

NORFOLK & PORTSMOUTH BAR ASSOCIATION

BAR BULLETIN

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July - August 2011

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See Flyers Inside for
Event Details and
Registration Information

Preregistration required
for all NPBA Events.
Call 622-3152.

PRESIDENT'S MESSAGE



Nathaniel Beaman IV

Stephen Zack, the current president of the American Bar Association, and the first Hispanic-American to hold that office, understands perhaps better than anyone the importance of an educated and fully engaged citizenry to the preservation of liberty and the rule of law. At the age of 14, he fled with his family from the tyranny of Castro's Cuba, leaving virtually everything behind. "The loss of liberty is not theoretical," he said recently. "When you have to leave your home, it's real."

Upon becoming president of the ABA in October of 2010, he announced four initiatives for his presidential term, one of which was "the need for increased civic education in our schools and for all Americans." To that end he formed The Commission on Civic Education in the Nation's Schools, with retired U.S. Supreme Court Justice Sandra Day O'Connor acting as a commission advisor. Their concern about the state of civic education in the United States—a concern shared by leaders and educators across the nation—is the result of a number of recent studies indicating, in the words of Justice O'Connor, "a very disturbing lack of basic knowledge of our system of government and how and why citizens must be engaged."

In early May of this year, the 2010 National Assessment of Educational Progress (NAEP) civics assessment, a part of what is often referred to as the "Nation's Report Card," was released to the public. The third such assessment in the past twelve years, it is designed to measure how well fourth, eighth, and twelfth graders are learning the "knowledge and skills of democratic citizenship and government." The results of this assessment, like those of its two predecessors, were less than encouraging. According to the report, 73% of fourth graders, 78% of eighth graders, and 76% of twelfth graders performed below the *Proficient* level for their respective grades. Only 2% of fourth graders, 1% of eighth graders, and 4% of twelfth graders performed at the *Advanced* level.

Equally disturbing were the results of a study released earlier this year by the Thomas B. Fordham Institute, a Washington, D.C. based educational think tank. This study ranked 49 of the 50 states, along with the District of Columbia, on their standards for the teaching of U.S. history. Nine states received a grade of A- or B. Twenty-eight states received a grade of D or F. South Carolina was the only state to receive an A. Virginia received a grade of C, a rather disappointing grade for the state that is often referred to as the "Mother of Presidents."

(continued on page 2)

UPCOMING EVENTS

Summer Social
Thursday, July 28, 2011
Willcox & Savage, P.C.
440 Monticello Avenue, Suite 2200

Luncheon
Thursday, September 22, 2011, 11:45 AM
Hits at the Park, Harbor Park
Speaker: Brian T. Goldstein, Esq.

Arbitrating Disputes
3 CLE Credits
Thursday, September 22, 2011, 1:30 - 4:30 PM
Social Networking: Opportunities and Risks
2 CLE Ethics Credits
Wednesday, September 28, 2011, 1:00 - 3:00 PM
Luncheon
Thursday, October 20, 2011, 11:45 AM
Speaker: Norfolk City Manager Marcus Jones

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(PRESIDENT'S MESSAGE CONTINUED)

Other studies and surveys in recent years have shown similar results. For example a 2003 report by the Campaign for the Civic Mission of Schools, a coalition of organizations that includes the American Bar Association, found that students are "less interested in public or political issues than were previous generations, and they exhibit gaps in their knowledge of fundamental democratic principles and processes."

If, as these assessments and studies seem to indicate, civic education is not receiving the attention it deserves and the younger generation is not being adequately prepared for the responsibilities of citizenship, then I think the question we have to ask is this: What is the proper role of the Bar in the education of our citizens, and in particular the younger members of our society, to ensure that they will have the knowledge and skills necessary to fully, and intelligently, participate in our democratic system of government?

