obtain the special asset protection benefits of owning assets as "tenancy by entirety" between spouses, and structuring your affairs to maximize protection of your assets from potential future creditors; and
- Reviewing and updating beneficiary designations on life insurance policies and retirement accounts to avoid unintended beneficiaries and potential loss of income tax deferral for retirement accounts.

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 - Suite 211 - \$800/mo, full service - small private office
 - Suite 206 - \$1,600/mo, full service - 2-room suite on front corner across from conference room.

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- **Suite 403** - 589 rsf - Nice office layout built out as two good sized offices. **LEASE - \$1,180/mo, full service, 2 - 5 yr. lease term.**

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Why Estate Planning is Critically Important...

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In addition to the considerations discussed above, having a team of trusted advisors in place—including an experienced accountant, estate attorney, investment advisor, financial planner, and insurance consultant—can be invaluable to educate and guide one through their estate and financial planning and to ensure that recommended updates are made when needed.

Choosing to have no estate planning documents in place, or worse yet trying to do it yourself, can result in costly mistakes and emotional burdens for you and your family later upon death or incapacity. The New Year is a perfect time to make sure your estate plan is in order. Taking the time to make sure the right planning is in place now will provide peace of mind and financial security for years to come. ■

NEW MEMBERS

October 2023

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President's Column

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Award is designated for an attorney that is “new-er” to practicing law but has taken on *pro bono* cases or worked to promote *pro bono* efforts within his or her practice area. Arlene often hosts free CLEs for these attorneys, and in return, the attorneys volunteer to take a certain number of cases. For example, new family law attorneys might consider taking an uncontested divorce CLE through the Pro Bono Law Center, after which they will be assigned a few uncontested divorce cases. Are they left alone to handle the cases if questions or concerns arise? Absolutely not! Arlene and more experienced *pro bono* attorneys are available to mentor these new volunteers through their first cases.

Last, but certainly not least, do not forget about Rule 6.1 of the Rules of the Supreme Court of Virginia, which creates an aspirational goal that Virginia lawyers take professional time—at least 2% per year—to do *pro bono* public legal work. In fact, the Rule goes on to state that a law firm or other group of lawyers may satisfy their responsibility collectively under this Rule and also provide another option for the financial support of programs that deliver direct services to meet *pro bono* needs. Just think, you could possibly win a *Pro Bono* Award plus receive statewide recognition if you report your hours under this Rule to the Virginia State Bar—a win-win for everyone!

If you have not figured it out by now, my message this month to you is to do *pro bono* work! As the best form of legal practice, *pro bono* work is as good for your heart as it is for our community. Your future *pro bono* clients will be forever grateful, and the future just might hold an Oscar (ahem—a *Pro Bono* Award!) in store for you. ■



Raymond Starks-Taylor – Associate Attorney

Briglia Hundley, P.C. is pleased to announce that Raymond Starks-Taylor has joined the firm.

Mr. Starks-Taylor has practiced law since 2019 and has extensive legal experience. Before joining Briglia Hundley, he served as an Assistant Commonwealth's Attorney in Fairfax County. His practice at Briglia Hundley will focus on Business Litigation and Corporate Law.

Briglia Hundley is proud to continue growing the scope of its diverse legal services.

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Adopt-A-School Sponsors

Since 1995, the Fairfax Law Foundation has sponsored the Court Tour Program for eighth-grade students in Fairfax County. This program is designed to provide Fairfax County middle school students with direct exposure to the courthouse, familiarize them with the role of the judiciary, and promote an interest in and appreciation for the law. This would not be possible without the help of the generous sponsors who have pledged to promote and improve law-related education for students in Fairfax County Schools. Thank you!

Rocky Run Middle School

Joanna L. Faust, Esq.

Lake Braddock Secondary School

McGavin, Boyce, Bardot, Thorsen & Katz, P.C.

Montrose Alternative Learning Center

Ann Thayer, Law Office of Ann M. Thayer, PLLC

Robinson Secondary School

McCandlish Lillard

Luther Jackson Middle School

Nancy K. P. Klain, Fishman Klain PLLC

Holmes Middle School

Jennifer Porter, Esq., Jennifer Porter Law, PLLC

Upcoming Events/CLEs

FRIDAY, FEBRUARY 2 - SUNDAY, FEBRUARY 4, 2024
ANNUAL CHOCOLATE LOVER'S FESTIVAL

WEDNESDAY, FEBRUARY 7, 2024
WRITTEN EVIDENCE IN GENERAL DISTRICT COURT CLE
4:00 PM - 6:00 PM

2.0 MCLE Credits (*Pending*)
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Distinguished Panelists:

The Hon. Michael J. Holleran, *Fairfax County General District Court*
The Hon. Dipti Pidikiti-Smith, *Fairfax County General District Court*

WEDNESDAY, FEBRUARY 21, 2024
FIDUCIARY LITIGATION PANEL DISCUSSION
12:00 PM - 1:00 PM

Presented by the Wills, Trusts & Estates Law Section of the FBA

SATURDAY, MARCH 2, 2024
"UNA NOCHE EN ESPAÑA" BENCH BAR DINNER DANCE
6:30 PM - Open Bar Reception
8:00 PM - Dinner Followed by Dancing

Fairview Park Marriott Hotel
\$150 Per Person
\$125 for FBA YLS Members (discounted price applies to guests as well)

THURSDAY, MARCH 14, 2024
GAL'S ROLE IN CIVIL COMMITMENT HEARINGS CLE
4:30 PM - 7:00 PM

2.5 MCLE Credits (*Pending*)
Cisco WebEx
FBA Members: Free to attend with volunteer commitment

Distinguished Panellists:

Robert B. Walker, Esq., *Special Justice, Law Office of Robert B. Walker*
George L. Freeman, IV, Esq., *The Law Offices of George L. Freeman, IV, PLLC*
Mary Mertz Parnell, Esq., *Law Office of Mary Mertz Parnell*
Sameena Sabir, Esq., *Law Office of Samena Sabir*



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SATURDAY, MARCH 2, 2024
FAIRVIEW PARK MARRIOTT



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Una Noche en
Espana

Bench Bar Dinner Dance

