

# NORFOLK & PORTSMOUTH BAR ASSOCIATION

## BAR BULLETIN

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January –  
February 2014

### INSIDE

PAGE 2 .. MODEL JUDICIARY PROGRAM

PAGE 3 ..... LIBRARY LINES

PAGE 4 ..... ANNOUNCEMENTS

PAGE 5 ..... JANUARY LUNCHEON  
FEBRUARY LUNCHEON  
WELCOME NEW MEMBERS

PAGE 6 ..... YOUNG LAWYERS

See Flyers Inside for  
Event Details and  
Registration Information

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

## PRESIDENT'S MESSAGE



Virginia Van Valkenburg

Happy New Year! This year I made a New Year's resolution that I was not going to write my first message about resolutions. I failed. I hope I do better at my list than I did at my resolution not to make a list. So here are a few of the things I will try NOT to do in 2014:

- 1. I will not file any brief I wrote after 9:00 PM,** without strict review and revision the following morning. I have become a morning person. I am more alive and alert in the mornings, than any other time of the day. As the evening progresses, I almost have to keep moving to stay awake past 9:00 PM. At night, the office is nice and quiet. The phone is not ringing and I am not getting emails. I start writing, and pretty soon I think I am doing a brilliant job. Yet, the following morning when I read over my "brilliant" work, it is most often a mess. Probably a better resolution would be "I will not work past 9:00 PM," but I am never in the office at that hour by choice, so the best I can do is make sure that when I do have to work late, that I leave plenty of time for revision in the morning.
- 2. I will not skip my "lunch break."** When I work straight through the day, only getting up out of my chair to go to the printer or the bathroom, I do not actually gain the hour that I think I gain. I believe I lose that hour, and more, in productivity. Even if it is just 15-20 minutes, I resolve to take a walk outside and get fresh air. I will set my eyes on something other than the computer screen, and my brain on something other than case law. I may make a call to a retired friend, or just walk to Town Point Park and back. I will refresh my mind in the middle of the day and increase my productivity.
- 3. I will not let all my law magazines pile up,** thinking I will read them in the future when I have more time. (Unfortunately, I have this problem with my magazines at home, too.) I will instead set aside a few minutes each week to look through the publications and read 1-2 articles that I believe will benefit me. I do not need to read every article on patent law, when I do not practice patent law. If I get more than a few months "behind," I will just toss the pile without looking through them. Life is too short, and if I suddenly find myself with free time I cannot figure out how to fill — I will start on one of the piles of unread books I have! I refuse to be featured on the next episode of "Hoarders."
- 4. I will not let mean people get the best of me.** A couple of years ago I had a case with a very difficult attorney. Before you try guessing who the attorney may be, this man was out of state and I doubt I will ever have a case with him again. However, I allowed his attitude to steal the air from the room and the joy from my life. I hope I never have a case with someone like that

(continued on page 2)

## UPCOMING EVENTS

### NPBA LUNCHEON

Thursday, January 16, 2014, 11:45 AM

Hits at the Park, Harbor Park

Speaker: Hon. Evans Poston

Norfolk Commissioner of the Revenue-Elect

and immediately following the luncheon

CLE: SUMMARY JUDGMENT IN VIRGINIA COURTS:

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### NPBA LUNCHEON

Thursday, February 20, 2014, 11:45 AM

Hits at the Park, Harbor Park

Speaker: Retired Virginia Supreme Court

Justice John Charles Thomas

and immediately following the luncheon

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999 Waterside Drive, Suite 1330  
Norfolk, Virginia 23510

(757) 622-3152

npbamail@gmail.com

www.norfolkandportsmouthbar.org

## OFFICERS

Virginia Van Valkenburg

*President*

441-6331

virginia.vanvalkenburg@usdoj.gov

T. Wayne Williams

*President-Elect*

547-5555

twilliams@wd-law.com

Gary A. Bryant

*Past President*

628-5520

gbryant@wilsav.com

Mary T. Morgan

*Treasurer*

397-3481

mmorgan@portslaw.com

Robert V. Timms, Jr.

