

NORFOLK & PORTSMOUTH B A R A S S O C I A T I O N

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

PRESIDENT'S MESSAGE



Robert V. Timms, Jr.

This will be my last President's Message. The next message will be written by our incoming President, Jim Harvey. When I first became President, Chip Beaman told me I would be surprised how fast the year would pass. How right he was!

Jim Harvey and the other new officers and Executive Committee members will be invested during the Annual Meeting at The Main on May 17, 2017. We will be one of the first groups to hold an event at this exciting new hotel. I hope to see many of you there.

Over the past year we have established two new committees and others have been hard at work. Here is a brief review of some highlights from the past year.

We established a Bench Bar Relations Committee, led by the Honorable David W. Lannetti of Norfolk Circuit Court and Don Schultz. One of the purposes of the committee is to act as a liaison on issues of shared concern among our association, our various committees and the courts. Their first meeting is scheduled for May and we believe they will be a great benefit to our association.

The Young Lawyers Section has had many fun and worthwhile social and charitable events this year, which included a successful Golf Tournament, volunteering at the Ronald McDonald House and hosting Breakfasts with the Bench. They have also implemented a mentor program. I urge all of you to participate in this worthy program.

We also established a Mock Trial Committee, which provides a long term structure for our middle school mock trial program. They are in the midst of working with students in this year's program.

The CLE Committee once again provided a full slate of interesting and informative seminars. Committee members are working on next year's seminars. If you have any suggestions for seminar topics or want to conduct one, I urge you to contact the bar association with your ideas or interest in presenting a seminar.

The Bench Bar Committee held an outstanding Conference April 18th at the Norfolk Waterside Marriott. Wendy Collins Perdue, Dean of the University of Richmond School of Law, was keynote speaker.

The NPBA Foundation is in the process of selecting recipients for its college scholarships and the Elizabeth Fitzwater Scholarship, which is awarded to a second year law student.

As I close, I want to express my sincere appreciation and thanks to our wonderful director, Donna Bausch, and to her excellent staff – Michelle Herbert, Bill Magee and Larry Story. Their hard work and dedication keep the wheels of our association turning smoothly.

Thank you for allowing me to serve you as President this past year. I look forward to seeing you all at our upcoming events.

UPCOMING EVENTS

YLS MENTORING PROGRAM KICKOFF EVENT

Wednesday, May 3, 2017
6:00 – 8:00 PM

Grace O'Malley's
211 Granby Street

ANNUAL DINNER

Wednesday, May 17, 2017

Hilton Norfolk The Main
100 East Main Street

Social Hour 6:00 PM
Dinner 7:00 PM

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DOCKET DIGEST – RECENT NORFOLK CIRCUIT COURT OPINIONS

Compiled and Summarized by Dustin M. Paul and Jennifer L. Eaton, Vandeventer Black LLP

Select Summaries:

***Elizabeth Brown Wilder, Administratrix of the Estate of Fredrick Wade Wilder, Deceased v. Children's Hospital of the King's Daughters, et al.*, CL16-8482 (Feb. 6, 2017) (Judge Hall).**

In a medical malpractice action, this opinion ruled on the demurrer of Children's Hospital of the King's Daughters to exclude the words "including without limitation" from the Amended Complaint as they were used to qualify Plaintiff's claim for negligence against Defendant. The Court held that a bill of particulars was a more appropriate vehicle for the relief sought by the Defendant and ordered Plaintiff to file a Bill of Particulars within 21 days "specifying the particulars of any additional negligence by the Defendant which Plaintiff claims." From a practical standpoint, this case is useful as it examines the scope of Rule 3:18(b) and the scope of the right to allege negligence "without specifying the particulars of the negligence."

Order Regarding Appropriate Venue and Transfer of Divorces (March 7, 2017).

In March 2017, Chief Judge John R. Doyle, III entered an Order regarding appropriate venue for uncontested divorces. The Order highlights the volume of divorce cases filed in Norfolk Circuit Court and memorializes various provisions in the *Code of Virginia* pertaining to transfer of venue of such cases. Overall, the purpose of the Order is to convey the need for additional information in divorce complaints and final decrees so that the Court may "exercise its discretionary statutory authority to transfer the cause to the proper forum." Specifically, the Order requires that complaints for divorce filed after June 1, 2017, include the city and/or county and state of residence of the plaintiff and defendant. If the residence of the defendant is unknown, then the city and/or county and state where the defendant was last known to reside and the city and/or county and state where the parties last cohabitated must be included. Final decrees of divorce that involve equitable distribution must also include the current residence of the parties if a transfer provision is not already included in the Order pursuant to Section 20-107.3(L) of the *Code of Virginia*. This Order is noteworthy for those that regularly file petitions for divorce in the City of Norfolk.

