



The Virginia Bar Association
YOUNG LAWYERS DIVISION

Opening Statement™

THE OFFICIAL PUBLICATION OF THE VBA YOUNG LAWYERS DIVISION

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OPPORTUNITIES TO CONNECT

Get Involved with the YLD

We are pleased to present the Spring 2017 issue of *Opening Statement*!

The upcoming Young Lawyers Division Spring Meeting is fast approaching on May 5 - May 7 at The Tides Inn in Irvington, Virginia. All young members of the VBA are invited to attend, and details can be found at the VBA's website. There is still time to sign up and attend!

YLD Chair Jeremy S. Williams pens his inaugural column on page 2 after receiving the gavel from Immediate Past Chair Steven P. Gould at the recent VBA Annual Meeting held in Williamsburg in January. We also present a photographic recap of the Annual Meeting on pages 10-11.

Our in-depth articles continue our exploration of career balance for a young lawyer and feature Ashlee Webster's "Dancing on a Tightrope... It's All About the Balance" on page 3. We then focus on legal writing for electronic readers with Graham K. Bryant's "Legal Writing in a Screen-Filled World" on page 4. Seth J. Ragosta then provides his advice for young lawyers seeking to change employers in "A Younger Lawyer's Guide to Your Lateral Move in Virginia" on page 6.

Finally, we at the *Opening Statement* are pleased to welcome a new member to our volunteer team. Kelsey S. Farbotko, an associate with Williams Mullen in Richmond, joins us as a Development Editor. We still are seeking one additional Development Editor to round out our team. Interested persons should contact any of our editors for more information.

Thank you for reading. We hope that you enjoy this issue of *Opening Statement*!



Daniel D. Mauler
Editor-in-Chief



Lena L. Busscher
Development Editor



Kelsey S. Farbotko
Development Editor



Jennifer L. Ligon
Development Editor

YLD Spring Meeting

All young lawyers who are in good standing with the VBA are invited to attend the YLD Spring Meeting. The Spring Meeting is an excellent opportunity to see old friends and to make new ones and to network and socialize with young lawyers from throughout the Commonwealth. More details can be found at: vba.org/17YLDSpring.

Most importantly, all young lawyers in the VBA are invited to attend the YLD's programs and meetings – whether you previously have been active in the YLD or not. We see new faces at each meeting. If you are looking to become involved in the YLD but are unsure of the first step, then come to the Spring Meeting.

Important Details:

Dates: Friday, May 5 – Sunday, May 7

Guest Speaker: Attorney General Mark Herring

Location: Irvington, Virginia (in the Northern Neck)

Accommodations: The Tides Inn (804-438-5000 or www.tidesinn.com), 480 King Carter Dr, Irvington, VA 22480

CLE: Programs will cover diverse topics such as Virginia shellfish aquaculture

Family-Friendly Event: Spouses, significant others, and children are all welcome!

Meeting Registration: Contact Kylie Hinson at 804-644-0041 or kyliehinson@vba.org

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MESSAGE FROM THE CHAIR

Welcome to the Leadership

By Jeremy S. Williams

Wait. No one has said those words to you yet. Well, my friend, that can all change tomorrow.

A little over a year ago, our former Chair, Steven Gould, and I sat at a restaurant as he laid out his plan to conduct an in-depth examination and restructuring of the Young Lawyers Division. We only lost three good men in the process, but today, we are a leaner, meaner, and (hopefully) a more effective organization. For you, the member, that is excellent news. You are now getting more bang for your buck as the leadership is focused on making sure that our programs and committees are the best that they can be. Our resources are committed to the programs that serve us, our membership, and the community the most. This is also great news for you for another reason: leadership opportunities.

The restructuring also involved the implementation of a leadership structure for each of our programs. Each project now has a chair and a chair-elect. These positions will ensure continuity and institutional knowledge about the program and its activities. Previously, some of our programs were led by one dedicated individual who gave his or her time, year after year. Unfortunately, when that individual moved on or graduated out of the YLD, the project would sometimes flounder. No more!!!! We now have, or at least propose to have, a continuity of leadership to avoid similar fates.

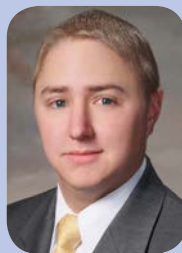
That is where you come in. Although we have many dedicated and interested members who do a fantastic job running

our programs, there are still leadership opportunities to be had. Several of our programs still need chair-elects who can spend a year or two learning from our chairs in preparation for taking our programs to the next level. Other programs are in need of committee members who can help ensure the vitality of the program and assist the leadership. Service on the committee, by the way, is a great way to get ready to be a chair or chair-elect of the respective project. I promise—there is a place (and room) for each of you!

Leadership in the YLD is an amazing experience. Through it, you network with attorneys from across the Commonwealth in a broad spectrum of practice areas. You interact with judges, politicians, firm leadership, leaders of the bar, and innumerable people who are important for various reasons. You have something fantastic to put on your resume, a way to impress your boss, or just something to be involved in for self-improvement. The YLD prides itself on giving back to the community and to the bar, but to accomplish our goals, we rely on our project leaders and members like you.