I think there are at least two ways in which we, as members of the Bar, can play a significant role:

First, we should encourage our state and local leaders to fully support a rigorous and comprehensive program of instruction in civic education for all students, beginning in the earliest grades and extending through high school. A review of Virginia's Standards of Learning for history and social science indicates that the Commonwealth is committed to such a comprehensive and rigorous program. There has of course been much debate in recent years about the Standards of Learning, as to both content and methodology, and whether other approaches to teaching might be more effective. There are compelling arguments on both sides of this issue and the debate will no doubt continue. But regardless of the teaching methodology ultimately chosen, our students must come away from the experience with a thorough understanding of our system of government and the rights and obligations of citizenship.

Second, we must be willing to volunteer our time and talent and become active participants in the educational process. By virtue of our training and professional experiences, we are in a unique position to provide students with real insight into how our system of government actually works and the important role that the rule of law plays in the preservation of our liberty. There currently exist a number of excellent programs in which members of the Bar are making a real difference.

One such program is the Virginia Bar Association's Rule of Law Project. The goal of this program is to "inspire middle school students to become active and engaged citizens." Local bar associations match volunteer lawyers and judges with teachers to lead classroom discussions about the rule of law. Another program is the Virginia Rules program, established by the Attorney General's Office, and implemented in Norfolk with the assistance of the Office of the Norfolk Commonwealth's Attorney. The goal of this program is to educate teenagers about the laws in Virginia through lesson plans on a variety of subjects. Additionally, the Norfolk and Portsmouth Bar Association sponsors a Mock Trial program in which thirty or so members of the NPBA teach basic trial skills to students from the Norfolk Public School system. Students meet weekly with volunteer lawyers, who instruct them in the various aspects of trial practice, culminating in mock trials pitting the prosecution team from one school against the defense team from another school.

The Rule of Law Project, the Virginia Rules program, and the NPBA Mock Trial program are but three examples of the way in which members of the Bar are making significant contributions toward the goal of producing educated and responsible citizens. These and similar programs deserve our strong support.

To be sure, our democracy is not in danger of imminent demise; we have to be careful not to overstate the problem. But if Jefferson was right that freedom and liberty require an educated citizenry, then these recent educational assessments should serve as a warning that there is serious work to be done. We might do well to remember the words of another lawyer, Marcus Tullius Cicero, spoken some two thousand years ago: "What greater or better gift can we offer the republic than to teach and instruct our youth?"

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**Judge Skeppstrom's Portrait Presentation**

MESSAGE FROM THE YOUNG LAWYERS SECTION

By Joshua E. Baker, Chair

The 2011-2012 NPBA YLS calendar is already filling up with a number of exciting opportunities for young lawyers to become more involved with the Bar and our community. At the time of this writing, the June 23, 2011 Golf Tournament at Bide-A-Wee Golf Course is still in front of us and all indications are that we are set for another excellent turnout from both golfers and sponsors, all of whom will be recognized in my next column. A strong showing at the golf tournament allows the YLS to support Norfolk Law Library and to provide the YLS and the full Bar with a number of social events throughout the year.

To that end, we would like to invite the entire Bar to join us for the Summer Social on Thursday, July 28, 2011, at Willcox & Savage. This event is open to the entire Bar and offers a great opportunity to see friends and colleagues during the summer while we are on sabbatical from our monthly luncheons.

We have also begun to plan a number of YLS sponsored Happy Hours for the coming year, which are open to the full Bar.

Other events in the near future include the annual Tides outing, the Fall Reception, and the next installment of our award-winning Breakfast with the Bench series.

On June 17th, Bonnie P. Lane accepted a Certificate of Achievement for the YLS's Breakfast with the Bench program, presented by the Virginia State Bar Conference of Local Bar Associations. The Breakfast with the Bench program is entering its eighth year and continues to bring together new and experienced lawyers with jurists from all of our local courts for an informal discussion of issues of interest to lawyers beginning their careers. Please watch upcoming Bar Bulletins and your email for the next Breakfast with the Bench.