Other Noteworthy Cases:

***Meredith Thomas v. Robert E. Stambaugh, M.D., et al.*, CL15-11602 (Feb. 2, 2017) (Judge Lannetti)** (Plea in Bar based on statute of limitations overruled because the Amended Complaint did not add a party to the suit and therefore did not need to "relate back" to the previously non-suited Complaint or the initial Complaint.).

***MAMA/TMU, LLC v. James H. Miller, Jr.*, CL15-9608 (March 2, 2017) (Judge Lannetti)** (Denying Plaintiff and Defendant's respective motions for attorneys' fees and costs after finding neither party was the prevailing party as contemplated by the relevant operating agreement.).

VSB COUNCIL NEWS

At its February meeting, the VSB Council approved, by a vote of 65 to 1, proposed amendments to Rules 7.1 through 7.5 of the Rules of Professional Conduct that govern lawyer advertising. In essence, the proposed change simplifies the lawyer advertising rule. The change is significant as it deletes much of Rule 7.1, all of Rule 7.4 (Communications of Fields of Practice and Certification) and all of Rule 7.5 (Lawyers and Firm names and Letterheads). In its place, the rule prohibits "false or misleading" communication, covering any communication that "contains a material misrepresentation of fact or law" or that omits a fact "necessary to make the statement considered as a whole not materially misleading." Assuming the proposed rule change is adopted by the Supreme Court, this will be the new standard for determining when a communication is false or misleading. Notably, gone are the specific requirements concerning disclaimers and the prohibition on advertising "fields of practice" or "certification." That is not to say that disclaimers are unnecessary or that it is "open season" for listing specialties and certification. An attorney might still run afoul of the rules by failing to include a disclaimer or by including specialties or certifications if, taken as a whole, the communication is misleading. You can find both the VSB's petition to the Supreme Court of Virginia for the rule change as well as a red-lined version of the rule on the VSB website.

YOUNG LAWYERS SECTION

By Jennifer L. Fuschetti, Chair

It is with mixed feelings that I write my last update as YLS chair. This year has been jam packed with fulfilling service projects, engaging breakfasts with the bench, fabulous social events and intramural activities, as well as the fellowship that brings out members to the monthly meetings. I've been privileged to work with my colleagues in the section, and I've loved every minute.

The section is particularly proud of our new mentorship program and hope it will be the 2016-17 Young Lawyers' Section's legacy and become another of the NPBA's services to our legal community. Please join us May 3rd at Grace O'Malley's to celebrate the start of the program and please consider signing up to participate!

While I'm a little sad that my tenure as chair is ending, I couldn't be more excited for the future of the section. **Andrea Ruege** will be picking up the reins in May. She is intelligent, driven and collaborative. I can't think of anyone better to lead us in



2017-18.

Andrea will be telling you about our golf tournament, summer social, our new slate of service projects and the other exciting events we have in store. I hope that you'll join me in congratulating her the next time you see her.

The Young Lawyers' Section meets monthly and there are plenty of opportunities to get involved and meet your colleagues. If you are under 36 or have been practicing for five years or less, I encourage you to become active in our section.

We're also happy to welcome friends and colleagues who are considering joining the NPBA to come to a meeting and get to know us! Meetings are usually held on a Tuesday at 6:00p.m. I'm looking forward to meeting you.

WELCOME NEW MEMBERS

Kevin Briggs

Legal Aid Society of Eastern Virginia

Vanessa Carter

Richard B. Campbell, PLC

Jeremy Moss

Vandeventer Black LLP

Leondras Webster

Norfolk Commonwealth Attorney's Office

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Please help us find a tenant for our Ghent offices. Cooper Hurley Injury Lawyers moved from 2014 Granby Street to a bigger office to accommodate our growing firm. We are seeking a tenant for our 2,800 square foot office on the corner of Granby Street and 21st Street in Ghent, Norfolk.

The office was designed for our law firm three years ago. It contains a large conference room, seven offices, a kitchen, two bathrooms and a spacious reception area. The office is above the Wells Fargo bank and within close walking distance of Ghent restaurants and stores on 21st Street with good transportation links. The new tenant will have great visible signage. The building also has ample free parking. Call Jim Hurley at (757) 455-0077 or our agent Scott Godbout at (757) 525-4947.



ANNOUNCEMENTS

Christie, Kantor, Griffin & Smith, P.C. is pleased to announce that **Barry Kantor** has been listed among Virginia Super Lawyers for 2017. This is Kantor's twelfth consecutive recognition as a Super Lawyer.

