

The newsletter of the Young Lawyers Conference of the Virginia State Bar



Views From
the Bench

Respecting Justice: Civility in Practice

The Honorable Barry G. Logsdon

The Preamble to the Virginia Rules of Professional Conduct begins, “A lawyer is a representative of clients . . . an officer of the legal system, and a public citizen having special responsibility for the quality of justice.”¹ A lawyer’s obligation to his client is clear. More challenging in practice is the lawyer’s obligation to the “quality of justice.” Great lawyers act with civility toward colleagues, clients, and courts, while zealously advancing the interests of their client. By doing so, they build a good reputation among the public, colleagues and the bench. How do we build respect for a system predicated on adversarial advocacy?—by demonstrating respect for others and for ourselves.

Civility, which shares the same root word as civilized, is showing respect for the process of the law, yourself, and the position of the other participants: whether co-litigant, counsel or judge. When a party acts as though other parties are unworthy of respect, the ugly opportunity for ethical and tactical violations arises. Disregarding others leads to mistakes in case presentation through underestimating the real claims of an opponent or by allowing negative emotion to distract you from your primary strategic aims.

There is little doubt that litigation with its high stakes and deep emotion is a bruising business. In the heat of conflict, some are tempted to violate the rules of civility by the metaphorical kidney punch. No court tolerates statements of personal degradation, intentional mispronunciation of names, the slamming of documents on counsel table, or interruption of counsel or witnesses other than for proper objections. These examples are clear, but not all un-civil conduct is as clear. What are some ways to ensure your conduct is civil

and that your reputation and your practice enhance the quality of justice?

Respect Experience: Seek Out a Mentor

Stepping out of law school and into the practice of law can be overwhelming, and navigating this professional society is easier with a trusted guide who has walked these roads. The Virginia State Bar Professional Guidelines encourage experienced lawyers to “act as a mentor for less experienced lawyers and as a role model for future generations of lawyers.”² Take a moment to reach out to a more experienced colleague, and develop a friendship. In one survey, 94 percent of lawyers said they were better at their job because of participation in a mentoring program.³ A trusted mentor can help you through uncharted ethical territory, and help sharpen your legal skills. Mentoring also leads to mutual benefits in marketing, networking, and referrals.

Look for Win-Wins

It is hard to dehumanize your opponent if you are actively considering ways in which you can both win. Naturally, legal education focuses on litigation. However, when the parties are capable of agreement, litigation is an inappropriate drain on your client’s time and resources. You can’t settle every case out of court, but always consider alternatives when appropriate.

In meetings with clients, listen and watch carefully. While some clients clearly articulate their goals, others may have important but unarticulated aims and desires.⁴ Respect your clients by taking the time to discover their real goals. Realize that clients and opposing counsel often may not have considered all options. Before and during

litigation, diligently search for a win-win. A few minutes of attentive discussion with your client and opposing counsel may resolve disputes that have been brewing for months or years to the great advantage of all concerned.

Act with Integrity

Respect yourself. Thomas Paine wrote, “Character is much easier kept than recovered.”⁵ Through hundreds of personal interactions, you establish good character, but just one mistake may destroy it. As a young lawyer, you can establish a solid foundation of good character by maintaining your integrity. As you interact with the court, clients, and opposing counsel, remember that integrity is more than minimal compliance with ethics rules. A good lawyer operates with dignified candor – knowing that statements, omissions, and even your demeanor can all mislead. Be candid, even about your own shortcomings or errors. Slight obfuscation of facts or law may be tempting, but that choice reflects on your character and reputation.

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Corporate Corner

Rob Ricca

Fiduciary Duties—Not Only for Corporate Directors

While you probably learned about the fiduciary duties of corporate directors in law school or in preparing for the bar exam, you may not be aware that corporate officers also owe such duties to the company and its shareholders. Officer fiduciary duties are rarely addressed in corporate law materials, and case law on the topic is sparse. Even in Delaware, which definitively held that officers owe the same fiduciary duties as directors, the standards of conduct and liability associated with those duties have not been articulated. Despite the lack of guidance on the matter, a corporate officer can be held personally liable for a breach of his or her fiduciary duties, and so lawyers should be prepared to advise officers on how to comply with those duties.