*Secretary*

486-7055

rtimms@inmanstrickler.com

Delphine G. Carnes

623-3000

dcarnes@cwmlaw.com

James R. Harvey, III

446-8518

jharvey@vanblck.com

Charles M. Lollar

622-9473

cml@waldoandlyle.com

Lamont Maddox

454-2045

lmaddox@guidancelaw.com

Alan D. Albert

*President, Library Board*

441-8914

aalbert@leclairryan.com

Courtney C. Williams

*Chair*

*Young Lawyers Section*

670-3868

cwilliams@bhlegalteam.net

## STAFF

Donna Bausch

*Executive Director*

622-2910

dbausch@norfolkclawlibrary.org

Michelle Gibson

*Administrative Assistant*

622-3152

npbamail@gmail.com

## PUBLISHER

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## (PRESIDENT'S MESSAGE CONTINUED)

ever again, but chances are unfortunately pretty good that I will. If and when I have to work with someone who is just a mean, aggressive, unhappy person, I resolve to maintain my focus and make sure that *my* demeanor and professionalism remain unchanged, regardless of their behavior.

**5. I will not eat every baked good in the kitchen.** I was trying to stay away from food and gym references, because that would just be a cliché on a cliché. However, as I reflect on what I need to change about my behavior in the office, I had to mention my sugar addiction and the sweets in the office. I will do my best to celebrate every birthday, every baby, and every retirement, but I can no longer eat cake every time it is offered. I saw a video clip where comedian Daniel Tosh put dog biscuits in the office kitchen and then filmed his co-workers, by hidden camera, coming into the kitchen and eating the dog biscuits. One guy even came back for seconds and thirds!! Worse yet – I think that could have been me. Don't get me wrong — I will eat cake. I will eat donuts. But I will not eat them *every* time they show up in my office.

I am hopeful that I can stick to my resolutions. However if I cannot, maybe the “future me” will at least find this article in a pile of law magazines, as I eat cake because I did not take a lunch break, typing a brief late at night, and stewing over mean people, and realize that there is no time like the present to change.

• • •

## Volunteers Needed 8th Annual Model Judiciary Program

The NPBA Public Relations Committee is looking for volunteer attorneys to assist in the 8th Annual Model Judiciary Program for Norfolk Public Schools.

The program has been a great success due to the enthusiasm and hard work of the students and participating attorneys and has grown to include all Norfolk middle schools. The program has garnered attention from local and national media. It will be an 8 to 10 week program starting in mid-February 2014.

Students will receive instruction one day a week for an hour to an hour and a half after school between 3:00 and 4:30 PM. Trials matching one school's team against another's are tentatively scheduled for Friday, April 18, 2014, in Norfolk Circuit Court.

At least 25-30 volunteers are needed so that a minimum of 4-6 attorneys can be assigned to each school. With that many at-

torneys, the commitment can be minimal, one hour a week every other week. Previous volunteers have commented on how well the students have done and on their enjoyment of watching the students' growth throughout the process. The experience of working with the children is very rewarding as they are so appreciative of being able to work with real attorneys.

Please respond to twilliams@wd-law.com or call the Bar office at 622-3152 so that scheduling details with the schools can be completed. If there are any questions please contact the coordinator of the program, Wayne Williams at the email address above. Thanks in advance for your assistance with this worthwhile program.

T. Wayne Williams

• • •

## Holiday Party 2013



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**Additional contributors**

Ellen C. Carlson

Douglass W. Dewing

Judith M. Floyd

Edward F. Halloran

Steven A. Mirman

Jason Ohana

Palmer S. Rutherford

Robert P. Stenzhorn

Charles E. Vogan, Jr.

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## ANNOUNCEMENTS

**Reid H. Ervin and Associates, P.C.** is pleased to announce the inclusion of **Reid H. Ervin** in Virginia 2013 Legal Elite. Mr. Ervin received this recognition in the field of employment and labor law.

The following **Pender & Coward** attorneys have been named members of Virginia's 2013 Legal Elite: **Richard Garriott, Jr.** – Family/Domestic Relations; **D. Rossen "Ross" S. Greene** – Young Lawyer (Under 40); **William Lascara** – Construction; **Jack Rephan** – Construction and **E. Diane Thompson** – Taxes/Estates/Trusts/Elder Law.

**Phillips & Peters, PLLC** is pleased to announce that **Lindsey A. Flaherty** joined our team as our newest associate. Ms. Flaherty was admitted to the Virginia Bar in 2008, received her undergraduate degree in 2000 from Mary Washington College and her Juris Doctorate in 2008 from Appalachian School of Law where She was Managing Editor of the Appalachian Journal of Law. Ms. Flaherty will continue the firm's focus of helping clients move forward with Family Law needs.

