

# Senior Lawyer NEWS

Volume 29, Issue 1, Spring 2021

Frank O. Brown Jr., Editor

## Remembering Virginia Lawyers



### Zane Dale Christian

A Remembrance by  
B. Alan McGraw, Esquire

There are those individuals we encounter in life who are larger than life itself, and such was the case of Zane “Dale” Christian, Attorney and Counselor at Law, who died on September 15, 2019.

Dale hailed from the western coal-bearing portion of Tazewell County. The son of a coal miner father,

Continued on page 5 >



### The Honorable Eleanor S. Dobson

A Remembrance by  
Susan F. Pierce, Esquire

I remember the beautiful fall day in 1981 when I met Eleanor Dobson. Newly graduated from college, I had landed a job as a legal secretary for Varoutsos and Koutoulakos in Arlington, a stop gap, I hoped, while I applied to law school and saved for my wedding. She introduced herself in a soft voice telling me she was the “down the hall lady” who shared an office

Continued on page 6 >



### Malcolm Pitt Friddell

A Remembrance by  
Nancy Newton “Newnie”  
Rogers, Esquire

“Are you crying? There’s no crying in baseball!” Who could forget that iconic scene from A League of Their Own. While there may be no crying in baseball, family, friends, clients and colleagues

Continued on page 7 >



### John Wesley McClintock, Jr.

A Remembrance by  
Steven D. McClintock,  
Esquire

My father, John Wesley McClintock, Jr. of Richlands, died shortly after a fall at home on September 5, 2020, aged 93 years. I have the distinct honor of presenting this remembrance, and I thank the

Continued on page 9 >



### Alexander H. Slaughter

A Remembrance by  
John M. Oakey, Jr., Esquire

I first met Alex at law school at the University of Virginia. He was friendly and likeable and obviously very bright, but I did not get to know him well until much later.

Continued on page 10 >

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# From the Chair of the Senior Lawyers Conference

Margaret A. Nelson, Esquire

Chair, Senior Lawyers Conference Board of Governors

“Stop” ... “Pause” ... “Take a deep breath” ... “Exhale” ... “We are here” ... “Together.” Have you found yourself exhaling with huge sighs in the past year? Sometimes my sighs have been of relief and gratitude for the many positive things in life. But many times, my sighs were with grief for losses, those I have felt for myself and those I felt for others who faced tragedy during this rough year. Having lost my 97-year-old father, a WWII Marine Corps veteran, by natural causes in January, I am grateful for a life well-lived and a life that is now at peace. But my heart goes out for all those who have experienced losses of all types along their path in a difficult year. However, if you are reading along with me, then you and all those reading with us, have made it to the other side of this challenging pandemic period. So, as our new Wellness Coordinators would say. “Take a deep breath” ... “Exhale.”

As was true everywhere, many of the Senior Lawyer Conference (SLC) programs and events were cancelled this past year.

Nevertheless, one of our signature tasks at the SLC stayed on course and advanced to a new milestone. We are proud to announce that, for the first time, the Senior Virginians Handbook was translated into Spanish. Board member Barbara Anderson, as editor, continued her excellent edits and

oversight for the entire operation. With the terrific assistance from VSB staff and Barbara, the Spanish translation process was accomplished in the Fall of 2020 and became available online. Now the Senior Virginians Handbook, 2021, is available [online](#) in English and Spanish and will be edited periodically throughout the year. English language Handbook hardcopies are available at the VSB office now and hardcopies in Spanish will arrive there in July.

Senior Law Day programs – where these Senior Virginians Handbooks are most beneficial - have been in hiatus due to the Covid pandemic, but we hope will begin again soon. (For an example of the Senior Law Day programs, a video recording of a 2019 Senior Law Day presentation moderated by former SLC Chair, Bill Wilson, with members of his Allegany-Bath-Highlands Bar Association is available through the [SLC website](#).)

Likewise, SLC Board member Frank O. Brown, Jr.’s presentation to local bar groups: “Protecting Your and Your Client’s Interests in the Event of Your Disability, Death, or Other Disaster” has been postponed. And, again, we are unable to host the Annual Meeting’s Saturday Brunch for VSB members who have reached their 50th year of membership during the preceding year. This wonderful event recognizes and celebrates

our most senior members. Every year it is a joy to be present to celebrate these senior attorneys who have persevered through the mountain top and valley experiences of law practice. Celebrating with them and their family and friends while they enjoy the collegiality of former classmates, opposing counsel, law partners and colleagues - is a true privilege. Presiding at that brunch, announcing their names, and shaking their hands is a pleasant opportunity for the SLC chair. Sadly, all of us have missed two in a row. It is my sorrow that I will not be able to shake hands and give hugs of congratulations. However, 204 attorneys will receive their 50-year certificate of recognition by mail from the VSB for having reached this significant milestone. In their honor and in recognition of their service, I include a list of their names at the end of this article. And, if you know someone on that list, please reach out to them.