"I was not aware that it was a breach of the duty of loyalty to place one's own interests ahead of the interests of shareholders."¹

Perhaps due to the lack of guidance on officer fiduciary duties, studies show that while lawyers routinely advise directors of their fiduciary duties, they are not

advising officers. In-house lawyers do a better job of addressing fiduciary duties with officers than outside counsel, but the advice tends to be the same as that given to directors. This may be a reflection of the split in the legal community as to whether officers, as agents of the corporation, should be subject to traditional agency law fiduciary duty obligations, or as many argue, based on policy considerations, the fiduciary duty obligations of corporate officers should be the same as those of directors.

Regardless of whether the fiduciary duties of officers are determined to be grounded in agency law or under the standards applied to directors, lawyers can look to best practice standards under agency law and director fiduciary duty law to provide officers with helpful advice on complying with their fiduciary duties. Providing this advice to officers when there is an opportunity to influence their conduct can be an effective component of corporate governance, particularly in the context of change of control transactions and where an officer's interests conflict with shareholder interests.

If you represent a company in a situation where an officer's fiduciary duty obligations may be implicated, consider providing all or some combination of the advice that follows in this paragraph.

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The Virginia Principles of Professionalism put it this way, "[I should] act at all times with professional integrity, so that others will know that my word is my bond."⁶

Demonstrate respect for yourself and others by practicing law with civility. Even in the midst of our adversarial system, great lawyers don't need to resort to questionable tactics. When you provide excellent representation with civility, others take

notice. The result is a reputation with the public, colleagues, and the bench that will benefit you throughout your career.

1. VIRGINIA STATE BAR, PROFESSIONAL GUIDELINES (2009) available at <http://www.vsb.org/pro-guidelines/index.php/principles/>.
2. *Id.*
3. THE SUPREME COURT OF OHIO COMMISSION ON PROFESSIONALISM: INTERNET-BASED SURVEYS, available at <http://www.sconet.state.oh.us/AttySvc/mentoring/survey.asp> (last visited Sept. 21, 2011).

Advise officers to act in good faith in carrying out their responsibilities, always seeking to place what they reasonably believe to be the company's best interests ahead of any personal interests. This duty of loyalty advice can be virtually identical to the advice given to directors since the duty of loyalty is very similar under agency law and director fiduciary duty law. In terms of the duty of care, while director fiduciary duty law has settled at a gross negligence standard of liability, agents are held to a stricter ordinary negligence standard, and so lawyers should advise officers to act with the reasonable care that a similarly situated officer would exercise under similar circumstances, taking into account any special knowledge or skills the officer may possess. Lawyers should also counsel officers to be diligent in providing all relevant corporate information to superiors, particularly to the board, so that superior officers and directors can make informed decisions.

For additional information see: Rob Ricca and Lyman Johnson. "Reality Check on Officer Liability," Business Lawyer (Forthcoming – November 2011), U of St. Thomas Legal Studies Research Paper No. 11-22, Washington & Lee Legal Studies Paper. Available at SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1908477.

1. Rita K. Farrell, "Walt Disney Directors on Trial for a Payout," THE NEW YORK TIMES, Oct. 21, 2004, at C 10 (quoting the deposition testimony of Stephen Bollenbach, Chief Financial Officer and Director of the Walt Disney Company.).

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4. Carrie Menkel-Meadow, The Lawyer as Consensus Builder: Ethics for a New Practice, 70 Tenn. L. Rev 63 (2002).
5. Thomas Paine, Collected Writings: "The Last Crisis" 352 (1995).
6. VIRGINIA STATE BAR, PROFESSIONAL GUIDELINES (2009) available at <http://www.vsb.org/pro-guidelines/index.php/principles/>.

The Honorable Barry G. Logsdon serves in the Juvenile and Domestic Relations District Court for the 7th Judicial Circuit.