What's that? I persuaded you. You are interested in becoming a leader in the YLD. Just call 1-800-635... Oh wait. Wrong promo. In all seriousness though, we welcome and encourage your involvement. If you are interested, please feel free to reach out to me or any of the other board members. Operators are standing by.

P.S. Information on our various projects can be found at www.vba.org/yldactivities. ■



Jeremy S. Williams

Partner, Kutak Rock LLP (Richmond)
YLD Chair, 2017-18

Bio: Jeremy is a partner in the Bankruptcy, Restructuring and Creditors' Rights group at Kutak Rock LLP in Richmond, where he represents debtors, creditors and other interested parties in various matters in federal and state court. A VBA member since 2011, he most recently served as Chair-Elect of the Young Lawyers Division and co-chair of the George Mason University Law School Council. Jeremy is a member of the VBA Bankruptcy Law Section and is a graduate of the University of Virginia and the George Mason University School of Law.

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Dancing on a Tightrope... It's All About the Balance

By Ashlee Webster

On January 21, 2016, my seventeen-month-old and I traveled almost four hours to the 126th Annual Meeting of the Virginia Bar Association. My mother and stepfather agreed to meet me in Williamsburg from North Carolina to provide support, since my husband had to work. As I was walking into the first YLD event, my mother (aka Granny) called and advised that my daughter had suddenly spiked a fever. This occurred simultaneously as a blizzard hit Williamsburg with full force. I quickly said my farewells, returned to my daughter and managed to break her fever. After my daughter calmed down, we took her to the closest urgent care that was still open in the hazardous weather. Luckily, the doctor determined that she only had a severe ear infection, prescribed antibiotics, and we were on our way. Upon returning to our room, my daughter's fever lessened, but she wanted the comfort of her mother, and I was not willing to leave her. I missed the entire day of the VBA events—the sole reason for our trip across the state.

I share my experience not to discourage parenthood, but to demonstrate that it can be done. Our generation seems to be laser-focused on careers and often forgets to take time for family planning. In particular, professional women tend to assume that the demands of their professions will not allow for the time and requirements of motherhood.

I moved to Virginia when I was 36 weeks pregnant, after my husband placed in a residency in Roanoke. Prior to moving, I interviewed in a maternity suit (which is not a good look for anyone) and obtained a job at LeClairRyan. Eight weeks after the arrival of our beautiful, healthy, and extremely

curious baby girl, I began my new job, in a new area of law, in a new state.

To say the least, the first year was challenging in acclimating to motherhood, my job, and the balance between the two. To add to the difficulty, my husband's residency kept him at the hospital around the clock, although he helped with our daughter as often as he could.

Initially, I felt an immense sense of guilt about leaving my daughter at school so that I could work. With time, my perspective greatly changed. At school, my daughter thrives and learns invaluable social skills as she becomes a productive little person. The time apart during the day is teaching my daughter independence and also giving me the opportunity to pursue the career that I worked so hard to achieve. I also believe that I am teaching my daughter that she can be a professional if that is what she chooses to do with her life.

Supreme Court Justice Joseph Story stated that the law “is a jealous mistress and requires a long and constant courtship. It is not to be won by trifling favors, but by lavish homage.” I agree that the practice of law is extremely demanding; however, it can be equally rewarding. Being a parent can be described exactly the same way. I have never experienced anything in my life that is as challenging as being a mother; it is blissfully exhausting. Motherhood is the greatest adventure of my life and I will be forever changed for the better. No amount of words can describe the joy and love my daughter has given me.

I by no means am an expert on balancing a demanding career and a

demanding toddler, but based on the past 2.5 years, for me, it comes down to priorities. I will not compromise on being a present and involved mother. I will always be hands-on with my daughter (often times more than she would like); however, I will also give my best to my career. I have committed to both and it is my responsibility to follow through.

For me, this means a loving spouse (that completely accepts my irrational moments), supportive grandparents, excellent childcare, and an understanding employer. When I am at work, I must use my time effectively. When I pick my daughter up from school, I am hers until she goes to bed. Of course, there are sacrifices that come with my 28-pound shadow. Sleep is a luxury, as is exercise. I have to plan strategically to have time with friends, and I am lucky to have a husband that demands an occasional date night. Yet, with creative scheduling, the important things get done.

What works for my family may be entirely different for others. Everyone must create their own path. However, what I do believe translates universally, is that if you make something a true priority in your life, the pieces will fall together. ■

Advertise in the Opening Statement

The VBA YLD is pleased to announce that we are accepting advertisements for publication in the *Opening Statement*. The *Opening Statement* is highly visible within the VBA. It is published and distributed to all members of the YLD four times per year. With such high visibility, what better way to reach your peers? Funds from advertisement purchases will be used to help support the operations of the VBA YLD and its numerous programs, including the *Opening Statement*. If you are interested in purchasing advertising space in the *Opening Statement*, please contact us at editors@openingstatement.org.



Ashlee Webster

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Bio: Ashlee maintains an active civil litigation practice, with a particular focus on medical malpractice defense. Ashlee has diverse experience working in a firm environment and as an in-house corporate attorney for both large and small businesses. Ashlee is licensed in Virginia, North Carolina and Ohio.