Watch for a new venture where Conference members may engage. For several years, the SLC Board of Governors’ open table discussions have gravitated around concerns about lack of civility, professionalism, cordiality, and preparedness by some in our profession across the Commonwealth. In partnership with other VSB bar groups, in 2020 we designed a CLE on those points. Sadly, the pandemic shut down our two-part Showcase

CLE at the VSB 2020 Annual Meeting which was cancelled. This year, in partnership with the VSB's Litigation Section, SLC Chair Elect, Peter Burnett, and Vice-Chair Elect, Carter Younger, have taken ideas from the cancelled CLE and are expanding the dialogue into a video series with judges and skilled litigators to promote professionalism, cordiality, and excellence in the courtroom and to give insight and support to practitioners of all ages and skill levels while promoting

collegiality among the members of the bar. Stayed tuned for developments for this programming.

Like my predecessor, John Eure, eight years ago my dear friend, the late Renae Reed Patrick of Blue Ridge Legal Services, invited me to serve on the SLC Board of Governors and I have never regretted my decision to join. The attorneys who bring their time and talents around our board table are some of the most able, most committed, and most genuine

people that I have had the privilege to know in my profession. Thankfully, someone asked, and I said "yes." It has been my constant privilege to serve and work with these extraordinary people. Do not wait to be asked. I urge you to find your interest and step into the arena with your local bar, specialty bar, or one of the VSB committees, sections, or this Senior Lawyer Conference. You are already a member here .... and you will not regret it.



## Fifty Year Award Recipients

Admitted July 1, 1970 - June 30, 1971

Martin Abramson  
Warren William Ament  
Myron Robert Aust  
Hon. B. Carlton Bailey, Jr.  
James Theodore Baker  
Robert N. Baldwin  
Graydon Montague Barnum  
George B. Barrett, Jr.  
Myra Hymovich Barron  
Richard Jay Beaver  
Frederick W. Beck, III  
Wayne L. Bell  
William W. Berry, IV  
Wayne D. Berthelsen  
Harvey Ernest Bines  
Richard W. Blackburn  
Thomas Wilcox Blue  
Walton G. Bondurant, Jr.  
Richard Winston Boone  
Hon. Joseph Phillips Bounds  
Prof. Denis Joly Brion  
Stanley B. Brock  
Rebecca S. Bromley  
Thomas C. Brown, Jr.

Dennis Paul Brumberg  
Ronald Lee Bub  
Thomas Edward Bundy  
Donald Keith Butler  
Douglas E. Bywater  
Hon. Samuel Edgar Campbell  
Charles J. Caridi  
Thaddius James Carvis  
Kenneth E. Cohen  
Michael S. Colo  
James Russell Corbett  
Bradley R. Coury  
John Boteler Cowne, Jr.  
Richard Evans Craig  
Alan B. Croft  
Edward B. Crosland, Jr.  
Benjamin B. Cummings, Jr.  
Henry P. Custis, Jr.  
Felix Joseph D'Ambrosio  
Darden E. Daniel  
Gerald Arthur Dechow  
Hon. Ray Wilbur Dezern, Jr.  
Henry P. Dickerson, III  
Joan R. Domike

Brian J. Donato  
James Brian Donnelly  
Donald Joseph Drees, Jr.  
Harley W. Duane, III  
John S. Edwards  
Jon P. Eichler  
Marshall Lynn Ellett  
Laurence M. Evans  
William Edgar Evans  
Francis Benedict Fennessey  
Michael S. Ferguson  
Henry Stuart Fiedler  
Albert James Francese  
Allen R. Frischkorn, Jr.  
Charles E. Gaba  
Robert Patrick Geary  
Thomas William George  
Hon. Herbert C. Gill, Jr.  
Fitzhugh Lee Godwin, Jr.  
Kenneth M. Greene  
William Frederick Harvey  
Dennis Clair Hensley  
Howard D. Hensley  
Ronald Paul Hilst