President's Message

Christy E. Kiely



The problem with automatic membership to an organization is that members often don't realize that they're members or, if they do, what exactly that means. I don't want that to be the case with the YLC. So, in this message and on pages four through seven, you'll find everything you need to know about the Virginia State Bar Young Lawyers Conference ("the YLC" in shorthand). This issue is a great resource, but if it raises any questions, or if there's a topic we somehow left out, please get in touch and let me know. I want everyone to come away from this with a better understanding of the YLC and a conviction that it has something to offer you, yes you, individually.

What is the YLC?

The YLC is one of four Conferences within the larger Virginia State Bar. (The other three are the Senior Lawyers Conference, the Conference of Local Bar Associations, and the recently created Diversity Conference). While I am admittedly biased, I think it's fair to say the YLC is one of the most active groups within the VSB. We run so many programs and events on a limited budget that the federal government could probably stand to take a few lessons in YLC efficiency. The VSB website aptly describes the purpose of the YLC: "[T]he YLC is a vehicle through which young lawyers can participate in the governance of the Virginia State Bar, serve the profession and the public, and enhance the public awareness of the legal profession."

Who belongs to the YLC?

You do! If you are receiving this Docket Call, it's because you are a YLC member. Membership to the YLC is automatic if you are an active attorney in good standing who is either (i) age 36 or younger, or (ii) in your first three years after admittance to the Virginia State Bar as your initial bar. Best of all, there are no dues

to join. The YLC currently encompasses more than a third of all active Virginia attorneys, approximately 11,000 of 29,000 active lawyers in Virginia.

How is the YLC organized?

The governing body of the YLC is the Board of Governors. The Board consists of nineteen members: ten District Representatives, five At-Large Representatives, a President, President-Elect, Secretary, and Immediate Past President. You can get to know them all by turning to page four. We implement our programs through our Program Chairs, Committee Chairs and Circuit Representatives. Our Program and Committee Chairs currently oversee an astounding twenty-two projects. While I don't have space to describe them all, I've highlighted a few below, and there are additional descriptions on pages five to seven. Then, we have thirty-one Judicial Circuits covering Virginia, and each has one or more assigned Circuit Representatives. Each Circuit Representative is responsible for ensuring the YLC serves his or her local community every year, so that we reach all of Virginia and not just the more populated corridors.

What does the YLC do?

It might be a shorter list to say what the YLC doesn't do. Foremost in the minds of those of you who just passed the bar (congratulations!), we run the Admission & Orientation Ceremony twice a year, where young lawyers are admitted to the bar. We also conduct low- or no-cost CLEs on a range of fascinating and cutting edge topics, including mental health issues, immigration, practice development and evidence. We encourage minority high school and college students to consider the law as a profession. We provide free legal assistance to victims of natural disasters and to Virginia's first responders (police and fire departments). We honor

newly elevated female and minority judges. And that is just a sampling. Please continue reading and visit our website to learn more (<http://www.vsb.org/site/conferences/ylc>).

How can you get involved?

It's easy! Just reach out to me or our Membership Chair, Nathan Olson (703-934-1479, nolson@cgglawyers.com). Whether you have a little or a lot of time, we have an opening for you. From one-time commitments of just a few hours, to ongoing projects that last throughout the year, the YLC literally has something for everyone. Our website also hosts a current listing of vacancies, so please check back often.

Why should you volunteer?

Because it will be one of the most rewarding, enjoyable and meaningful experiences of your young lawyer career. There's nothing better than leaving at the end of a work day with 100% certainty that you helped someone and made a difference, which is what our programs do. And, working for the YLC connects you with young lawyers around the state who you probably would never meet otherwise—fun, bright, capable, accomplished peers with whom you can develop both professional connections and personal friendships. You can even develop new or existing skill sets: public speaking, writing, organization, and delegation. The YLC is also a pipeline to leadership opportunities, informal mentoring, and career development. If you want to rub elbows with the movers and shakers in Virginia law, you've got to get involved in bar work. The YLC is where you get started. I hope to see you soon!

