

# DOCKET CALL NEWSLETTER

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www.vayounglawyers.org

Young  
Lawyers  
Conference



Virginia State Bar

## “Students’ Day at the Capitol” Program Makes Learning Come to Life

*Christy E. Kiely*

For two days in October, the lawn of the Capitol building in Richmond teemed with hundreds of middle-school students from around the commonwealth. Students, teachers and chaperones came from as far away as Roanoke to participate in the “Students’ Day at the Capitol” program, sponsored by the YLC. The full-day program is designed to introduce students to government and law via hands-on, interactive learning experiences. Participating students were treated to tours of the Capitol Building, the Supreme Court and the Governor’s Mansion. Some even had a chance encounter with Governor Warner, who stopped by the mansion and shook hands with his future constituents. “That was so cool,” exclaimed one lucky student afterwards. “I can’t believe I shook hands with the Governor!”

Students also participated in question-and-answer sessions with local attorneys, where they discussed everything from law school exams to the “sniper trials.” Volunteer attorneys included Harris Leiner, Nnika Johnson, Katharine Schloven and Alonso Cisneros, among many others. The highlight of the program, however, was the mock legislative sessions conducted by members of the House and Senate staffs. In these “Chamber Presentations,” students assumed the roles of senators and delegates and debated age-appropriate legislation, such as whether cell phones should be permitted in schools (no), whether boys and girls should be separated in classrooms (no), or whether the school week should be longer (definitely no).

The goal of the program was to teach students about the interplay between the legislature and the judiciary—how senators and delegates make the laws, while lawyers and judges interpret and apply them. The program was born in a brainstorming session at a young lawyers’ conference in 2000 and continues to gain momentum. This fall, more than 800 students participated over a two-day period, on October 21 and 22. The

program was made possible thanks to the incredible support and cooperation of the government groups involved. More than 1,400 students have already expressed interest in participating in the event this spring. The YLC hopes the program will become an annual tradition for schools around the commonwealth.

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Students participate in one of many discussion groups led by an attorney volunteer on the steps of the Capitol.

# Message from the President

Kathleen Uston



*Now to what higher object, to what greater character, can any mortal aspire than to be possessed of all this knowledge, well digested and ready at command, to assist the feeble and friendless, to discountenance the haughty and lawless, to procure redress to wrongs, the advancement of right, to assert and maintain liberty and virtue, to discourage and abolish tyranny and vice?"*

—John Adams, in a letter to Jonathan Sewell,  
excerpted from *John Adams*,  
David McCullough (Simon & Schuster 2001)

Upon reading John Adams's impressions of our noble profession, I was struck by the pride he felt for, and the esteem with which he held, the practice of law, both of which seem these days to be out of fashion. Adams was a man who practiced what he preached when, at age 34, he undertook the unpopular defense of nine British soldiers who fired upon a crowd in what came to be known as the Boston Massacre. No other member of the bar would take on their defense, and upon obtaining an acquittal of the soldiers, Adams claimed to have lost better than half of his practice.

Yet Adams did not regret his decision, proclaiming that it is better that many guilty should escape punishment rather than a single innocent man be hanged. "The reason," Adams wrote, "is because it's of more importance to community that innocence should be protected, than it is that guilt should be punished."

As new and young attorneys getting started in the practice, it is important to take account of all that our mentors have to offer us, through their vast knowledge, rich experience and life lessons learned. As new practitioners, it is particularly difficult to take on the hard cases, to tackle the tough issues, to represent unpopular positions. Yet, the importance of assisting the feeble and friendless

remains, the battle to maintain liberty and virtue is no less joined and it is to the most experienced practitioners with whom we are fortunate enough to have contact that we all may look for advice and assistance when presented with these challenges.

In times past, an attorney was admitted to practice only upon years of apprenticeship under an experienced member of the bar. Study at a traditional law school was not the path to a law degree, and in many ways, the old system is vastly superior. When I struck out on my own, I had never handled a single case, never appeared before a single judge, and was struck dumb with fear at the prospect of facing either. When that first case was referred my way (by an experienced attorney willing to help a new lawyer get started) I was nearly too frightened to take it.