Hon. Thomas Todd Hodgdon	Charles F. Midkiff	Howard P. Smith
Robert Power Hodous	Marvin D. Miller	Jack D. Smith, Jr.
William S. Hudgins, Jr.	John Geddes Milliken	Michael Willis Smith
Charles A. Huffman, III	Hon. Stephen S. Mitchell	Lawrence Mark Spigel
John Paul Hume	John Tosh Morris, Jr.	Jeffrey M. Steingold
Hon. Joseph Osborne Humphreys	William Robert Moser	Robert Eley Steinhilber
Richard Munroe Irby, III	Timothy James Murphy	Robert Mason Steptoe, Jr.
Michael Joseph Jacobs	Valerie E. Nemirow	Frederick Bruce Stewart
John Hamilton Johnston	Larry Sheldon Nixon	Thomas D. Stokes, III
Elaine R. Jones	John Lawrence Norman, Jr.	George Taft
Samuel S. Jones, Jr.	David Lawrence Norton	Frederick Richard Taylor
Hon. Phillip John Kardis	Robert Craig Nowak	Hon. S. Martin Teel, Jr.
David G. Karro	Gerald J. O'Brien	Hon. Everette E. Thomas
Richard A. Keeney	Jeffrey Alan Oppleman	Dade Whitney Thornton, II
Hon. M. Langhorne Keith	Daniel Parker, Jr.	John W. Thyden
Patrick James Keogh	Robert S. Parker, Jr.	Hon. Douglas Oscar Tice, Jr.
Karen C. Kincannon	John Robert Patterson	William Hugh Townsend
Hon. John E. Kloch	Robert Edward Paul	Vincent A. Tramonte, II
Charles H. Krumbein	Gary G. Peterson	Charles Kent Tribble
Toby Harold Kusmer	Jerry Malcolm Phillips	Howard Julian Troffkin
John C. Lane	Kenneth Alvin Phillips	Sandy T. Tucker
Bruce Randolph Lange	Gerald Glenn Poindexter	Charles E. K. Vasaly
Gerard Robert Lear	William N. Pollard	Cecil Porter Vaughan, III
William Francis Lefever	Edward J. Pontifex	Hon. Arthur B. Vieregg, Jr.
Peter Thomas Legler	Terence Patrick Quinn	Robert Austin Vinyard
Laurence Ronald Letson	Vincent Lawrence Ramik	Ira Clinton Waddey, Jr.
Hon. Stuart Alan Levin	John Charles Rasmus	Stephen Wainger
Sharon Kay Lieblich	Nicholas Stuart Reynolds	Robert Bruce Wallace
John Robert Liset	Robert Frank Rider	Kenneth Dale Walma
Bruce Michael Louiselle	Stuart Hogan Robeson, Jr.	John Caldwell Warley, Jr.
Hon. Richard Keane Malamphy	Edward F. Rodriguez, Jr.	Robert Gibbs Watt
John Bertram Mann	Gerard Paul Rowe	Charles A. Wendel
Julian Elmo Markham, Jr.	Burton Jay Rubin	Prof. Thomas R. White, III
Robert Stillwell Marquis	Harry David Saunders	Anne Marie Whittemore
Robert B. McCaw	Paul T. Scott	Jon Michael Wickwire
Douglass John McCollum	William L. Scott, Jr.	Roger C. Wiley, Jr.
John P. McGeehan	Robert Edwin Sevila	Charles L. Williams, Jr.
J. Thomas McGrath	Joel Harvey Shane	Walter Lewis Williamson
Jack McKay	Kevin Peter Shea	Robert J. Wojtal
William St John McKee	David L. Siders	Michael K. Wolensky
James Francis McKeown	Carl S. Silverman	Murray H. Wright
Hon. David Alexander Melesco	Hunter W. Sims, Jr.	Richard Scott Young
Steven A. Merrill	Norman Henry Singer	William Carter Younger
Norval George Metcalf	Conway Wilbur Smith, III	Robert Peter Zaepfel

and an industrious mother who combined homemaking with a paper route and wallpaper hanging, he grew up in a home without electricity or indoor plumbing.

Imbued with his parents' examples of hard work and perseverance, Dale excelled in school both academically and athletically, and as a fourteen year old was presented with a summer work opportunity in the Texas oil fields staying with family in Houston. His father gave him money for a bus ticket, but Dale pocketed the money and instead hitchhiked to Texas. (No mean feat, given the state of roads in the late 1940's.) He continued this practice for several years, and to it managed to add a brief stint working underground in a local coal mine. Given that Dale was slightly claustrophobic and hated dark places, his foray into mining convinced him to pursue other opportunities, but he kept his miner's helmet and headlamp proudly displayed in his office for the rest of his days.