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To see more, visit the YLC website at
www.vayounglawyers.org

Involvement Guide 2011–2012

The YLC coordinates a variety of programs in service to both the Bar and the public. If you are interested in assisting with any program or commission, please contact any YLC Board Member, Program Chair or Co-Chair, or your Circuit Representative.

ADMISSION AND ORIENTATION CEREMONY

This committee is responsible for organizing and staging a special ceremony sponsored twice a year by the YLC at which time all newly licensed attorneys are given the opportunity to appear before the Supreme Court of Virginia to be admitted to practice in the courts of Virginia. Because the Court sits in Richmond, this committee typically is comprised principally of young lawyers practicing in the metropolitan Richmond area.

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ANNUAL MEETING/PROGRAMS

This committee plans a CLE or other special interest program to take place during the Bar's Annual Meeting held each June in Virginia Beach. During gubernatorial election years, this committee typically schedules a debate.

Contact:
Nicole Pszczolkowski
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ANNUAL MEETING/ATHLETICS

This committee is responsible for organizing the "Run in the Sun" 5 kilometer foot race and the David T. Stitt Memorial volleyball tournament, both sponsored by the YLC during the Bar's Annual Meeting in June in Virginia Beach.

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BENCH BAR CELEBRATION DINNER COMMITTEE

Each year the YLC hosts a dinner to honor newly elevated women and minority judges from across the state. The dinner provides an opportunity for young lawyers to interact with judges in a casual, relaxed atmosphere.

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Sarah E. Bruscia
SBruscia@hunton.com

BOARD MATCH

Board Match is a program that the YLC is developing to provide an opportunity for local non-profit organizations to solicit new board members and board participation from area lawyers.

Contact:
Brent Timberlake
brent.timberlake@capitalone.com

FIRST DAY IN PRACTICE SEMINAR

In conjunction with the General Practice Section, this committee plans and implements the First Day in Practice Seminar for new lawyers traditionally held the day after the Fall Admission and Orientation Ceremony.

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Meredith Brebner
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Ronald A. Page, Jr.
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NEWSLETTER/DOCKET CALL

The editor and editorial board of the Docket Call are responsible for publishing four issues of the YLC's newsletter each year.

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Martha Hulley
martha.hulley@leclairryan.com

PROFESSIONAL DEVELOPMENT CONFERENCE

This committee implements a one day CLE program addressing practice tips and professionalism issues specific to young lawyers.

Contacts:
Christopher Fortier
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Service to the Public COMMUNITY LAW WEEK

This committee develops programs and sponsors activities during the first week in May devoted to enhancing the public's awareness and appreciation of the role of law in American life. Included among the activities are presentations in the media, programs in the public schools, and public forums.

Contact: Amelia Elze
aelze@francegresham.com

DOMESTIC VIOLENCE SAFETY PROJECT

The committee is responsible for developing programs to raise awareness about legal issues related to domestic violence. The DVSP has, for example, distributed a Safety Brochure and a Legal Pamphlet in both English and Spanish to domestic violence victims statewide. The DVSP also trains attorneys to provide pro bono representation to domestic violence victims.

Contact:
Lara K. Jacobs
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EMERGENCY LEGAL SERVICES

This committee, in conjunction with VBA-YLD, has developed and implemented a statewide Emergency Legal Services Response Plan, which includes training volunteers and working with other bar organizations to establish communication plans in the event of natural disasters and other declared emergencies.

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IMMIGRANT OUTREACH

This committee designs projects, including the Immigrant Outreach-Education Regarding Deportation Ramifications of Criminal Convictions program, to raise awareness about the legal issues facing Virginia's immigrant population.

Contact:
VACANT

LEGAL HANDBOOK FOR CANCER SURVIVORS

Recognizing the need for a resource addressing the legal issues faced by cancer survivors in the Commonwealth, the YLC developed a Handbook covering topics such as insurance, employment, advance medical directives, and wills. The Handbook is printed and distributed to medical facilities and cancer advocacy organizations throughout the Commonwealth.