It was only because of the experienced mentors who made themselves available, like David Rosenfeld, Ben DiMuro, Rob Surovell, Elaine Bredehoft, Tom Palmer, Ken Labowitz and Judge Robert Colby, that I cleared those first hurdles. It was only because of tolerant and understanding trial judges, like Judge Stanley Klein, Judge Lesley Alden, Judge Michael Valentine, and Judge Donald Haddock, one of whom was willing to recess while I quickly reviewed *Friend* to get the business record exception right, that I made it through my first trials.

I hazard to guess that many of you reading this message have similar tales—all of us owe a debt of gratitude to those lawyers who read the books before we did, who argued the positions we were forced to take and handled the tough clients before we did, all of whom were willing to offer their time, advice and counsel to a new lawyer, wet behind the ears, gunning for justice and truth, but sometimes missing the point.

A few years ago, the VSB Young Lawyers Conference, under the sage guidance of Tracy Giles and O'Kelly McWilliams, organized the Professional Development Conference (PDC), a conference of CLE and non-CLE programming aimed at the unique issues facing new attorneys. This year, on March 12–13, 2004, the YLC will hold our third such conference in Charlottesville.

Justices from the Supreme Court of Virginia and judges from the Court of Appeals and trial courts have agreed to come and teach those attending the PDC about practice, and what is expected of attorneys who appear before their respective tribunals.

Experienced and well respected practitioners, including Tom Spahn, Glen Lewis, John Foote, Barbara Williams, Samuel Meekins, Edward Good, Bruce Rasmussen, Robert Scully and Joe Condo will offer their wisdom and advice on an array of topics ranging from evidence, privileges, ethics and effective deposition techniques, to tips for more powerful legal writing and avoiding malpractice.

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## **Docket Call:** A quarterly publication

of the Young Lawyers Conference of the Virginia State Bar.

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*Docket Call* welcomes contributions from members of the YLC.

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# Legal Ethics Corner

Jeffrey Hamilton Geiger

**Q** Why do I have to actually meet with my clients? First, you have to take a shower and brush your teeth before going to work. Then, you have to put on a suit and a tie. Finally, they seem to expect service with a smile and, not infrequently, a parking validation and a cup of coffee to boot. Isn't there a better way?

**A** Putting aside questions of personal hygiene, there may be an ethical alternative. For years, attorneys have heralded the use of e-mail and the internet in their law practice as a means to cultivate and maintain client relationships. And, anecdotally, many clients love it.

Yet, behind the ease of e-mail lurked a concern harbored by some that the rendering of legal services dictated one-on-one meetings between the attorney and the client in "meatspace" versus "cyberspace." In Legal Ethics Opinion 1791, the Standing Committee on Legal Ethics debunked the myth that attorney-client relationships require physical presence, opining that "the attorney in the hypothetical is not precluded by the ethics rules from providing legal services to his clients via electronic communication so long as the content and caliber of those services otherwise comport with the duties of competence and communication." Appropriately, the focus is on lawyer competence and communication, *not* proximity.

Rule 1.1 states that a "lawyer shall provide competent representation to a client." What is competent representation? The "legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation." As the committee noted, whether an attorney provides competent legal services "depends on the content, not the method of communication." Indeed, the duty of communication is addressed by Rule 1.4, which requires that a lawyer keep a client informed about the status of a matter and to insure that a client can make informed decisions. Again, the focus is not on the method of communication: "In determining whether a particular attorney



has met this obligation with respect to a particular client, what is critical is *what* information was transmitted, not *how*."

So leave on those fuzzy pajamas, strap on your flip flops and wait for the clients to come to you. Although you may want to consider having a backup marketing plan.

#### Practice Pointers:

- You save a copy of the letters you send out by snail mail, right? Do the same thing with your e-mail. Print out (or electronically save) *all* of your communications and preserve them in your client file.
- Don't forget the rules on attorney solicitation. In Lawyer Advertising Opinion A-110, the Committee found that communications via lawyer Web sites or over the Internet are "public communications," governed by the strictures applied to communications, "disseminated to the public by use of electronic media," and, in the case of "real time chat rooms," by the rules governing "in person" communications. *See* Rule 7.2.
- Carefully construct and regularly review e-mail and Web site privacy and disclaimer statements. As an aside, when you e-mail Aunt Martha for her chicken recipe, consider whether you really need to include a legal disclaimer. And if you are going to include it, put it at the top of the message.
- Be wary that you are not practicing law in a jurisdiction in which you are not licensed.