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Legal Writing in a Screen-Filled World

By **Graham K. Bryant**

Legal practice is becoming an increasingly digital profession. For instance, the Supreme Court of Virginia recently added Rule of Professional Conduct 1.6(d) creating an “ethical obligation to implement reasonable information security practices to protect the confidentiality of client data,” and requiring lawyers to pay attention “to the benefits and risks associated with relevant technology.”¹ But often overlooked amid concerns about cybersecurity and data management is the quiet revolution in how attorneys read and write legal documents. A necessary consequence of this shift to a computer-based profession is that the vast majority of legal materials never see a printer, but are read on-screen.

People read screens differently than printed texts. Effective attorneys must keep these differences in mind when drafting work product. This article reviews three ways screen reading differs from print reading and offers practical advice attorneys can use to harness the nature of screens for their clients’ benefit.

Problem 1: Windows distract readers and impair comprehension.

Despite the unprecedented advances in legal research and word processing they brought about, computer workstations are perhaps the greatest purveyors of workplace distraction. Although windows make multitasking easy, they also facilitate distraction as each window’s content fights for attention. Because “a wealth of information creates a poverty of attention,” readers likely will lose focus on a document at least once while reading it.²

A related problem posed by windows is

that, unlike traditional text-based media, they lack tangibility. Readers rely on having a strong spatial representation of text’s physical layout for effective reading comprehension.³ Digitization researcher Anne Mangen suggests that paper provides physical and tactile cues that aid memory.⁴ Windows lack this physicality because they are resizable and rely on scrolling. Mangen’s study found that switching between windows presented cognitive challenges illustrating “how the ease of multitasking provided by the computer might come at a cognitive cost.”⁵

Solution 1: Embrace distraction with manageable sections.

Your audience will lose focus while reading your work, so your goal is to make reentry as seamless as possible.

First, provide a substantive summary of your points—essentially a meatier roadmap—as early as the conventions for that document type allow. Rather than simply describing the order of arguments, also give the essential reason your client should prevail on each argument. That way your reader will have in mind the framework for your entire position before finishing the document’s first page.⁶

Second, use headings to frame the document according to your substantive summary. Headings are the single best tool for helping a distracted reader get back into your argument—think of them as the rest stops that divide a grueling road trip into manageable segments. There should be at least one heading or subheading every four pages, and you should strive for more in all but the most complex arguments.

Although one-word headings are fine for major sections, *e.g.*, “IV. Analysis,” your subheadings should concisely encapsulate the argument for that section. Done well, headings complement the substantive summary and provide readers the gist of your argument even if they never read the body text.

Third, keep paragraphs bite-sized. Although larger paragraphs are occasionally appropriate, a paragraph should never occupy a full page of text.⁷ You can safeguard against obese paragraphs by applying the same logic used with headings: start each paragraph with a topic sentence, and keep all ideas within that paragraph focused on that topic. Transition language signaling how paragraphs relate to one another within a heading is crucial to maintaining the reader’s focus. If they can’t tell where you’re going, they won’t stick around to find out.

Problem 2: Screen reading is physically taxing.

Justice Ginsburg’s complaint is one familiar to jurists everywhere: “Lawyers somehow can’t give up the extra space,” she laments, “not realizing that eye fatigue and even annoyance will be the response they get for writing an overlong brief.”⁸

Science supports her ire. When screen reading, the reader must handle the cognitive load of the information presented *plus* the computer’s operational requirements.⁹ According to Erik Wästlund of Sweden’s Karlstad University, this “dual-task situation” helped explain “the observed performance deterioration” in screen readers shown by his study.¹⁰ The screen-reading participants reported “higher stress level[s] and increased tiredness,” demonstrating that simply using a computer for a task makes that task more tiring.¹¹

Solution 2: Use formatting conducive to easy reading.

Because your readers will become fatigued as they scroll, your goal is to ease their strain enough to finish the document.

Your audience will have less to endure if you draft concisely at the outset. As Legal Writing Professor Mark Osbeck put it,



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in chambers, he spends as much time as possible scuba diving.

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“Conciseness is often confused with *brevity*, but concise writing is not merely brief, or brusque. Rather, it is *efficient*.”¹² Anyone can achieve brevity by omitting content, but concise writing requires the drafter to eliminate all unnecessary words from sentences, and all unnecessary sentences from paragraphs.¹³ Because screen reading is more onerous than print reading, conciseness is essential: a reader “either will resent inflated verbiage or will simply refuse to read it.”¹⁴

Additionally, format your text for painless reading. Serif fonts are best because the serifs help readers distinguish individual letters.¹⁵ Using white space likewise provides screen readers a rest from eye strain and focuses them on the content presented. Consider implementing bulleted or numbered lists when setting out a claim’s elements or a long definition. By breaking complex ideas into manageable segments, presented in easily read font and surrounded by white space, a reader is more likely to internalize them.

Problem 3: Readers take digital documents less seriously.