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MENTAL HEALTH LAW COMMITTEE

This committee puts on a free, semi-annual CLE in different locations around Virginia. The CLE explains notable developments in Virginia mental health law as they apply to aspects of all practice areas. Mental health laws touch a broad range of practice areas, including employment, family law, trusts and estates, civil rights and criminal law. The course is presented in an engaging format consisting of panelist discussion, audience participation and hypothetical problems.

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MINORITY PRE-LAW CONFERENCE

This committee plans a seminar that strives to expose college students, especially minority students, to many aspects of a legal career. From LSAT prep courses, mock law school classes, and a mock trial to panel discussions with the bench, bar, and law students, this course provides valuable information to Virginia students considering a career in the law. The event is held in Northern Virginia, Southern Virginia, and Tidewater.

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Southern Virginia
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Tidewater
Leonard Tengco
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NO BILLS NIGHT

The Conference, through this committee, conducts No Bills Nights to provide a forum for the public throughout Virginia to raise legal issues and to seek information regarding their legal rights, without cost. This year, the Conference hopes to put on programs in Abingdon, Charlottesville, Danville/Martinsville, Lynchburg, Fredericksburg, Northern Virginia, Staunton/Lexington, Richmond, Roanoke, Tidewater and Winchester/Harrisonburg.

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Winchester

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Vacant locations
Abingdon, Charlottesville, Fredericksburg,
Lexington/Staunton, Lynchburg, and
Tidewater

OLIVER HILL/SAMUEL TUCKER LAW INSTITUTE

The Virginia State Bar Young Lawyers Conference in conjunction with the Millennium Diversity Initiative and the University of Richmond T.C. Williams School of Law has designed a program, the Oliver Hill/Samuel Tucker Law Institute, to facilitate diversity in the legal profession. The program enables at-risk, minority students to attend a weeklong comprehensive seminar that encourages them to become members of the legal profession.

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STUDENTS DAY AT THE CAPITOL

This committee organizes efforts to teach children about the judiciary, including coordinating a visit to the capitol in Richmond.

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WILLS FOR HEROES

In response to the events of September 11, 2001, the Young Lawyers Division of the South Carolina Bar Association created a program called Wills for Heroes to allow the legal community to show its appreciation for the efforts and sacrifices made by firefighters, police, sheriffs and emergency medical technicians. This committee, in conjunction with VBA-YLD, has developed and implemented a program in the Commonwealth to provide simple wills, advanced medical directives, and powers of attorney to First Responders on a pro bono basis.

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Circuit Representatives

In 1983, the YLC established a statewide network of Circuit Representatives appointed from each of the state's 31 judicial circuits. This network is designed to meet three objectives: (1) to provide a liaison between practicing young lawyers on the local level and the Young Lawyers Conference Board of Governors; (2) to promote statewide communication and participation among young lawyers in the projects and activities of the YLC; and (3) to increase the quantity and quality of public service legal programming throughout the Commonwealth. The primary responsibility of each Circuit Representative is to organize and carry out an annual project for young lawyers in his or her judicial circuit. These projects have ranged from CLE programs to community service programs to YLC membership projects. If you are interested in becoming a Circuit Representative or assisting with any of the projects of the YLC, please contact any YLC Board Member or your Circuit Representative.

FIRST CIRCUIT

City: Chesapeake
Andrew (Drew) R. Page
drewpage@sb-lawgroup.com

SECOND CIRCUIT

City: Virginia Beach
Counties: Accomack & Northhampton
Jonathan Stone
jstone@sb-lawgroup.com

Michael B. Steele
Michael.steele@jacksonlewis.com

THIRD CIRCUIT

City: Portsmouth
VACANT

FOURTH CIRCUIT

City: Norfolk
Bonnie P. Lane
blane@clarkedolph.com

FIFTH CIRCUIT

Cities: Franklin & Suffolk
Counties: Isle of Wight & Southampton
VACANT

SIXTH CIRCUIT

Cities: Emporia & Hopewell
Counties: Prince George, Surry, Sussex,
Greenville, & Brunswick
VACANT