The YLS remains committed to providing opportunities for young lawyers to give back to the community. We are working with the local charity, ForKids,



Josh Baker

to schedule a number of events throughout the coming year to support them in their mission to help homeless families improve their situations. ForKids offers a number of programs that provide housing, educational assistance and other resources to homeless families in our community – all with a focus on the children in those families. The Committee is excited to begin its relationship with ForKids and to offer opportunities to the Bar at-large to become involved in their work.

Lastly, I would like to thank Wes Simon and my other recent predecessors with whom I have served for their efforts in building the YLS into what it is today. I am grateful to our energetic and generous YLS steering committee members for their past and future contributions to the Bar and look forward to working with them this coming year. I welcome and encourage anyone interested in joining the YLS committee to please contact me at jeb@emdomain.com.

We look forward to seeing you at our upcoming events!



ANNUAL DINNER

May 25, 2011



SEPTEMBER LUNCHEON MEETING

Thursday, September 22, 2011

Hits at The Park, Harbor Park

11:45 AM



Brian Taylor Goldstein
*Entertainment Law and
... Entertainment!*

For this season's opening production, renowned entertainment lawyer Brian Taylor Goldstein will expound upon the joys and tribulations of representing performing artists. And to demonstrate beautifully why it's worth all the drama, we will be joined by a Virginia Opera rising star, to give us the briefest taste of the performing arts.

Brian is a partner in the law firm of FTM

Arts Law, the entertainment division of the law firm of Fettmann, Tolchin and Majors, P.C., and is also the Managing Director of the arts management and consulting firm of FTM International. With offices in both Washington, DC and New York City, Brian's work concentrates on providing legal, consultation, and management services to clients in the fields of entertainment and the arts—including the performing arts, music, television, motion pictures, the fine arts, publishing, graphic design, and non-profit arts related organizations. His clients include renowned artists, performers, and authors; nationally and internationally distinguished companies in the fields of opera, dance, and theater; regional and off-Broadway theater companies; award-winning producers and directors; top-selling recording artists; award winning documentary and feature-length film makers; regional and national presenters and venues; and critically acclaimed

fine-artists and designers. He serves as general counsel for many nationally and internationally-based artist management companies and agencies, as well as Legal Affairs Advisor to NAPAMA (North American Performing Arts Managers and Agents), U.S. Legal Advisor to IAMA (International Artist Managers Association), U.S. Legal Advisor to the Association of British Orchestras (ABO), and legal advisor to the National Performing Arts Visa Task Force and the American Arts Alliance. FTM Arts Law is the recipient of the 2010 Yates Award for Outstanding Arts Advocacy from the Association of Performing Arts Presenters.

Following Brian's remarks, a Virginia Opera "diva of the future" will close the program with a sparkling glimpse of the artist's magic. We look forward to seeing everyone on September 22, 2011 at our first luncheon of the season!



NUSBAUM PRESENTED 2011 NPBA EGGLESTON/I'ANSON AWARD

Robert C. Nusbaum was recently honored with the Eggleston-I'Anson Professionalism Award by the Norfolk & Portsmouth Bar Association. The Eggleston-I'Anson Award recognizes an attorney who has epitomized the highest standards of personal and professional quality, reputation and conduct throughout their career, and is the Association's highest honor.

Before the 2004 merger of Williams Mullen and Hofheimer Nusbaum, P.C., Mr. Nusbaum was an attorney at Hofheimer Nusbaum, P.C. for 56 years. Mr. Nusbaum has been regularly named a "Super Lawyer" by Virginia Super Lawyers magazine and a member of the "Legal Elite" by Virginia Business magazine, and he is one of a select few (only 0.1 percent) to be listed in five or more categories in The Best Lawyers in America. Nusbaum is a permanent member of the Judicial Conference of the U.S. Court of Appeals for the Fourth Circuit, a fellow of the American Bar Association and the Virginia Law Foundation and a former fellow of the American College of Trust & Estate Counsel. He is a member of the American College of Real Estate Lawyers and the U.S. Tax Court.