Readers approach on-screen documents with less mental effort than they would a print document. Studies have found that screen readers tend to cut corners by skipping around and scanning for key words rather than engage in the in-depth reading typical of print readers.¹⁶

Geoffrey Duggan and Stephen Payne of Bath University suggest that these reading patterns are how screen readers cope with the volume of information presented by digital media.¹⁷ They call this process “satisficing”—reading a text “until the rate of information gain drops below threshold and then skipping to the next section of text.”¹⁸ Using eye-tracking technology, the researchers confirmed that reading time per line decreases over the course of both paragraphs and pages.¹⁹ These results generally confirm the conventional wisdom among appellate practitioners: screen readers use an “F-scan” when viewing material.²⁰

Solution 3: Leverage skimming habits to your advantage.

Because screen readers generally read documents in an F-shaped pattern that emphasizes material in the top-left of a page, attorneys should employ strategic formatting to keep the most important

sections visible to skimmers.²¹

Headings are lifelines for your reader, but only if they see them. As such, always left-align descriptive subheadings and set them apart using bold or italic font. Centered headings in plain font get lost in the body text. Skimmers searching for key words will notice the distinct headings and internalize the summary argument they contain.

Limit QED-style arguments and instead place your conclusion at the top of each paragraph. No matter how brilliant, your insight is worthless if the reader moves on to the next paragraph before reading it. Page breaks and widow-orphan control are essential for ensuring only vital content appears in each page’s most-read areas.

Finally, avoid footnotes. Although footnotes are a glance away in print documents, screen readers often must search them out. Skimming screen readers will not take the time to find them. Use footnotes only for perfunctory boilerplate that conventions dictate must be included—and still assume they’ll go unread.

Although these techniques won’t guarantee your client a victory, applying them in your writing will help ensure that your reader thoroughly understands your argument and is better positioned to act upon it. ■

Endnotes

1. VA. RULES OF PROF’L CONDUCT r. 1.6 cmt. 20; *id.* r. 1.1 cmt 6.
2. Herbert A. Simon, *Designing Organizations for an Information-Rich World*, in COMPUTERS, COMMUNICATION, AND THE PUBLIC INTEREST 37, 40–41 (Martin Greenberger, ed. 1971).
3. See Anne Mangen et al., *Reading Linear Texts on Paper Versus Computer Screen: Effects on Reading Comprehension*, 58 INT’L J. EDUC. RES. 61, 66 (2013).
4. *Id.*
5. *Id.*
6. See Steve Outing, *Eyetrack III: What News Websites Look Like Through Readers’ Eyes*, <https://www.poynter.org/2004/eyetrack-iii-what-news-websites-look-like-through-readers-eyes/24963/>.
7. See *id.* (noting that longer paragraphs discourage viewing).
8. Adam Liptak, *Keep the*

- Briefs Brief, Literary Justices Advise*, N.Y. TIMES (May 20, 2011), <http://www.nytimes.com/2011/05/21/us/politics/21court.html>.
9. See Erik Wästlund et al., *Effects of VDT and paper presentation on consumption and production of information: Psychological and physiological factors*, 21 COMPUTERS IN HUMAN BEHAVIOR 377, 390 (2005).
 10. *Id.*
 11. *Id.* at 391.
 12. Mark K. Osbeck, *What is “Good Legal Writing” and Why Does it Matter?*, 4 DREXEL L. REV. 417, 437 (2012).
 13. *Id.* at 439–40, see also H. WILLIAM STRUNK & E.B. WHITE, *THE ELEMENTS OF STYLE* 23 (4th ed. 2000).
 14. RICHARD K. NEUMANN, *LEGAL REASONING AND LEGAL WRITING* 217 (6th ed. 2009).
 15. See, e.g., K.K. DuVivier, *White Space—The Sequel*, COLO. LAW., Mar. 2003, at 51, 51.
 16. E.g., Ziming Liu, *Reading Behavior in the Digital Environment: Changes in Reading Behavior over the Past Ten Years*, 61 J. DOCUMENTATION 700, 704, 705 (2005).
 17. GEOFFREY B. DUGGAN & STEPHEN J. PAYNE, *SKIM READING BY SATISFICING: EVIDENCE FROM EYE TRACKING 1* (2011), http://opus.bath.ac.uk/24646/1/Duggan_%26_Payne,_11.pdf.
 18. *Id.*
 19. *Id.* at 7.
 20. See, e.g., Ellie Neiberger, *Judge-Friendly Briefs in the Electronic Age*, 89 FLA. BAR J. 46 n. 16 (2015).
 21. See Jakob Nielsen, *F-Shaped Pattern for Reading Web Content* (Apr. 17, 2006), www.useit.com/alertbox/reading_pattern.html.

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A Young Lawyer's Guide to Lateral Moves in Virginia

By Seth J. Ragosta

I wish every one of you a long and happy work life at whatever firm, company, or agency with which you started, but if the statistics can be believed, very few of us will stay with our first legal job. For many years, it has been the rule that “Big Law” firms promote very few of their starting first-year associates all the way to partnership.