**Vandeventer Black LLP** is pleased to announce that 21 attorneys from the firm have been selected as members of Virginia's "Legal Elite" for 2013, including **Christopher**

**Ambrosio** – Real Estate/ Land Use; **Anne Bibeau** – Labor/Employment; **Deborah Casey** – Real Estate/Land Use; **William Franczek** – Alternative Dispute Resolution; **Patrick Herman** – Taxes/Estates/Trusts/Elder Law; **Trey Kelleter** – Criminal Law; **Arlene Klinedinst** – Labor/Employment; **David Lannetti** – Bankruptcy/Creditors' Rights; **John Lockard** – Construction; **Neil Lowenstein** – Construction; **Bryant McGann** – Business Law; **Robert O'Donnell** – Criminal Law; **Gretchen Ostroff** – Construction/Young Lawyer (under 40); **Edward Powers** – Appellate Law; **Adam Rafal** – Labor/Employment; **John Ryan** – Business Law; **Michael Sterling** – Alternative Dispute Resolution; **Jane Tucker** – Intellectual Property; and **Daniel Weckstein** – Legislative/Regulatory/Administrative.

*Best Lawyers in America* has named **Willcox Savage** lawyers **Allan G. Donn**, **Thomas G. Johnson, Jr.** and **Conrad M. Shumadine** as 2014 "Norfolk Lawyers of the Year" in their respective practices. **Allan G. Donn** concentrates his practice in taxation, partnerships and limited liability companies, and estate planning. He lectures and writes on those subjects and is co-author of the 2013-2014 edition of *The Revised Uniform Partnership*

*Act* and editor of *Limited Liability Companies in Virginia*. **Thomas G. Johnson, Jr.** practices corporate and real estate law. His corporate practice focuses on representation of companies with regard to corporate governance, corporate finance, including public and private securities offerings, establishment of holding companies, establishment of ESOPs, purchase and sale of businesses, and mergers and joint ventures. **Conrad M. Shumadine** is a nationally recognized commercial litigator with extensive experience handling antitrust, trade and regulatory, banking and finance, and construction matters. He also regularly litigates First Amendment matters including defamation cases. Conrad has argued before the United States Supreme Court, the Supreme Court of Virginia, the United States Court of Appeals for the Fourth Circuit, and numerous lower courts.

**Phillip H. Hucles** joined **Willcox Savage** as an associate practicing in the Norfolk office. A native of Hampton Roads, Hucles is returning to the area from Los Angeles, where he practiced with Jones Day. His practice focuses on labor and employment law. He is a 2009 graduate of the University of Virginia School of Law. He received

(Continued on page 5)

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## JANUARY LUNCHEON MEETING

**Thursday, January 16, 2014**

**Hits at The Park, Harbor Park**

**11:45 AM**



**Speaker: Hon. Evans Poston**

Norfolk Commissioner of the Revenue-Elect

Mr. Poston was born and raised in Norfolk, graduated from Maury High School, earned his undergraduate degree from the College of William & Mary and an M.P.A. from Old Dominion University. After working in various capacities for the AP Moller-Maersk Group and USI, he will soon take office as the Norfolk Commissioner of Revenue.

### (Announcements continued)

a bachelor's from the College of William & Mary in 2004, where he was an all-American soccer player.

Twenty-one attorneys from **Willcox Savage** have been selected as members of Virginia's 2013 Legal Elite: **Hugh L. Patterson**, Alternative Dispute Resolution; **Gary A. Bryant**, Appellate Law; **Ross. C. Reeves**, Bankruptcy; **Thomas C. Inglema**, Business; **Thomas G. Johnson, Jr.**, Business; **Brian C. Purcell**, Business; **Cher E. Wynkoop**, Business; **Conrad M. Shumadine** and **Brett A. Spain**, Civil Litigation; **Stephen W. Brewer**, Construction; **Tasos A. Galitos**, Health; **Timothy J. Lockhart**, Intellectual Property; **William M. Furr** and **David A. Kushner**, Labor/Employment; **Wiley F. Mitchell, Jr.**, Legal Services/Pro Bono; **Warren L. Tisdale**, Legislative/Regulatory/Administrative; **Robert L. Dewey** and **Matthew M. Dudley**, Real Estate/Land Use; **Allan G. Donn** and **Neil L. Rose**, Tax/Estates/Trusts/Elder Law; **Patrick D. Blake**, Young Lawyer (Under 40).

## FEBRUARY LUNCHEON MEETING

**Thursday, February 20, 2014**

**Hits at The Park, Harbor Park**

**11:45 AM**



**Speaker: Hon. John Charles Thomas**

Retired Virginia Supreme Court Justice

Justice Thomas received his B.A. with distinction in 1972 and J.D. in 1975 from the University of Virginia. Justice Thomas is a senior partner at Hunton & Williams,

LLP, where he is chief of the appellate practice group and also handles general litigation, mediation, and arbitration.