SEVENTH CIRCUIT

City: Newport News
VACANT

EIGHTH CIRCUIT

City: Hampton
Angelaine Harmonie Mason
harmoniemason@hotmail.com

NINTH CIRCUIT

City: Williamsburg
Counties: York, James City, Charles City, New
Kent, Gloucester, Matthews, Middlesex, King
William, King & Queen
William L. Holt
wlholt@kaufcan.com

William W. Sleeth, III
william.sleeth@leclairryan.com

TENTH CIRCUIT

Counties: Appomattox, Buckingham,
Charlotte, Cumberland, Halifax, Lunenburg,
Mecklenburg, & Prince Edward
VACANT

ELEVENTH CIRCUIT

City: Petersburg
Counties: Amelia, Dinwiddie, Nottoway,
Powhatan
Melissa Brennan
Melissavbrennan@yahoo.com

TWELFTH CIRCUIT

City: Colonial Heights
County: Chesterfield
Nathaniel A. Scaggs
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THIRTEENTH CIRCUIT

City: Richmond
William D. "Will" Prince IV
wprince@t-mlaw.com

FOURTEENTH CIRCUIT

County: Henrico
VACANT

FIFTEENTH CIRCUIT

City: Fredericksburg
Counties: King George, Stafford, Spotsylvania,
Caroline, Hanover, Westmoreland, Richmond,
Essex, Lancaster, & Northumberland
Mindy Lebeau
lebeau@phslawfirm.com

SIXTEENTH CIRCUIT

City: Charlottesville
Counties: Madison, Greene, Albemarle,
Fluvanna, Goochland, Louisa, Orange, &
Culpeper
VACANT

SEVENTEENTH CIRCUIT

City: Falls Church
County: Arlington
Graziella Bianchi
gbianchi@naderhasan.com

EIGHTEENTH CIRCUIT

City: Alexandria
Shelly R. Collette
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NINETEENTH CIRCUIT

City: Fairfax
County: Fairfax
Steve Gangemi
sgangemi@mcguirewoods.com

TWENTIETH CIRCUIT

Counties: Loudon, Fauquier, &
Rappahannock
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TWENTY-FIRST CIRCUIT

City: Martinsville
Counties: Patrick & Henry
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TWENTY-SECOND CIRCUIT

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Counties: Pittsylvania & Franklin
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R. Ronald "Ronnie" Mayhew, Jr.
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TWENTY-THIRD CIRCUIT

Cities: Roanoke & Salem
Counties: Roanoke
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TWENTY-FOURTH CIRCUIT

Cities: Lynchburg & Bedford
Counties: Nelson, Amherst, Campbell, &
Bedford
Michael R. Sloan
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TWENTY-FIFTH CIRCUIT

Cities: Covington, Lexington, Staunton,
Buena Vista, Clifton Forge, Waynesboro
Counties: Highland, Augusta, Rockbridge,
Bath, Alleghany, Botetourt, Craig
William J. Hancock
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TWENTY-SIXTH CIRCUIT

Cities: Harrisonburg & Winchester
Counties: Frederick, Clarke, Shenandoah,
Page, Rockingham, Warren
Travis W. Vance
tvance@wawlaw.com

TWENTY-SEVENTH CIRCUIT

City: Galax & Radford
Counties: Pulaski, Wythe, Carroll, Grayson,
Montgomery, Floyd, Giles, Bland
Brandon R. Boyles
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TWENTY-EIGHTH CIRCUIT

City: Bristol
Counties: Smyth & Washington
Thomas M. Gray, II
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TWENTY-NINTH CIRCUIT

Counties: Giles, Bland, Tazewell, Buchanan,
Russell, Dickenson
VACANT

THIRTIETH CIRCUIT

City: Norton
Counties: Wise, Scott, Lee
M. Suzanne Kerney-Quillen
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THIRTY-FIRST CIRCUIT

Cities: Manassas & Manassas Park
County: Prince William
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If you are interested in becoming a Circuit Representative or assisting with any of the projects of the YLC, please contact any YLC Board Member or your Circuit Representative.

A full listing of volunteer opportunities and a volunteer form can be found at <http://www.vsb.org/site/conferences/ylc/view/volunteer-opportunities>

