

BAR BULLETIN

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NORFOLK & PORTSMOUTH BAR ASSOCIATION

PRESIDENT'S MESSAGE



Lamont Maddox

The concept of "value" is typically dependent on a person's perception. What is considered valuable to one person may be of little value to another person. The value of something today, could have a very different value tomorrow. The more we are made to desire something, the more we tend to value it. The value ascribed to something could be derived from expectations we have formed or collective ideas of worth expressed by others. So, often how much we value something is actually just a reflection of our mindset at that time.

It shouldn't be hard for local attorneys to realize the tremendous value of membership in the Norfolk & Portsmouth Bar Association. Our members appreciate the events and activities of the NPBA that support their practice of law and strengthen their wellbeing. Along with access to various legal resources and content, the NPBA offers enriching speaker events and CLE programs. Through the NPBA, members have the opportunity to connect with colleagues, engage in pro bono, and interact with the local judiciary. The NPBA is ever striving to enhance membership value, and additional membership benefits are currently in the works.

Please keep in mind the extraordinary value of NPBA membership when it is time to renew your membership this Spring. YOU are a valued member of the NPBA, and we rely on your support and participation to sustain our local bar association and its contributions to our legal community. THANK YOU!

UPCOMING EVENTS

VOLUNTEER OPPORTUNITY - PRO BONO LEGAL ANSWERS TELEPHONE CLINIC

Tuesday, March 9, 2021 • 4:00 PM - 5:00 PM

More Information and Volunteer Registration Here:

<https://norfolkandportsmouthbar.org/event-4188042>

VIRTUAL MARCH LUNCHEON SPEAKER

Thursday, March 18, 2021 • 11:55 AM - 12:30 PM • Zoom Videoconferencing

Speaker: Joe Rieger, *Deputy Director of Restoration and Lead Scientist, Elizabeth River Project*

REGISTER HERE: <https://norfolkandportsmouthbar.org/event-4111406>

VIRTUAL MARCH POST-LUNCHEON CLE

Thursday, March 18, 2021 • 1 - 2 PM • Zoom Webinar

"Legislative Update"

Presenter: Delegate Don Scott, *Virginia House of Delegates, Law Office of Don Scott, PLLC*

REGISTER HERE: <https://norfolkandportsmouthbar.org/event-4114804>

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ANNOUNCEMENTS

The Norfolk Juvenile & Domestic Relations District Court is seeking additional attorneys to add to their approved court-appointed counsel list. Interested attorneys who have completed the certification training required by Virginia Code § 19.2-163.03 should contact Joan M. Butt, Clerk of Court, at 757-664-7342 or by email jbutt@vacourts.gov if they would like to be considered for approval and addition to the list.

Babcock & Moore, PLC welcomes Emily M. Strak, Esquire as a new member to the legal team. Emily is a recent graduate of Regent University School of Law. Newly licensed, Emily has jumped right into trying cases in our local courts.

YOUNG LAWYERS SECTION

By Kerry Stolz, Chair • kstolz@pendercoward.com • 490-6277



Kerry Stolz

The young and newly-admitted attorneys in YLS are off to a strong start in 2021. In December and in the first quarter of 2021, we held a holiday drive benefiting ForKids, a local organization that provides emergency shelter to families and children. YLS members will be delivering the collected donations to ForKids in the spring. We would like to send a special thank you to all of our generous donors and to YLS Social Chair, Kate Lennon of Fraim & Fiorella, for collecting the donations at her office.

Hopefully, we will see you at the upcoming Virtual Winter Social with Mermaid Winery on March 4, where we will be doing a virtual wine tasting on Zoom as a group.

On March 10th, YLS will be hosting Breakfast with the Bench with Judge Charles Poston of The McCammon Group. Invitations for Breakfast with the Bench were sent to YLS members in February but please contact NPBA if you need another invitation link to be sent.

We welcome all young attorneys or newly-admitted attorneys to join us at our upcoming events. There is no additional fee to be a YLS member. Additionally, it is a great opportunity to network with other young and newly-admitted attorneys during the all-virtual Covid environment that we are currently facing. Invitations for all of YLS's upcoming events are sent to YLS membership by email. We certainly look forward to seeing you virtually at the next YLS gathering!

Welcome New Members

John Baughman

JFB Legal PLLC

Jonathan Sheldon

Sheldon & Flood, PLC

Darden Copeland

Kaufman & Canoles, PC

Joseph Stiles

Goodman Allen Donnelly, PLLC

LeeAnne Schocklin

Parks Zeigler, PLLC

Contact Norfolk Law Library at (757) 622-2910 • www.norfolklawlibrary.org

Dear Members of the NPBA,

The Norfolk Law Library is open to in-person services by appointment only at 10am, 11am, 2pm, and 3pm daily Monday through Friday. Please visit the library website or call to make an appointment.

Library staff also continue to be available to assist with research and citation retrieval. Please contact us with any questions that you may have and we can discuss the available options and library resources that we can provide remotely. Remote services via phone and email are available 9:30 am – 4:30 pm Monday through Friday. Please contact us at (757) 622-2910, by email staff@norfolklawlibrary.org, or via the Contact Us page at <https://norfolklawlibrary.org/contact-us/>.