Justice Thomas was appointed to the College of William & Mary Board of Visitors in 2006 and reappointed in 2009. He is a member of the Virginia Appellate Rules Advisory Committee, and is a Fellow in American Academy of Appellate Lawyers, the College of Commercial Arbitrators and the Virginia Law Foundation.

A frequent speaker and lecturer, Justice Thomas has delivered the Constitutional Law lecture to the Firsties at the United States Military Academy at West Point and the "First-Day, First Year" lectures at the University of Virginia School of Law and the College of William & Mary School of Law since 1990.

### WHY JOIN THE NPBA LAWYER REFERRAL SERVICE?

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Requirements for membership in the LRS are as follows:

- You must be an NPBA member.
- You must carry legal malpractice insurance.
- You must be in good standing with the Virginia State Bar.

The application lists 14 categories of law with numerous subcategories from which to select areas in which you are willing to receive referrals. Clients reside in Norfolk, Virginia Beach, Chesapeake, Portsmouth, Hampton and Newport News.

Please contact Bill Magee, LRS Coordinator, at 623-0132 or [npbalawyerreferral@hotmail.com](mailto:npbalawyerreferral@hotmail.com) for more information.

### WELCOME NEW MEMBERS

**Patrick Austin**  
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**Alexander Lott**  
William & Mary law student

**Sarah Morris**  
Regent University law student

**Leslie Ann Williams**  
Regent University law student

By Courtney C. Williams, Chair

# How Young Attorneys Can Gain the Confidence of Clients and the Court

One of the many challenges attorneys face when starting out is gaining the confidence of clients and the court. I had more than one client listen to my ever-so-eloquent spiel regarding the prospect and direction of their case when I was first starting out to only have them respond “you really sound like you know what you’re talking about, but how old are you?”



Courtney Williams

I also experienced a judge refusing to allow me to argue a motion I filed because the judge preferred to hear from the more experienced partner I was working alongside. I will admit that, sadly, I do not get the age question as much as I did when I first graduated, but surely there must be ways to overcome the stigma of youth.

Per usual, the answers are not mine to give as I have only completed my first few years of practice. I have sought the advice of experienced jurists and practitioners who offered tips as to how you can gain the confidence of clients and court. It turns out there are many options available to young attorneys other than turning to surgery to look older.

**1. Make a good first impression.** Your first impression with the court is not when you set foot in the courtroom, but is when you file your first brief. Judge Mark Davis opined that “[o]ne of the most important things a young lawyer can do to gain credibility with a court is to submit well-written briefs to the court. If you do this, you will create a favorable impression before you even walk into the courtroom.”

**2. Know when to say “I don’t know.”** If a client, potential client, or judge asks you questions you could not have anticipated prior to the meeting or hearing, never be too proud to say “I don’t know” or “I will have to research that.” You do not benefit yourself or client when you make up facts, embellish law, or pretend

to have a body of knowledge you do not.

**3. Create a favorable impression in the courtroom.** After you have made an excellent first impression through submission of a well thought out and complete brief, follow it up with organized and respectful demeanor. Judge Davis implores attorneys to file well-written briefs and then “[o]nce in the courtroom, be respectful, make an organized presentation, and respond directly to the court’s questions.” The court does not need to hear attorneys rant on issues not before the court or superfluous issues. Directly respond to questions in a respectful and organized fashion.

**4. Don’t pass the buck on responsibility.** Mary Lou Nexsen of the Norfolk City Attorney’s Office advises that “[w]hen you are in court or advising a client, it is so important that you understand that you have the ultimate responsibility for what you are presenting.” It seems immature to say that you weren’t supposed to bring an exhibit or you weren’t responsible for arguing a certain issue when, at the end of the day, it was your responsibility to get results. “Others might assist you, but the final responsibility is yours and you will have more credibility, even in a misstep or oversight, if you avoid blaming anyone else,” adds Nexsen.

**5. Work harder than you think you have to.** Judges, clients, and your bosses can discern when you actually put in the time to get the job done rather than performing a couple of Google searches to put together a disorganized pleading or brief. Nothing breaks confidence more than being ill-prepared because you are 100% in control of how much effort and time you put into a particular task. Always review your work several times and ask yourself what else you can do to improve the presentation or do to succinctly make your point.

Work hard, be organized, take responsibility, and learn when to say “I don’t know” in the New Year. Don’t forget to

enjoy yourselves, too! If you are seeking to be involved in the bar, meet other attorneys, serve the community, and get to know judges in order to make your first impression even before filing that first brief, the Young Lawyers Section of NPBA is planning many new events in the year ahead.