Jeff Geiger is counsel in the Richmond office of Sands Anderson Marks & Miller. You may reach him at [jgeiger@sandsanderson.com](mailto:jgeiger@sandsanderson.com).

# Wills for Heroes Update

Lexine Walker

The Wills for Heroes program is underway in Arlington County, and volunteer coordinator Carson Sullivan said that will-signing events with the local sheriff's department and firefighters have been very successful. Despite last spring's inclement weather, Sullivan said, more than 80 attorney volunteers turned out to help first response emergency personnel create wills, advance medical directives and powers of attorney.

"We just had to say when and where, and we had volunteers ready to go," Sullivan said. "It was hardest dealing with the weather, and even with the snow, we had enough people."

Wills for Heroes was created by South Carolina attorney Anthony Hayes, who wanted to find a way to help those affected by the September 11 terrorist attacks. When Hayes discovered that many of the firefighters in his community did not have wills and had not been given assistance to obtain wills, he engineered this program to create wills, powers of attorney and advance medical directives to them—free of charge. The Wills for Heroes program has raised interest as far away as Florida and Arizona, and last year's will-signing events in Arlington County are Virginia's first.

Some of Arlington's volunteer lawyers are experienced trusts and estates practitioners, there to lend a helping hand, and some are law students from George Mason University School of Law, ready to help with the technology. So far, in Arlington County, the number of will packages prepared is in the hundreds, Sullivan said, and there are still more to go. Early this year, the program will likely be moving into southwest Virginia.

Hayes has said that his program is changing public perception of lawyers at the same time as it provides a valuable public service

to those most in need of it. Sullivan said she found that first responder recipients at will-signing events have all been grateful for the program's services. She recalled that a woman at one of the signing events was especially thankful because she was pregnant at the time. Wills for Heroes had given her the opportunity to ensure that the child on the way would be provided for upon arrival.

"People see that we're not there for any agenda," Sullivan said, "and everyone on both sides has benefited from the experience." While helping to plan upcoming events, Sullivan said she receives at least one e-mail weekly from a lawyer wanting to get involved, as well as frequent questions from lawyers just wanting to know when Wills for Heroes will be coming to their area. "We have contacts everywhere," she said. "The program really sells itself."

Volunteers wanting to get involved will attend a training seminar, which offers free CLE credit; in return, organizers ask that attending lawyers participate in one signing event. More than 100 volunteers turned out for the CLEs at George Mason last February, Sullivan said, "and I've seen some of these volunteers come back [to participate] three and four times."

For more information about the program or how to volunteer, please contact Carson Sullivan by e-mail. Her address is [csullivan@mcguirewoods.com](mailto:csullivan@mcguirewoods.com).

Lexine Walker is an attorney with LexisNexis in Charlottesville. You may reach her at [lexine.walker@lexisnexis.com](mailto:lexine.walker@lexisnexis.com).

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## President's Message —

*continued from page 2*

The PDC is truly a program no young or new attorney can afford to miss, offering over 6 hours of CLE credit for only \$115.

We are truly fortunate that those who have rowed the waters ahead of us are willing to give back to those of us who have come after them. Without our mentors, getting started in the practice would be truly daunting, and likely treacherous.

All of us have the gift of the vast knowledge of which Adams spoke, and there is always a need and room for more, "well digested and ready at command," so that we may answer the calling our profession demands of us.

Thank you to all of the mentors who have helped make Virginia a state of competent and ethical practitioners, and we look forward to seeing you in Charlottesville.

A solo practitioner, Katie Uston is the YLC president and can be reached at [law@uston.com](mailto:law@uston.com).