Finally, Eleanor Mullens, Associate Law Librarian, will be leaving the library on March 12, 2021. Please join me in thanking her for all of her great work at the Norfolk Law Library!

Best regards,
Isaac Needell
Law Librarian

The Norfolk Law Library would like to thank the following Friends for their generous support:

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Peter G. Zemanian

Other contributors

Thomas A. Connor
Lauren A. Martin
William H. Swan, III
Mark F. Williams

This list includes donors May 1, 2020, through March 1, 2021.

Norfolk Law Library is OPEN for in-person (by appointment) and remote services including case research, citation retrieval, and general assistance.

Monday—Friday 9:30am to 4:30pm

Book an appointment at <https://norfolklawlibrary.org/> as well as the library catalog, contact form, and recent updates.

PRO BONO CORNER

Caryn R. West, Chair, Pro Bono Committee

Recently, we had a second Legal Answers Telephone Clinic. We started this Clinic in part as a “Virtual Lawyer in the Library”. Pre-COVID, attorneys from Legal Aid would have certain hours in which they would be available to the public to answer legal questions on a first-come, first-served basis. Our virtual clinic is anonymous and pairs volunteer attorneys with clients for a short, 15-minute consultation. The law library collects forms from members of the public that visit the Law Library for assistance, then the attorneys are paired according to practice area. We are looking for volunteers for this program moving forward. Check your Email for a sign-up sheet if you are interested in volunteering for future clinics. Our next clinic is scheduled for 4pm on March 9, 2021. We would like to increase frequency of the clinics with more volunteers.



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SPECIAL FEATURE:

COMMUNICATING with the NORFOLK CIRCUIT COURT

CLERK'S OFFICE and JUDGES' OFFICE

The Honorable David W. Lannetti, Judge, Norfolk Circuit Court

Christopher Palermo-Re, Law Clerk, Norfolk Circuit Court

To the outside observer, communications and processes within the Norfolk Circuit Court Clerk's Office and Judges' Office regarding civil causes of action can appear to occur within a black box. However, that is not the intent, and the purpose of this article is to reveal the contents of the box, at least to some degree. Understanding how these two courthouse offices interact, the proper way to communicate with the Clerk's Office on the seventh floor and the Judges—and those who work for them—on the eighth floor, and how different civil matters are assigned and docketed can enable attorneys to be more knowledgeable and efficient practitioners in the Court.

The Clerk's Office

The Clerk's Office is the point of origin for civil litigation in the Norfolk Circuit Court and the conduit through which all filings flow. Initial complaints with an accompanying cover sheet must be filed here, just like most subsequent pleadings and motions. However, discovery pleadings should not be filed unless they are exhibits to a related Motion to Compel. The Clerk's Office is also where Notices of Hearing—which are required to have a motion heard—are filed; these notices must contain the selected date and time (coordinated as discussed below) and must be received at least two days prior to the hearings on Monday–Thursday and at least one week prior to Friday hearings. The Clerk's Office prefers that attorneys forward items to be filed via the Virginia Judiciary E-Filing System (VJEFS) or, alternatively, via email to the Clerk's Office Civil Docket Clerk (at civil710@circuitcourtva.us). All filed items are scanned into an internal database that is accessible to the Judges and their staffs. Finally, court costs and fees, such as fees for filing and issuance of subpoenas, are paid via VJEFS or to the Clerk's Office directly.

The Judges' Office

Communication with the Judges' Office serves a different function. It is a means of coordinating scheduling of certain hearings, forwarding courtesy copies of pleadings and motions, and receiving advance copies of certain documents, including letter opinions and some court orders. Because attorneys often file civil pleadings that are never noticed for a hearing, Judges typically do not review pleadings until a day or two prior to a scheduled hearing. When a filed document requires judicial action, it is the responsibility of the attorney to bring this to the attention of the Judges' Office. Although attorneys can notify and coordinate directly with the Judges' Office, this does not fulfill the filing requirement mandated by the Rules of Supreme Court of Virginia. If you know which Judge will hear a matter, the best practice is to file a Notice of Hearing and any related pleadings with the Clerk's Office and simultaneously send a courtesy copy to the Judge. Your efforts to persuade the Judge with your pleadings will do little good if he or she is unaware of what you filed.