Robert C. Nusbaum

Mr. Nusbaum's civic activities include eight years on the board of directors and executive committee of Norfolk International Terminals; 11 years as a trustee of Virginia Wesleyan College; years of service on various boards of Sentara Health Systems and its predecessors; five years on the board of directors of the Virginia State Library, now called the Library of Virginia, including one year as Chairman; and as an officer and director of the Tidewater American Red Cross, the Norfolk Forum, and the Virginia Symphony; and more recently, the Foundation for the Howard and Georgeanna Jones Institute for Reproductive Medicine, including several years as Chairman of the Board, and the Diabetes Institutes Foundation.

Always committed to building a forward-thinking community, in the late 1950s, he publicly fought against Virginia's

"Massive Resistance" to the integration of Norfolk public schools, in the 1960s, he organized The Aid Fund, a public charity to provide scholarships to talented African-American students who were integrating Virginia colleges and graduate schools, in the 1970s and 1980s, he founded and led Virginians Organized for Informed Community Expression to support the then-controversial creation of the Jones Institute for Reproductive Medicine, and in the 1990s and 2000s, he conceived and facilitated the founding of the Center for the Study of Religious Freedom at Virginia Wesleyan College. In recognition of these efforts, Mr. Nusbaum was named First Citizen of Norfolk by the Cosmopolitan Club in 1996, received the second Barron F. Black Community Builder Award from the Norfolk Foundation in 2008 and in 2009 was named the Colgate W. Darden, Jr. Scouter Citizen of the Year by the Tidewater Council of the Boy Scouts of America.

Mr. Nusbaum received his law degree from the University of Virginia School of Law in 1948 and is the recipient of an honorary doctor of laws degree from Virginia Wesleyan College.

FIRM ANNOUNCEMENTS

Ann Sullivan, a partner of **Crenshaw, Ware & Martin, PLC**, joined Heritage Bank's Norfolk Advisory Board. Sullivan, who focuses her practice in the areas of employment law and civil litigation, represents employers as well as employees, arguing cases in both state and federal courts. A graduate of the College of William and Mary and the Marshall-Wythe School of Law, Sullivan is a past president of the Norfolk Sunrise Rotary Club and past-chair, Norfolk Public Library Board of Trustees.

Hampton Roads Association of Legal Administrator's Chapter which has about 40 active members representing law firms, corporate legal departments and government agencies throughout the Tidewater region announces new officers: President, Rob H. Sadler of Hofheimer/Ferrebee, P.C.; President-Elect, Linda Pyatt Merrick of McKenry, Dancigers, Dawson & Lake; Vice President, Shirley Beacham of Crenshaw, Ware & Martin, PLC; Treasurer, Pamela S. Deming of the Virginia Beach City Attorney's Office; Secretary, Susie Bacon of Jones, Blechman, Woltz & Kelly, P.C. and Past President, Kim Pici of Inman & Strickler, P.L.C.

Adam H. Lotkin has joined **Rutter Mills**. Lotkin worked for 10 years at Norris, St. Clair & Lotkin as a civil litigator. He is a graduate of Lafayette College and of Howard University School of Law, where he served as an associate managing editor of the law review. He is authorized to practice in Virginia, California and the District of Columbia. Lotkin is a member of the NPBA, Virginia Beach Bar Association and Virginia Trial Lawyers Association. He practices all disciplines of trial work and represents the rights of injured individuals in personal injury cases. Lotkin received the Super Lawyer Rising Star award by his peers four times including 2007, 2008, 2010 and 2011.