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## Students' Day —

*continued from page 1*

Next year, the Students' Day at the Capitol program expects to expand the role of the attorney volunteers by conducting mock trials with the student groups. Future plans also include the development of fun learning tools, like word games and puzzles, to supplement the hands-on events at the Capitol, General Assembly, Supreme Court and Governor's Mansion.

All agree this year's program provided unique learning opportunities that cannot be duplicated in the classroom. It was a huge success enjoyed by students, teachers and volunteers alike.

Volunteers are always welcome to the Students' Day program, and are especially needed for planning the spring event. Interested persons can become involved by contacting Christy E. Kiely at [ckiely@hunton.com](mailto:ckiely@hunton.com).

Christy E. Kiely is an associate in the Richmond office of Hunton & Williams. You may reach her at [ckiely@hunton.com](mailto:ckiely@hunton.com).



# YLC Beat

*Suzanne F. Garwood*

## Admission and Orientation Ceremony

On October 16, 2003 hundreds of attorneys learned whether they passed the Virginia State Bar examination and were eligible for admission. Less than two weeks later, on October 29, 2003, the bar welcomed these new members to the practice of law. This new class is in addition to the more than 18,000 active and inactive members of the bar as of September 1, 2003.

The October ceremony was the second of two semi-annual admission ceremonies that the YLC sponsors in Richmond. The YLC's Admission and Orientation Committee organizes and runs the Admission and Orientation Ceremony for new lawyers. The ceremony allows all new lawyers, in the course of a single day, to be admitted by the Supreme Court of Virginia to practice before all Virginia state courts. In addition, in conjunction with the bar's General Practice Section, the committee sponsors the First Day in Practice Seminar, a low-cost CLE program designed to give practice tips and insights to new lawyers.

This year, YLC President Kathleen Uston welcomed the new admittees with a welcome letter, providing them with a brief synopsis of the YLC's activities and achievements. In addition, the letter contained a committee preference form. The form lists the YLC's various committees on which a new attorney can serve. If any attorney is interested in joining a committee, a copy of the form is available electronically at: <http://www.vayounglawyers.org> and can be filled out online or printed and returned to: David L. Ginsberg, Shoun & Bach, P.C., 12700 Fair Lakes Circle, Suite 300, Fairfax, VA 22033. Phone (703) 222-3330, facsimile (703) 222-3335, [dginsberg@shoun.com](mailto:dginsberg@shoun.com).

## Upcoming Events

- **February 4–10, 2004**—ABA Mid-Year Meeting  
San Antonio, Texas
- **March 12–13, 2004**—Third Annual Professional Development Conference and Board Meeting,  
University of Virginia, Charlottesville  
For additional information, please contact Dan Gray at [dgray@shoun.com](mailto:dgray@shoun.com).
- **April 30–May 1, 2004**—YLC Board Meeting  
Wintergreen, Virginia
- **June 16–20, 2004**—VSB 66th Annual Meeting  
Virginia Beach, Virginia
- **August 5–10, 2004**—ABA Annual Meeting  
Atlanta, Georgia

## News/Events

YLC members are encouraged to submit news or events for publication to the YLC homepage at <http://www.vayounglawyers.org/>. Submissions should not be longer than 1,000 words and must be reviewed carefully for corrections so that all necessary materials have been included. All submissions to the YLC homepage are subject to editorial review to ensure consistent content with YLC standards and procedures. The submission form is available at <http://www.vayounglawyers.org/submitevent.shtml>. For further information, e-mail Jacqueline McIntyre at [Jacqueline\\_McIntyre@vaed.uscourts.gov](mailto:Jacqueline_McIntyre@vaed.uscourts.gov).

Suzanne Garwood is an Associate in the Washington, D.C. office of Kirkpatrick & Lockhart L.L.P. You may reach her at [sgarwood@kl.com](mailto:sgarwood@kl.com).

## R. EDWIN BURNETTE, JR. YOUNG LAWYER OF THE YEAR AWARD

### Seeking Nominations



The Virginia State Bar Young Lawyers Conference is seeking nominations for the R. Edwin Burnette, Jr., Young Lawyer of the Year Award.

This award honors an outstanding young Virginia lawyer who has demonstrated dedicated service to the YLC, the profession and the community.