Even among smaller firms, the trend is for attorneys, young and more experienced, to move from place to place in search of the best fit for their changing practices and needs. These changes are not necessarily negative, and most Big Law firms have embraced this trend as an opportunity to place their “alumni” in fulfilling positions that create strong relationships with clients, other firms, or the government. Even smaller firms understand that their loss today is a possible opportunity tomorrow, and good connections with peers, especially in different markets, are always beneficial.

So how should a young lawyer go about making their move positive, successful, without destroying ever-important personal connections? In this article, I will offer a series of suggested approaches and strategies, some based on my personal experience making a lateral move, and some based on what I have seen from other attorneys in my role as an interviewer and chair of recruiting at my firm, Lenhart Pettit.

Know Your Market and Practice

As you grow into your practice, your experience and specialization become increasingly important. Unlike the model at most firms for first-year hires, lateral attorneys are expected to have some training and relevant experience in a specific area, and they will be expected to articulate what they know, what they can do, and how they intend to develop their practice in the future.

This leads to my first piece of advice – *know the job for which you are applying*. While it is obvious that you will have read the job posting itself, have you

researched the firm and the other attorneys there? Do you know what cases or deals they have handled? Do you know if they are established in the market or new? Can you infer any goals of the firm? Are they expanding, looking for a succession plan, or swamped with too much work? Demonstrating an understanding of not only the duties listed in the job posting, but also the firm's practice and position in the market will impress interviewers. Small- and medium-sized firms will be especially interested in candidates who are looking to help drive the firm's overall mission and who understand how important individual contributions can be. They will want to know that you understand their needs and can add to both their legal practice and business models.

As important as your experience is, *do not allow yourself to feel trapped in an unhappy practice that leaves you without flexibility*. We all meet lawyers who say they are miserable and that the profession is broken. I often wonder if these lawyers have tried, or even considered, changing their specialty or focus. A move to a smaller community will very likely force you to broaden the work you do, and perhaps even join entirely new areas of practice. If you are changing your situation out of a sense of dissatisfaction, perhaps this is the ideal time to consider a new area of law. When I transitioned from Boston to Charlottesville, I looked forward to learning more about many parts of the law, but I did not imagine that I would find interest or fulfillment in family law. Nonetheless, I wanted to engage in more trial work, and I understood that Lenhart Pettit needed in part someone to cover family law matters. My willingness to learn family law was important for the firm, and happily resulted in me discovering an affinity for an area I would never have allowed myself to consider without that encouragement.

Flexibility and a willingness to consider new areas of the law can be an attractive quality in new candidates,

but candidates also need to tie their experience to the qualifications for the position. You should *think carefully about your experiences and how they will tie in to new areas, new markets, or new clients*. In my case, it was fairly easy to draw parallels between complex commercial litigation and family law practice in terms of litigation and trial work. I was also able to use my experience in large-scale discovery and financial disputes to offer expertise in high-value divorce cases. I referenced my extensive training in trial practice, research and writing assignments from the partners, and formal training programs at my old firm. I highlighted the regular travel I did working out of Boston, not because I thought I would need to travel extensively out of Virginia, but to show that I had been in many different communities and courthouses and could appreciate both what it might mean to be a newcomer to a small market and how different court systems and clerk's offices might impact the way I practice. There are any number of ways you can draw similar parallels in your practice, and anything you can do to show that your past experience has been relevant to the specifics of what would be your future is invaluable and notable to interviewers.

Show Knowledge of and Commitment to the Local Community

If you already live in or near the community in which you plan to practice, *you should be able to show engagement with local boards, civic organizations, churches or charities*. If you are not in that target community, show engagement with your current home. Particularly in small practices, the connections from such activities are the bread and butter of new business generation, and managing attorneys will want to know that you understand this and are willing to engage in these activities. In popular university towns like Charlottesville, it is not enough to say you like the town and think it would be a nice place to raise your family. You need to show

that you understand the community and want to contribute to it. Lawyers who have already chosen to make a move to a smaller market, often at the expense of a considerable amount of compensation, want to practice with others who care for their towns and are as enthusiastic to be there as they are.

One advantage to shifting to a small- or medium-sized practice is often a reduced hours expectation. It is understood that this is an attractive benefit, *so focus on the other, constructive things it might allow you to do and not simply working less*. Embrace the reduced expectation, and tie it to the things that will make you a long-term success in your community, such as more time devoted to your favorite charity. Everyone knows that you will also have more time to be with your kids or Star Wars collectible collection or pet chameleon, but they just want to know you are not going to disappear every day at 5:00 PM.

Engage with Local Lawyers

Similar to the advice above, and critical for small towns, *meet the lawyers in your target community*. Connect using mutual friends, your law school or college alumni, or simple cold calls. Lawyers like to talk, especially about themselves (*see, e.g., this article*), and I know very few attorneys who will turn down a chance to do so. Ask them about the town, the courts, or their clients. Ask them about the opportunities in town. Let them know about your interest in moving there and ask them for advice in finding open positions. Small towns rarely have a reliable number of openings, and you can expect most positions to open up randomly and by luck of the draw. Your best bet for catching those positions is to be on the mind of a local lawyer when he first hears that one of his peers is hiring.