Cooper Hurley Injury Lawyers is delighted to announce appointment of **Bill O'Mara** as the firm's newest partner, joining founding partners John Cooper and Jim Hurley. O'Mara grew up in Chesapeake, attended Indian River High School, Dartmouth College, and Washington and Lee University Law School and joined the firm in 2014.

Cheshire I'Anson Eveleigh of Wolcott Rivers Gates will receive the 2017 Family Law Service Award from the Virginia State Bar's Family Law Section. Eveleigh is chair of the Virginia Family Law Coalition, secretary of the Virginia Chapter of the American Academy of Matrimonial Lawyers and a diplomate in the American College of Family Trial Lawyers. She has served as president of the Norfolk & Portsmouth Bar Association, chair of the Domestic Relations Council of the VBA, chair of the VSB Family Law Section, and president of the Family Law Organization

of Greater Hampton Roads. The Award recognizes people and organizations that have improved family, domestic relations, or juvenile law.

The following **Pender & Coward** attorneys have been recognized as 2017 Virginia Super Lawyers or Rising Stars. The Super Lawyers are: **Duncan G. Byers** – Business Litigation; **Richard E. Garriott, Jr.** – Family Law – Garriott is ranked as a top 100 Virginia Super Lawyer.; **Jack Rephan** – Construction Litigation; **Jeff W. Rosen** – Business Litigation; **Robert L. Samuel, Jr.** – Personal Injury General:Defense; **E. Diane Thompson** – Estate and Probate – Thompson has been recognized this year as a Top 50 Female Virginia Super Lawyer and as a Top 100 Super Virginia Lawyer.; Rising Star: **D. Rossen S. Greene** – Eminent Domain.

Sykes, Bourdon, Ahern & Levy, P.C. is proud to announce that **David M. Zobel** has joined the firm practicing in the areas of civil trial litigation with a focus on construction law, commercial disputes, contract claims, condominium controversies and real estate title related issues.

James O. Broccoletti has become a Fellow of the American College of Trial Lawyers. Founded in 1950, the College is composed of the best of the trial bar from the United States and Canada. Fellowship is extended to experienced trial lawyers of diverse backgrounds who have mastered the art of advocacy and whose careers have been marked by the highest standards of ethical conduct, professionalism, civility, and collegiality. Lawyers must have a minimum of fifteen years trial experience prior to consideration. Membership, which stands at 5800, cannot exceed one percent of the lawyer population of any state. The College maintains and seeks to improve the standards of trial practice, professionalism, ethics, and the administration of justice through education and public statements on important legal issues relating to its mission. Broccoletti is cofounder of **Zoby, Broccoletti and Normile, P.C.** where he has practiced since 1985. Broccoletti has practiced law in Norfolk since 1978 and is an alumnus of William and Mary School of Law.

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Hon. James C. Hawks (Ret.)

Retired Judge,
Third Judicial Circuit of Virginia

The Honorable James C. Hawks (Ret.) recently retired after eighteen years of public service in Portsmouth. Most recently, he served for a decade as a Judge of the Third Judicial Circuit, including a term as Chief Judge. During this time, he presided over a variety of cases including but not limited to FELA, Jones Act, and asbestos matters. Prior to his appointment to the bench, he was elected to serve two terms on the Portsmouth City Council. Judge Hawks also enjoyed a successful general practice of law in the City of Portsmouth for over thirty years, providing counsel in practice areas including personal injury, family law, real estate, and corporate disputes. Judge Hawks now brings this distinctive record of achievement to The McCammon Group to serve the mediation, arbitration, judge pro tempore, and special master needs of lawyers and litigants throughout the Commonwealth.



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*2.3M Verdict	2010	David Kopstein	Medical Mal.	Norfolk Cir. Court
*8.6M Verdict	2010	Sid Gilreath (TN)	Railroad	Knoxville, TN
1.5M Verdict	2011	Ben Saunders (LA)	Railroad	New Orleans USDC
1 M Settled	2014	Randall Phillips (NC)	Muni. Negl.	Asheville NC
2.5M Verdict	2015	Rob Sullivan (MO)	Prod. Defect	E.D. VA USDC

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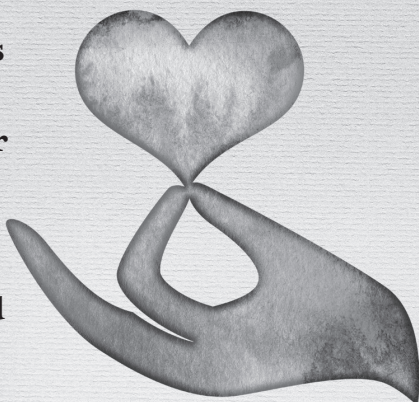


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