The nomination deadline is May 1, 2004. Letters of nominations and any supporting materials should be sent to:

Jimmy F. Robinson  
LeClair Ryan, P.C.  
707 E. Main St., 11th Floor  
Richmond, VA 23219  
(804) 783-7540

THIRD ANNUAL

# Professional Development Conference

# Litigation

March 12 and 13, 2004

University of Virginia Darden School, Charlottesville

## FRIDAY, MARCH 12TH

- 10:00–10:30 A.M. **Welcome and Opening Remarks**—Kathleen M. Uston, Esquire, Young Lawyers Conference President
- 10:30–11:50 A.M. **2003: Critical Legislative and Judicial Developments**
- 12:00–1:30 P.M. **Lunch**
- 1:30–2:30 P.M. **Session I: Your Relationship With Bar Counsel I**—Barbara A. Williams, Esquire, VSB Counsel  
or  
**Session II: Virginia Privileges**—Thomas E. Spahn, Esquire, Author of *A Practitioner's Guide to the Attorney-Client Privilege and the Work Product Doctrine*.
- 2:30–3:30 P.M. **Session I: Legal Writing for the Litigator**—C. Edward Good, Esquire, Author of *Mightier than the Sword, and A Grammar Book for You and I . . . Oops, Me!*  
or  
**Session II: The Hearsay Rule for the Virginia Litigator**—Samuel W. Meekins, Jr., Esquire, Board of Governors, VSB Litigation Section; Member, Wolcott Rivers, P.C.
- 3:30–3:45 P.M. **Break**
- 3:45–4:45 P.M. **Session I: From Second Chair to First Chair: Handling the Transition**—Bruce D. Rasmussen, Esquire, Virginia Trial Lawyers Association, Past President  
or  
**Session II: Designing the Second Stage of Your Career**—O'Kelly E. McWilliams III, Esquire, Pepper Hamilton, LLP
- 5:00–6:00 P.M. **Networking Reception**
- 6:00–7:30 P.M. **Dinner**

## SATURDAY, MARCH 13TH

- 8:30–9:25 A.M. **Session I: Avoiding Malpractice Traps, for the Litigator**—Glen A. Lea, Esquire, Attorneys Liability Protection Society (ALPS)  
or  
**Session II: The Effective Deposition**—Robert E. Scully, Esquire, Board of Governors, VSB Litigation Section; Member, Rees, Broome & Diaz, P.C.
- 9:30–10:25 A.M. **Session I: Litigation Before State Trial Courts**—The Honorable Michael P. McWeeny, Chief Judge Fairfax County Circuit Court; The Honorable J. Howe Brown, Jr., Fairfax County Circuit Court (retired); Joseph A. Condo, Esquire, Virginia State Bar Past President (Moderator)  
or  
**Session II: Volunteerism: Making the Time**—Maya M. Eckstein, Esquire; Robert J. Stoney, Esquire; Tara L. Casey, Esquire
- 10:30–11:20 A.M. **Session I: Litigation Before the Virginia Court of Appeals**—The Honorable D. Arthur Kelsey; The Honorable Walter S. Felton, Jr.; Glenn C. Lewis, Esquire, The Lewis Law Firm (Moderator)  
or  
**Session II: Litigation Before the Virginia Supreme Court**—John H. Foote, Esquire (Moderator)
- 11:20–11:30 A.M. **Closing Remarks**—Jeannie P. Dahnk, Virginia State Bar President

*You can see from this year's program that the Young Lawyers Conference has brought together some of the best legal talent in the Commonwealth to discuss a range of litigation topics that you won't find in any other format. From legal writing, to trial skills, to marketing and volunteerism, the PDC provides you with relevant, topical information that you need to take your practice to the next level.*

— Jeannie P. Dahnk, President, Virginia State Bar

## REGISTRATION

To register, please fill out the form below and send it with your check for \$115 (made payable to the Virginia State Bar) to Bar Services, Virginia State Bar, 707 E. Main Street, Suite 1500, Richmond, VA 23219-2800. You may also download this registration form online at [www.vayounglawyers.org](http://www.vayounglawyers.org). Space is limited and registration will be on a first-come/first-served basis. Walk-in registration will be accommodated if space is available. If you have a disability that requires special accommodations, please contact the VSB in advance of the program.