That said, *be judicious*. People will know if you have contacted every lawyer in town, or even at a particular firm. Larger firms will likely have someone in charge of recruiting who will be forwarded copies of your emails. A couple of emails shows interest and drive to make appropriate connections. A couple of dozen looks desperate and might show a lack of judgment.

Join and Get Involved in the Local Bar

Associations (Including the Virginia Bar Association!)

Coming from a very large law firm in Boston, I was aware of the local bar associations but had very little involvement. When I moved to Charlottesville, I discovered that the local bar association is vibrant and its meetings are regularly attended by a surprising number of local lawyers. *Getting involved with local groups* is a good way to engage the lawyer connections mentioned above, and it is also an excellent opportunity for free CLEs and other events that will give you the tools to understand your new community and practice. Consider other lawyer “trade” groups like the Inns of Court or your law school’s alumni council.

These groups also offer very good avenues to leadership positions within the bar. Such positions expose you to attorneys across the state and give you visibility typically reserved for more senior attorneys. The VBA does a particularly good job of encouraging service by and recognition of its young members through the Young Lawyer’s Division. I can attest that the connections and friendships I found through the YLD have improved my practice and been immensely personally gratifying.

Consider writing an article for our newsletter, the Opening Statement. Many firms have requirements that their attorneys write articles as part of their regular marketing or CLE requirements. Such articles can be repurposed and would be welcomed at any number of places, such as the YLD’s nationally recognized newsletter.

Build Bridges, Not Ash Heaps

Virginia attorneys across the Commonwealth pride themselves on collegiality and respect. Everyone realizes that sometimes relationships break down, but all lawyers are socially and ethically obligated to treat each other with respect and appropriate deference. *Leave your firm the same way you entered it* – as if you will need your old partners to give you a job. Your past coworkers will appreciate your dignity, and the community will see you as a positive and gracious employee. We all learn from our life experiences, and showing gratitude and appreciation are classy and inexpensive ways to remind people of your positive interactions. One of my final acts at my previous firm was to draft a very short departure note sent to the whole office, which was acceptable practice in the firm. My note was positive, appreciative and left readers with a slight note of humor. *Do not write anything someone will find scandalous enough to send to Above the Law*. Be sure you know what people typically do at the firm, and if such a mass email would be frowned on, target it to those you worked with. While perhaps an email is not a fitting goodbye for everyone, I have found four years later I still get calls and emails from people who saved my email (in which I was sure to leave my new contact information.)

Recruiting, interviewing and finding the right match are all more arts than sciences. No one approach will work for everyone in every market; however, these steps are good starting points for making your next move. Good luck, and happy job hunting. ■



Seth J. Ragosta

Associate, Lenhart Pettit (Charlottesville)

Bio: Seth practiced in Boston, MA for several years before returning to Charlottesville to pursue his love for Central Virginia and trial practice. Seth focuses on family law matters involving all manners of custody, support and equitable distribution issues. His civil litigation practice involves real estate and business disputes, and Seth appears in courts across the Commonwealth in such matters. Seth and his wife, Lisa, have two children and enjoy camping, reading and board games in their spare time. Seth is a devoted University of Virginia alumnus. Seth is also the chair of recruiting at his firm, and he enjoys meeting law students and attorneys from across the Commonwealth and nation who are interested in practicing in Central Virginia.

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You've Been Served

By Madelaine A. Kramer and Robert T. Vaughan, III

On March 23, 2017, the University of Richmond Law School Council held a symposium on Pro Bono and Rule 6:1: Service to the Community, and Client Service.

The Service to the Community panel presentation discussed Model Rule of Professional Responsibility 6.1, including creation of a culture of service, identifying “pro bono” opportunities, and potential downsides to service. Discussions included voluntary/aspirational pro bono participation, mandatory reporting/participation, and the economic impact of such reporting. We learned that the VSB Council has declined to recommend mandatory reporting for the past few years, and the Supreme Court will soon address the mandatory reporting issue. Speakers included: John Whitfield, Executive Director, Blue Ridge Legal Services, George Hettrick, Managing Partner of Hunton & Williams Pro Bono Offices, Chair of Pro Bono Leadership Committee and W.

Benjamin Pace, Partner, Williams Mullen.

Following a delicious networking lunch, our very own Steven Gould, ByrnesGould PLLC, and Nupur Bal, DeFazio Bal, along with Kevin Martingayle, Bischoff Martingayle, P.C., and Michael Quinan, Christian & Barton, LLP, General Counsel, VBA, spoke on Client Service. Their presentation addressed the scope of client service, various billing structures, and the pros and cons of client service models based on client-type. Discussions included client service pertaining to individual and corporate clients, those involved in family law matters, and the attorney-client.

Special thanks to our moderators, Jim Guy, LeClairRyan and immediate past-president of the VBA, and Richmond Law Professor Tara Casey, Director of the Carrico Center for Pro Bono Service, and the UR LSC Executive Board and Symposium Chairs,

including Callaghan Guy, Victoria Linney and Kristen Godsey for all their hard work in putting together another successful Spring Symposium! ■



Courtesy: Kylie Hinson, VBA

Pro Bono Panel Presentation with (L to R) Ben Pace, George Hetrick, John Whitfield, Tara Casey, Kristin Godsey (UR LSC Symposium Co-Chair, JD 2018)



Courtesy: Kylie Hinson, VBA

Pro Bono Panel Presentation with (L to R) Ben Pace, George Hetrick, John Whitfield, Tara Casey, Victoria Linney (UR LSC Symposium Co-Chair, JD 2018)



Courtesy: Kylie Hinson, VBA

Client Service Presentation with (L to R) Kevin Martingayle, Michael Quinan, Steven Gould, Nupur Bal, Jim Guy.