Upon his graduation from Richlands High School, Dale returned to Texas and spent a year at the University of Houston. He had always seen the University of Virginia as the Commonwealth's premier institution of higher learning, and transferred there for the remainder of his undergraduate studies and legal education.

After graduating from UVA, he returned to Tazewell County with the love of his life, his wife Virginia, and began his lifelong solo practice of law in Bluefield, Virginia in 1957. As was the case with many attorneys of that era

and this region, Dale's practice was general in nature. As a beginning attorney in Tazewell County in the early 2000's, I came across a deed of trust from the late 1950's in which "Zane Dale Christian" was listed as trustee. I innocently remarked to a senior partner at my firm that I did not know that Dale's father was an attorney. That partner looked at me as if I had a third eye in my forehead, and informed me that the trustee was "our" Zane Dale Christian. Dale began practicing law the year I was born, and I am no spring chicken.

In addition to his family and his practice of law, Dale was well-known to have two other life-long loves: farming, and University of Virginia football and basketball.

Dale managed to combine the practice of law with operating a large cattle farm in Bland County, Virginia. He enjoyed a hands-on approach to farming, preferring to bale his own hay and attend to his own livestock. He frequented livestock markets, buying and selling, and when he finally sold his farmland, Dale retained rights to visit, ride and hunt upon the lands he loved so dearly.

Dale's devotion to Cavalier sports was virtually unmatched. A longtime basketball and football season ticket holder, his wife Virginia recounts hundreds of trips to Charlottesville for games as well as trips to ACC and other basketball tournaments to follow Dale's beloved Hoos. At one ACC Tournament, items of memorabilia were auctioned to benefit UVA's Student Aid, and Dale was the high bidder for an autographed

pair of Ralph Sampson's size 17 basketball shoes. The bidding was fierce, but so was Dale, and he walked away with those shoes for a mere \$1200.00, and, in the process, managed to help those UVA students who were beneficiaries of UVA Student Aid. On another occasion, frustrated by the lack of local radio coverage of UVA games, Dale began sponsoring a local radio station's coverage so that he and other fans could follow the Cavaliers, a practice he continued for years.

Over the years, Dale's practice evolved to one primarily focused on criminal defense and personal injury. Given his roots, he felt a special calling to represent the working man or woman. An attorney who crossed swords with Dale told me that Dale was especially adept at direct and cross examination. He observed that he frequently went into trial against Dale feeling pretty good about his position, but as Dale drilled down with witnesses, the attorney realized that he was losing the jury as a result of Dale's effectiveness.

Dale contributed to his community in a variety of ways outside of his practice of law. He was active in and served as president of the Bluefield Lion's Club, and rose to the office of District Governor for that organization. Not content to limit his athletic support to his beloved alma mater, he also served as president of the Graham High School Boosters. He sat on the Town of Bluefield's Planning Commission, frequented public meetings and hearings of all sorts to voice his opinions on matters of

public interest, and even mounted an unsuccessful campaign for Congress in the early 1970's against the venerable William Wampler.

Dale's primary focus was his family, and he is deeply missed by his wife of 68 years Virginia, his children, daughters Chris Christian Bowles,

Dixie M. Christian, April Christian, and his son, Zane Fitzgerald Christian, as well as a host of grandchildren and great-grandchildren.



Dobson continued from page 1

with Senator Ed Holland. My job, I learned, included answering their phone at lunchtime.

Eleanor was the first female lawyer I had ever known. After a few weeks at my job, I ran into her again. I asked her how and why she became an attorney. I learned that her first husband, George Symthe, a pilot, had perished in a fighter jet accident. She said there were hard times, being a single mother of two young boys. She looked away for a minute or two, then went on to say how lucky she was to meet and marry her second husband, William Dobson. They had two more children. Over time I learned that while living outside Williamsburg, she decided to apply for law school and was accepted at William and Mary, graduating in 1974 at age 47. I asked her how she managed to do that with four children and a husband. She laughed and said, "It's been an adventure. You just have to have faith".

When I learned I had been accepted to law school I raced down the hall to Eleanor's office to tell her. She stood, threw out her arms and hugged me. A few weeks later we left our building together, walking side by side to the Courthouse. She stopped at the corner and took my hand. "Do you think I would make a good judge?" she asked. Her voice wavered a bit. "I mean a good

general district court judge?" she added. I squeezed her hand and said, "Of course you will make a good judge, you can do anything!" She laughed and thanked me. A few months later she was appointed General District Judge to Arlington County, the first female judge in the history of Arlington County. I met her family at her investiture and was so proud that I teared up. "We have both embarked on new adventures", she said, "me as a judge, you as a newlywed and future law student!"