### Hotel Accommodations:

Sponsors Hall at the Darden School's hotel property has a block of deluxe rooms reserved. If you wish to stay overnight, please so indicate on your registration form and enclose the room cost with your registration fee. Directions to the UVA Darden School and Sponsor's Hall will be mailed under separate cover.

### Meals:

Thanks to our generous sponsors, your lunch, dinner, and breakfast are included in your registration cost.

### Written Materials:

Each participant will receive outlines and materials of the presentations at the program.

### Cancellations:

Refunds will be given for cancellations received in writing by March 1, 2004. You may send your request to the VSB or [stengel@vsb.org](mailto:stengel@vsb.org).

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## REGISTRATION FORM

Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

VSB ID#: \_\_\_\_\_

<input type="checkbox"/> Registration Fee for the 2004 YLC Professional Development Seminar	\$115
<input type="checkbox"/> Overnight accommodations at Sponsors Hall	\$100
<input type="checkbox"/> smoking	
<input type="checkbox"/> non-smoking	
	Total \$ _____

Please make your check payable to the Virginia State Bar and mail it to Bar Services, Virginia State Bar, 707 E. Main Street, Suite 1500, Richmond, VA 23219-2800.  
For more information, call (804)775-0517, or visit the Virginia State Bar Young Lawyers Conference online at [www.vayounglawyers.org](http://www.vayounglawyers.org).

VIRGINIA STATE BAR  
YOUNG LAWYERS CONFERENCE

# Third Annual Professional Development Conference

Daniel L. Gray

Final preparations continue for the Young Lawyers Conference Third Annual Professional Development Conference (PDC), to be held at the University of Virginia's Darden School in Charlottesville on Friday, March 12 and Saturday, March 13, 2004. The theme of this year's conference is Litigation, and the roster of outstanding topics and speakers will appeal to a broad range of the commonwealth's young practitioners.

Originally conceived several years ago as a way for young lawyers to learn, earn CLE credits and network at a nominal fee, the PDC has become a Young Lawyers Conference tradition, and an event not to be missed. This year's speakers include Judges D. Arthur Kelsey and Walter S. Felton, Jr. of the Virginia Court of Appeals; current Virginia State Bar President Jeannie P. Dahnk; former Virginia State Bar President Joseph A. Condo; Virginia State Bar Counsel Barbara A. Williams; noted legal writing author and practitioner C. Edward Good; Thomas E. Spahn, author of Virginia practice publications; and many other noted practitioners.

The event takes place over two days and offers sessions on legal writing, practice before Virginia trial and appellate courts, depositions, evidentiary issues such as privileges and the hearsay rule, career advice, volunteerism, avoiding malpractice, dealing with bar counsel and other topics aimed at Virginia litigators, but of interest to all Virginia practitioners.

As in prior years, the fee for attendance is a nominal \$115, which includes meals and written materials. Participants are provided overnight housing at the Darden School conference center at a rate of \$100 per person.

Friday's session ends with a networking reception and conference dinner where, in years past, conference participants have been afforded a wonderful opportunity to learn from, and mingle with, Virginia's legal elite and lawyers from many jurisdictions throughout the commonwealth. It is truly a once-a-year opportunity that should not be missed.

Brochures with registration forms and further details regarding the conference were mailed to all Virginia young lawyers in January. A registration form can also be found inside this issue of *Docket Call*. Further information may be obtained at the Virginia State Bar Young Lawyers Conference Web site, at [www.vayounglawyers.org](http://www.vayounglawyers.org), or by contacting Daniel L. Gray, at [dgray@shoun.com](mailto:dgray@shoun.com).

Daniel L. Gray is an associate with Shoun & Bach, P.C. and can be reached at [dgray@shoun.com](mailto:dgray@shoun.com).

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## DOCKET CALL

Virginia State Bar Young Lawyers Conference  
707 East Main Street, Suite 1500  
Richmond, VA 23219-2800

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FIRST CLASS  
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