Madelaine A. Kramer
Associate, Sands Anderson PC (McLean)
Bio: Madelaine is a civil litigation attorney and member of Sands Anderson's Business and Professional Litigation Group. She focuses her practice on professional liability defense and the defense of companies in personal injury, product liability, employment and complex commercial

matters throughout state and federal courts in Virginia, DC and Maryland. Madelaine has been involved in the VBA since serving on the VBA YLD Law School Council as a law student at the University of Richmond. She has served as a member of the YLD Leadership Council since 2013 and is currently the Chair of the University Richmond Law School Council.

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Robert T. Vaughan, III
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Practice Areas: Tax Controversy and Appeals, Civil Litigation, Appellate Law
Law School: University of Richmond, T.C. Williams School of Law (2015)
VBA Leadership: Chair-Elect, University of Richmond Law School Council (2016-Present)

Bio: Robert maintains an active tax controversy practice focused on individual and corporate tax appeals before the Internal Revenue Service, Virginia Department of Taxation, and local governments. He also counsels clients on issues of government relations, trust and estate administration, and advocates for clients in civil litigation and appeals before the Supreme Court of Virginia.

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Submit Your Article or Event Write-up to *Opening Statement*

The *Opening Statement* Editorial Board welcomes the submission of articles by young lawyers. Generally, articles should be about 1,300 words and should be on a topic of interest to young lawyers. (Longer articles may be divided into two installments and published in successive issues.)

Articles. Substantive article topics may include, for example:

- New developments in the law
- Day in the Life of... (e.g., "Day in the life of a Circuit Court law clerk" or "Day in the life of an assistant city attorney")
- Recent experience with... (or Lessons learned from...) (e.g., "Lessons learned from taking a legal aid pro bono case," "Recent experience with arbitration," or "Lessons learned from participating in the VBA Veterans Issues Task Force")
- Tips/Advice (e.g., "Arguing your first jury trial," "Tips for effective negotiations," or "How to handle your first client meeting")
- General Overview of a legal practice area (e.g., "Understanding partition suits" or "What every lawyer should know about property settlement agreements," etc.)

We welcome articles that are written specifically for *Opening Statement*, as well as articles that are adaptations of previously published material, such as blog posts, articles from firm newsletters, excerpts or summaries of law review articles, etc. The complete Author Guidelines and the VBA Publication Agreement are available online at: www.openingstatement.org.

Photos and Event Write-ups. In addition to substantive articles, we are also interested in receiving photos and/or write-ups from YLD events. If you took photos at a YLD social or other event, please pass them along to us for possible use on the YLD website or in the *Opening Statement* newsletter.

Please send your submissions or questions to the *Opening Statement* Editorial Board at: editors@openingstatement.org.

Opportunities to Get Involved

Are you looking for an opportunity to get involved with the VBA Young Lawyers Division? You can read about the YLD's multiple projects and committees at: vba.org/yldactivities. Just reach out to the project or committee chair to learn more. In addition, the YLD always welcomes ideas for new projects. Just reach out to anyone on the YLD Executive Board to share your proposal: vba.org/yld.

Support VBA Foundation

The VBA Foundation funds numerous programs, including the *Ask A Lawyer Project*, the *Pro Bono Hotlines*, the *Model Judiciary Project*, the *Veterans Issues Task Force*, and *Regional Mentoring Programs*. To donate or to learn more, visit: vba.org/foundation.



Are you protecting your biggest asset?

For most people, their biggest asset is their ability to work and earn an income. Doesn't it make sense to insure it? Call Virginia Barristers Alliance, Inc. (VBAI) to ask about VBA member discounts on Disability Income Protection Insurance.

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Williams Inducted as 2017 Chair of YLD



Courtesy: Dan Mauler



Courtesy: Dan Mauler

Jeremy S. Williams offers remarks after his induction as the 2017 Chair of the YLD.

YLD Chair Jeremy S. Williams offers Immediate Past Chair Steven P. Gould a parting gift for his service to the YLD.



Courtesy: Dan Mauler



Courtesy: Dan Mauler

VBA staff member Elizabeth Foskey is recognized and thanked by Steven P. Gould for her years of service to the VBA prior to her departure for a new job in Northern Virginia. The YLD will certainly miss Elizabeth's many contributions to our events.

VBA President-elect C.J. Steuart Thomas III addresses the YLD's business meeting.



Courtesy: VBA Staff / Marilyn Shaw



Courtesy: VBA Staff / Marilyn Shaw

(L-R): Kristen Jurjevich, Angie Maurer, Pat Maurer, and Molly Byers enjoy cocktails prior to the Gala.

YLD Members network during the Division's Business Lunch Meeting.