Vandeventer Black LLP is pleased to announce that **Edward J. Powers** has been elected to the Board of Directors for the Maritime Law Association (MLA) of the United States. Its membership includes over 2,000 lawyers, judges and non-lawyers in the maritime industry. The objective of the Association is to advance reforms in the Maritime Law of the United States, facilitate

justice in its administration, to promote uniformity in its enactment and interpretation, to furnish a forum for the discussion and consideration of problems affecting the Maritime Law and its administration, to participate as a constituent member of the Comite Maritime International and as an affiliated organization of the American Bar Association. Acting in conjunction with other organizations, the mission is to bring about a greater harmony in the shipping laws, regulations and practices of different nations. Vandeventer Black attorneys have had a rich history with the MLA Board going back to Floyd Hughes (1918-1923), Braden Vandeventer, Sr. (1935-1936), Hugh Meredith (1967-1970), Braden Vandeventer, Jr. (1976-1979), Mort Clark (1984-1987), William Birkhead (1994-1997), Geoff Birkhead (1999-2002), John Ryan (2005-2008), and now Powers for the 2011-2013 term. Ed concentrates his practice in maritime and general litigation matters. His maritime practice focuses on the representation of ship owners and their underwriters, including both domestic and international insurance companies and P & I Clubs.

Vandeventer Black LLP is pleased to announce that **Michael L. Sterling**, has been accepted into the American Arbitration Association's (AAA) Panel of Mediators. AAA provides services to individuals and organizations who wish to resolve conflicts out of court. Additional AAA services include the design and development of alternative dispute resolution (ADR) systems for corporations, unions, government agencies, law firms, and the courts. Mike is the chair of the firm's Practice Management Committee and former chair of the firm's Construction and Public Contracts department. He concentrates his law practice in construction, public contracts and local government matters, as well as arbitration and mediation. His construction practice has ranged from the resolution of complex disputes involving the construction of co-generation power plants and commercial buildings to residential development projects. Mike has been recognized by Virginia Business Magazine as one of Virginia's Legal Elite in the areas of Construction law, Alternative Dispute Resolution, a Virginia Super Lawyer and as a Best Lawyer in Hampton Roads, Construction.

Mark E. Slaughter has joined **Willcox & Savage** as a partner in its Corporate, Securities and Finance Group, and will practice in the firm's Virginia Beach office. Mark was formerly a partner with Troutman Sanders. Mark provides legal services to numerous Hampton Roads corporations, partnerships, limited liability companies and closely held businesses. He advises management in the areas of mergers, acquisitions and divestitures; business entity structuring considerations; stock sales and asset sales; tax planning and tax controversies; commercial leases; employment contracts and other agreements and commercial real estate matters. Mark represents a large banking institution and its subsidiaries in many commercial aspects of its business, including multimillion dollar acquisitions of insurance, real estate mortgage, title, and property management companies through mergers, joint ventures and reorganizations. Mark also assists family owned and closely held businesses with their day-to-day business matters from formation through the various stages of their development, including selling the business to third parties or transferring it to the next family generation. Mark has been recognized in the Best Lawyers in America in the area of mergers and acquisitions law, and has been acknowledged as one of Virginia's Legal Elite by Virginia Business magazine in the area of business law. Mark has been selected as a Leader in the Law by Virginia Lawyers Weekly and was recently selected to serve as chairman of the Board of Governors of the Virginia State Bar Business Law Section. Mark is currently Chairman of the Virginia Beach Bar Association Foundation and an active member of the Central Business District Association Board of Directors. He is a past President of the Virginia Beach Bar Association. Mark received his LL.M. and J.D. from the College of William and Mary, and a B.A. from Duke University.