Communicating with Judicial Assistants or Law Clerks

The Norfolk Circuit Court judicial staff consists of a Judicial Court Manager, a Judicial Docket Administrator, three permanent Judicial Assistants (each assigned to two or three Judges), four Law Clerks (each primarily assigned to two Judges for terms of one year), and a Drug Court Coordinator. Contact information and assignments for these individuals is on the Norfolk Circuit Court Clerk's Office website under the "Legal Professionals" section on the "Judicial Directory" page (<https://www.norfolkcircuitcourt.us/legal-professionals/judicial/>). Although communicating with the Judges' Office does not relieve you of any of the filing requirements of the Rules or the Court's local rules, it can keep the judicial staff advised and assist in preparing the Judge regarding pending matters. To coordinate scheduling a hearing prior to filing a Notice of Hearing, you should contact the Judicial Docket Administrator for assigned cases (preferably via email at wspivey@vacourts.gov) or the Clerk's Office Docket Clerk for unassigned cases (via email at civildocket@circuitcourtva.us or via phone at 757.600.4277). Further, you should provide courtesy copies of relevant pleadings and/or memoranda if the hearing is assigned to a particular Judge; you can do so via email to the Judge's Judicial Assistant or Law Clerk or by hand-delivering a copy to the eighth floor. *(continued on page 6)*

SPECIAL FEATURE:

COMMUNICATING with the NORFOLK CIRCUIT COURT CLERK'S OFFICE and JUDGES' OFFICE

(continued from page 5)

Also, if an unassigned pending matter has been resolved prior to a scheduled appearance, you should advise the Clerk's Office Civil Docket Clerk so the matter can be removed from the docket. Likewise, if an assigned matter is resolved, you should advise the Judicial Docket Administrator.

In all communications with Judicial Assistants and Law Clerks, ensure that you copy all counsel and any pro se parties. Rule 3.5 of the Virginia Rules of Professional Conduct deals with the impartiality and decorum of the tribunal. Absent certain exceptions, the rule forbids communications about the merits of a case with someone before whom the proceeding is pending. Further, comment 3 to the rule states that lawyers generally should not communicate with a Judge in circumstances that might appear to grant undue advantage to one party. The comment therefore mandates delivery of a copy to opposing counsel or providing notice of any oral communication to opposing counsel. In order to avoid any appearance of impropriety when communicating with the Judges' Office, it is best practice to communicate in writing, including by email when appropriate, and copy all parties on the communication.

Assigned vs. Unassigned Civil Cases

The Civil Case Management Administrative Plan, which can be found on the Norfolk Circuit Court Clerk's Office website (<https://www.norfolkcircuitcourt.us/civil/civil-plan/>), details some key distinctions regarding assigned civil cases. Certain cases are assigned when they are filed. These include civil actions for injuries under the Federal Employer's Liability Act or the Jones Act; civil actions for professional malpractice, products liability, or defamation; and cases expected to take more than two days to try. For these matters, the Court's Judicial Docket Administrator sends attorneys a letter and schedules a conference for entry of a Scheduling Order and a Referral for a Settlement Conference. Pleadings with associated briefs, and exceptions filed to the report of a Commissioner in Chancery, are also assigned to a specific Judge, but only for purposes of the associated hearing.

Other matters are assigned to a Judge by the Judicial Docket Administrator after the trial date is set. These include appeals pursuant to the Administrative Process Act and appeals of a judgment in a proceeding to terminate parental rights under section 16.1-283 of the Code of Virginia. Counsel may also request that a case be assigned to a Judge (although not to a specific Judge) if appropriate. To do so, send a letter to the Chief Judge requesting assignment and providing the requisite good cause. A Judge also may assign a particular case to himself or herself; this typically occurs when the Judge believes he or she has had substantial involvement with pre-trial matters such that it would be more efficient to assign the case, although a Judge can request assignment for any appropriate reason, subject to approval by the Chief Judge. Finally, if a brief is filed in support of or in opposition to any demurrer, plea, or motion in an unassigned case, the Clerk's Office notifies the Judicial Docket Administrator, who then will assign the associated hearing to a Judge and notify counsel; as a reminder, the Civil Case Management Administrative Plan limits briefs to no longer than twenty pages, double spaced, absent leave of court.

Knowing how and when to communicate with the offices on the seventh and eighth floors of the City of Norfolk Courthouse can help you practice in the Norfolk Circuit Court with more competence and confidence. We hope that this article helps you better understand the internal processes of the Norfolk Circuit Court.

The views advanced in this Article represent commentary "concerning the law, the legal system, [and] the administration of justice" as authorized by Virginia Canon of Judicial Conduct 4(B) (permitting judges to speak, write, lecture, teach, and otherwise participate in extrajudicial efforts to improve the legal system). These views, therefore, should not be mistaken for the official views of the Norfolk Circuit Court or the opinion of a circuit court judge in the context of any specific case.

Thank you to the following 2020 donors to the Norfolk & Portsmouth Bar Association Foundation:

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COOPER HURLEY
INJURY LAWYERS

Cooper Hurley Injury Lawyers Welcomes New Attorney

Bailey Gifford!

We are pleased to announce that Bailey Gifford joined Cooper Hurley Injury Lawyers in late 2020. Born in Nebraska and raised in Kentucky, Bailey graduated magna cum laude from Morehead State University, earning a Bachelor of Science in Agriculture with an emphasis in Business. Bailey went on to the Appalachian School of Law in Grundy, VA, where she obtained her J.D.

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**NC US Hwy. 17
Commercial
Dev. Land: 20 Acres**



**Williamsburg:
Three Homesites
in Ford's Colony**

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We invite you to view all of our current auctions at tranzon.com.



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