Courtesy: VBA Staff / Marilyn Shaw

YLD Member Jennifer Ligon and her husband, Chad, at the Gala.



Courtesy: VBA Staff / Marilyn Shaw

Steven P. Gould provides the YLD a retrospective about accomplishments in 2016.



Courtesy: VBA Staff / Marilyn Shaw

(L-R): Rich Garriott, Pat Maurer, and Andy Richmond confer during a session.



Courtesy: VBA Staff / Marilyn Shaw

Current law students from William & Mary speak with Justice Jane Roush.



Courtesy: VBA Staff / Marilyn Shaw

Joley Steffens of *ThompsonMcMullen* starts the VBA recruitment early.



Courtesy: VBA Staff / Marilyn Shaw

YLD Member Erin B. Ashwell of *Woods Rogers* participates in a CLE panel on best practices in appellate advocacy.

Are You Up-to-date On Data Privacy & Cybersecurity Issues?

Visit our *Health Care Data Aware Blog* at williamsmullen.com/blogs/hipaa

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What will be Your Biggest Career Asset?

By Chad Lehr

When asked this question, many will respond by saying “My Home,” or “My Business.” In reality, the biggest asset the majority of us will ever own is our individual ability to earn an income. In today’s world, many of us insure our cars, our homes and our lives. Why wouldn’t you insure your ability to earn your income? A 35-year old making \$100,000 today, assuming an annual increase of 3%, will earn over \$4,750,000 by the time they reach 65 years old. It’s hard to picture yourself with a disability. But 25% of 20-years-olds will experience a disability before they return, and, less than 5% of disabling accidents are work-related. The remaining 95% are not, and are not covered under Worker’s Compensation.¹ Most group long-term disability plans pay 50% to 60% of one’s base salary. As well, those benefits are usually taxable as ordinary income.

“How do I bridge the gap between my group long-term disability and the actual need?”

Insurance companies offer individually-underwritten disability income protection policies. The premiums for these policies are paid with after-tax dollars, the benefits payable upon disability are *tax-free*. The following are the basics of an individually-underwritten disability income contract:

Monthly Benefit: The insurance company will pay a monthly, tax-free benefit during a period of disability, while the insured is under the care of a physician. The benefits are typically structured to

last to age 65 but may be adjusted to a fewer number of years or even past age 65 in some cases.

Partial Disability Rider: While the contractual language for each company will differ, this feature generally permits the payment of benefits if a loss of time and/or income is experienced due to a partial disability, and not one that is totally disabling.

Residual Benefit: Part of many disability contracts, this is a feature which permits one to continue to receive disability benefits even when they are no longer disabled. If you are a professional or own a business, it may take a while to rebuild your business or practice. This feature pays disability benefits for a period of time, or until one reaches their pre-disability income level.

Future Insurability Option: Most insurance companies will offer this feature which permits the owner of the policy to increase their benefit in future years without having to prove their medical insurability to the insurance company. The insurance company’s underwriters may want to confirm the income to be protected exists.

Own Occupation: This characteristic of policies protects a professional by ensuring that a disability benefit is payable if the insured cannot perform the duties of their regular occupation – irrespective of whether they can work in any other capacity.

Catastrophic Coverage: Upon experiencing a permanent or total disability, and when the insured is unable to perform two of their 6 normal activities of daily living, an additional tax-free benefit may be payable.

Student Loan Rider: Some companies even offer a “rider” that can be attached to a policy which will help pay student loans that may remain if the professional experiences a disability.

Retirement Plan Protection: If you’re not working due to a disability, you’re also not contributing to your retirement plan at work. Even though one might experience a disability, they still have a need to accumulate assets for their retirement years. Some policies allow the owner to obtain a stand-alone contract which protects retirement savings.

In 2001, The Virginia Bar Association identified the need to bring quality insurance products to its membership. Since 2001, insurance advisors with Virginia Barristers Alliance, Inc., the wholly-owned insurance subsidiary of The Virginia Bar Association, have worked with the legal community across Virginia. To start a conversation with a Virginia Barristers Alliance representative about disability income protection, please call Dean Hardy at 804-290-8720, or visit the VBA website and click on The Virginia Barristers Alliance logo. ■

Endnotes

¹ Source: Council for Disability Awareness



Chad Lehr

Insurance Advisor, Virginia Barristers Alliance (Glen Allen)

Insurance Lines/Products: Disability Income, Life Insurance, Long-Term Care, Fixed Annuities

Licenses: Financial Advisor (Series 65, Series 6, Series 63), insurance licensed in the Commonwealth of Virginia for Life Insurance, Long-Term Care Insurance, Health Insurance and Fixed and Indexed Annuities

Bio: Chad is a tenured insurance advisor who maintains an active insurance practice with Virginia Barristers Alliance. The Virginia Barristers Alliance is a wholly owned insurance agency of the Virginia Bar Association.

Chad’s specialty and focus is helping VBA membership understand the importance of protecting their income, identifying income protection gaps which may exist, and implementing strategies to eliminate these gaps using insurance products and discounts available to VBA members through their insurance agency, Virginia Barristers Alliance, Inc.

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