Howard E. Gordon, a partner at **Williams Mullen** in its real estate section, is the recipient of the 2011 Traver Scholar Award, which honors those who embody the highest ideals and expertise in the practice of real estate law. Gordon's practice is focused on commercial and multifamily real estate, commercial leases, ground leases, land

use planning and permits, and traditional urban developments. He represents owners and developers in the acquisition of land development, leasing and financing of numerous shopping centers and multifamily housing projects, as well as hotels and traditional neighborhoods. Gordon is a fellow of the Virginia Law Foundation, the American Bar Foundation and the American College of Real Estate Lawyers. He is a member of the Virginia Bar Association, NPBA and is a past chairman of the Virginia State Bar Real Property Section Board of Governors. He is listed in the Best Lawyers in America and Virginia Business magazine's "Legal Elite." He's been named a "Super Lawyer" for Real Estate by Virginia Super Lawyers magazine. His community and civic organization involvements include ForKids, Norfolk Sports Club and its scholarship foundation, the Virginia Arts Festival and the TOWN Foundation. Gordon received a law degree from the University of Virginia School of Law. He also earned a bachelor of arts degree in economics from U.Va.



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IMMIGRATION

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NPBA FOUNDATION NEWS

By Robert V. Timms, Jr. • President, NPBA Foundation

At the 2011 Annual Meeting of the Norfolk Portsmouth Bar Association, the Norfolk Portsmouth Bar Association Foundation awarded scholarships to two local students. Brooks Mears, a student at Nansemond-Suffolk Academy was awarded a \$2,500 scholarship and Kevin Radford of Maury High School won a \$1,000 scholarship. Both Brooks and Kevin will be attending the University of Virginia next year. For those of you who attended the meeting you had a chance to meet Brooks and his parents and heard of his impressive accomplishments. Kevin was unable to attend, as he was on the mound for Maury trying to win the Eastern Region High School Championship and advance to the Virginia state tournament.

We are pleased to announce that we had twenty-three entries in this year's contest, which is a record number for the Foundation. The students entering the contest came from all over South Hampton Roads.

This year's judges were Retired Judge Richard S. Bray of the Court of Appeals

of Virginia, Judge Jerrauld C. Jones, of the Norfolk Circuit Court and Judge John W. Brown of the Chesapeake Circuit Court. We would like to thank them again for all of their hard work in making this year's contest a success.

The Foundation needs your help to continue our support of programs like the one listed above. In addition to giving annually to the Foundation, I urge you to consider becoming a Fellow of the Foundation. The Fellows initiative is divided among various levels of giving. Each level requires a specific pledge that may be satisfied in annual payments. Also, the Foundation established a permanent endowment fund with the Hampton Roads Community Foundation ("HRCF"). You can now make a donation to the HRCF and designate the Foundation as the beneficiary of the gift, or remember the Foundation as part of your



Bob Timms

estate plan. The income from the corpus of the gifts made to the HRCF will be used by the Foundation to support and expand its programs.

For more information on how you can be part of the Foundation, please contact Robert V. Timms, Jr. at 486-7055 or rtimms@inmanstrickler.com.



COURT NEWS

The Mandatory District Court Judges Conference is scheduled for August 8-9, 2011. The **Norfolk Juvenile and Domestic Relations District Court** will have one court available for arraignments and emergency cases only on these dates.

The Honorable Michelle J. Atkins has been elected Chief Judge of the **Norfolk Juvenile and Domestic Relations District Court** for a two-year term effective July 1, 2011.

JIM LEWIS

and his firm welcome forming a co-counsel relationship with you for serious injury, wrongful death and malpractice cases.

460-7776

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VIRGINIA RULES

No, it's not the state's new motto; Virginia is still for lovers. But, if Norfolk Commonwealth's Attorney Greg Underwood has his way, we will all fall in love with *Virginia Rules*.

Virginia Rules is an educational program established by the Virginia Attorney General's Office and implemented in Norfolk with the guidance of the Norfolk Commonwealth's Attorney's Office. The goal of the program, through 19 lesson plans, is to teach teenagers the laws of the Commonwealth, focusing on how they apply to their everyday lives. Educators, parents, and teens themselves can use *Virginia Rules* to learn about everything from how a courtroom operates to gang violence. The lessons are designed to be user friendly for people from all walks of life.