## YLS Activities Update

In December, the YLS hosted a Breakfast with the Bench with Judge Douglas Miller as guest of honor. A great turnout on a rainy morning was met with an excellent talk by Judge Miller regarding the Federal Courts Law Review, [www.fclr.org](http://www.fclr.org), and its articles and advice for practitioners of all ages.

ForKids had 1,070 children whose parents’ incomes fell below the poverty level sign up to participate in their annual Holiday Shop. The YLS and PR Committee collected gifts over the course of two months and the results were inspiring. NPBA donated a few carloads of toys and gift cards to the Holiday Shop.

This was capped off by a great turnout December 14th to set up the Holiday Shop as a service project. I would like to extend a million thank yous to everyone who attended the breakfast, gave toys, gift cards, or participated in the service project to aid ForKids.

Contact me if you have any questions or suggestions on activities you would like to participate in at [cwilliams@bhlegalteam.com](mailto:cwilliams@bhlegalteam.com)

## FOR SALE

*Virginia Court of Appeals Reports:*  
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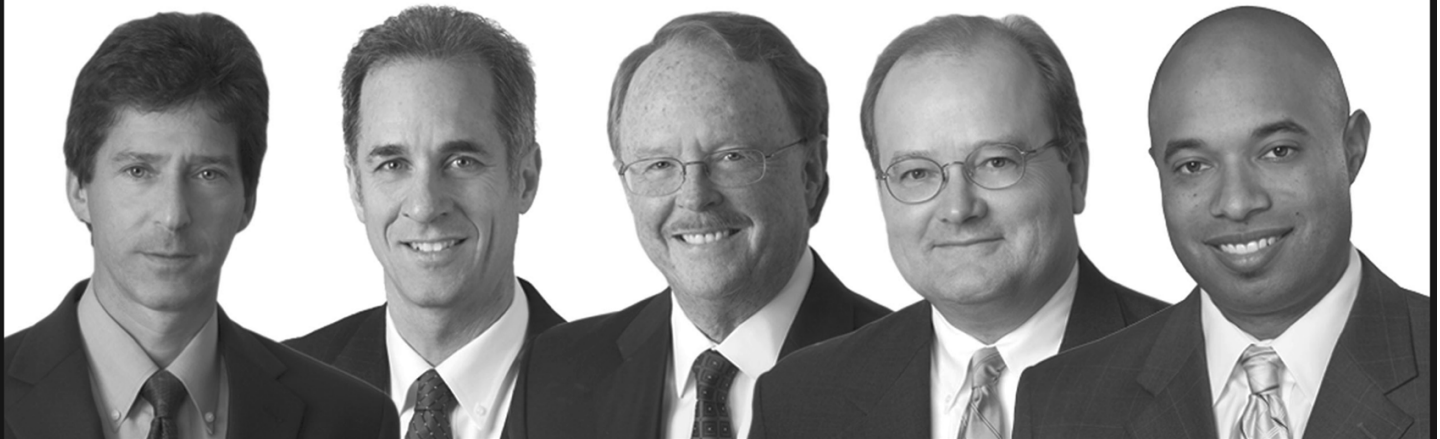
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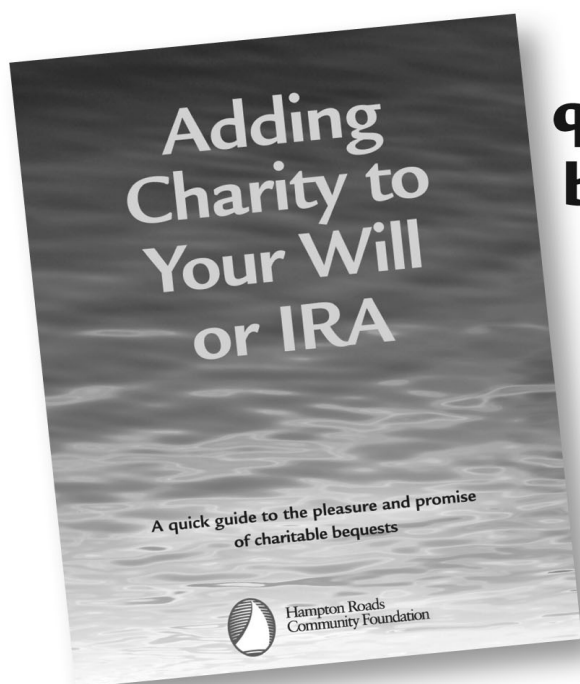
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### Holiday Party 2013



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