Introduction to Laws in Virginia is the lesson more than 1300 8th grade students at various Norfolk schools learned June 6-15, thanks to the experts – nearly 3 dozen local criminal justice and public safety professionals, many of whom are NPBA members. Each participating prosecutor, public defender, private attorney, city attorney, police officer, sheriff's deputy, and representatives with the Community Services Board and Norfolk Detention Home taught the lesson by using a PowerPoint presentation and sharing on-the-job experiences.

Underwood strongly believes citizen involvement is an integral part of criminal prosecution. "Often our work is dependent upon on people coming forward and providing information about what they saw or heard," said Underwood.

The Office's high volume caseload is what led Underwood in partnership with Norfolk's Juvenile Justice Collaborative to accept a \$14,000 grant from the E.C. Wareheim Foundation. The grant funds a part-time employee to organize and oversee the execution of opportunities for the teaching of the many lessons of *Virginia*

Rules in Norfolk. "Since criminal prosecution keeps us more than busy and is our state law responsibility, having another professional help us carry out this important community work is certainly a benefit to the City," Underwood said.

If you are interested in teaching *Virginia Rules*, contact the Juvenile Justice Collaborative and *Virginia Rules* Coordinator, Sharon Jaronczyk, via email at sharon.jaronczyk@djj.virginia.gov. To learn more about *Virginia Rules*, visit <http://www.virginiarules.com>.

NPBA Members Who Participated in *Virginia Rules*

John Bredehoft
Sherri Carr
John Coggeshall
Darius Davenport
Brian Ellis
Andrew Fox
Patrick Garry
Todd Gaynor
Arlene Klinedinst
Dave Lannetti
Jay Lassiter
Clare Lora
Leslee Nicholas
Steve Owen
Michele Peters
Jim Pickrell
Cara Purvis
Peter Reeves
Greg Underwood
Rachel VanHorn
Dan Warman
Cher Wynkoop



WELCOME NEW MEMBERS

Debraca Arrington

M. Andy Boran
Taylor & Walker, P.C.

Brian A. Boys
Oast & Hook, P.C.

Joyvan L. Malbon
Bullock & Cooper, P.C.

Betty Russo

Mark Slaughter
Willcox & Savage, P.C.

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Thursday, October 13, 2011

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Wednesday, October 19, 2011

Family Law

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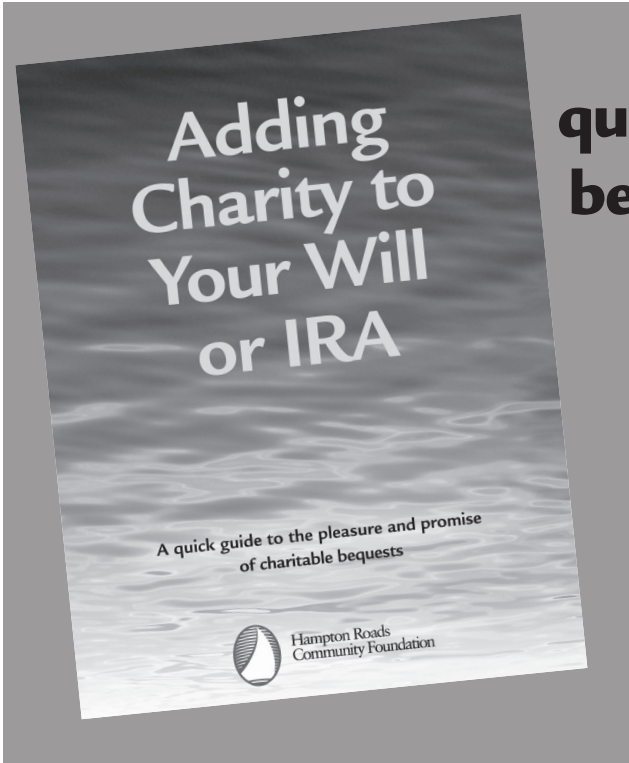
Monday, October 24, 2011

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