George Mason Law school was just down the road from the Arlington Courthouse, so we saw one another from time to time. When I landed a law clerk position in Circuit Court we cheered and had lunch together. The General District Court secretary, Gail Marsh, and Circuit Court secretary, Lois Gilroy, quickly became my friends and the Courthouse became my home. Eleanor, Gail, and Lois—who I affectionately called the "three great ladies"—encouraged me to study, insisted I take breaks, brought me snacks, and provided me with advice and hilarious quips on getting through each day. We "girls" looked after one another. Going to law school by night and working in chambers by day was tough, but I was constantly reminded of the incredible strides made by Judge Dobson.

Judge Dobson quickly developed a courtroom demeanor of patience and kindness. She never raised her voice and had a never-ending supply of compassion for everyone who entered her court. Many of my fellow law students learned to practice law in her courtroom and could not have had a better teacher. She was the same person on the bench as she was when she took off her black robe and a great mentor to us all. She followed not just the law, but also Eleanor Roosevelt's advice "to handle yourself, use your head; to handle others use your heart".

I was a new lawyer when Gail Marsh died suddenly from leukemia. I have no memory of driving to her service, but I spotted Judge Dobson as soon as I walked into the building. She motioned for me to sit next to her. "I just saw her two months ago" I said, over and over. I was in shock and felt cheated and angry at being unable to say goodbye to my friend before her life was cut short. Before I knew it, I began to cry. Without hesitating, Judge Dobson pulled me to her side where I remained for the rest of the service. She knew books were my refuge and after the service told me to read something I loved as it would comfort me. Once home I made a cup of tea and reached for my childhood copy of Peter Pan. As the book

opened on my knee I read, “Never say goodbye because goodbye means going away and going away means forgetting”. That night I sat and looked at the stars, thinking about the three great ladies who had kept me going through law school and vowing not to forget their kindness. As always, Eleanor Dobson had been right. I went to bed with a lighter heart.

Judge Dobson wore many hats in her lifetime. She was a valued mentor, and her personal and professional qualities were

inspirational to all who knew her. She remained on the bench for 15 years and was Chief Judge at her retirement in 1997. She never touted herself as the trailblazer that she was, instead preferring to talk about her family’s cross-country trip, her new puppy or the Marshall, Virginia home that she and her husband loved so much in retirement. Kind, tolerant and eloquent, she was a woman who embodied Gandhi’s directive, “For it will be by those small things that you shall be

judged”. Many small things made her exceptional in her lifetime.

At her quiet 2013 memorial service, I sat up straight, eyes dry. I thought of the funeral service we had attended together nearly 25 years earlier and the advice she had given. That night I looked at the stars as they sparkled against the blue-black night and wished Judge Dobson a good journey home. Hoping that I had become half the woman that she was, I whispered to my friend, “Second star to the right, and straight on till morning”.



of Malcolm P. “Mac” Friddell were greatly saddened by his death on March 12, 2021.

Mac loved baseball. If you look closely at the picture that accompanies this remembrance, you will see baseball diamonds on his tie. As the grandson of the legendary University of Richmond baseball coach, Malcolm U. Pitt, baseball was simply in his blood. Mac loved playing, coaching, and watching baseball. He loved the Orioles and, consequently, loathed the Yankees. A gathering of friends and family was not complete without a good game of whiffle ball, baseball or softball.

In his book, *Summerland*, Michael Chabon writes, “The first and last duty of the lover of baseball, whether in the stands or in the field, is the same as the lover of life itself: to pay attention to it. When it comes to the position of catcher, as all but fools and short-stops will freely acknowledge, the

solemn requirement is doubled.” Mac Friddell was a catcher, and true to this requirement, always paid doubly close attention to the game of baseball and to life.

Sitting with Mac at a baseball game resulted in an entirely different way of watching a game. He shared his knowledge of the game and scored games longhand. He was always eager to teach someone the art of scoring and paying attention to a game in a way that transformed watching a game.

Mac also paid attention to life and to the people he encountered in it. A proud graduate of Princeton University and the University of Virginia School of Law, he was an exceptional trusts and estates attorney, first at Mays & Valentine/ Troutman Sanders and later at Virginia Estate & Trust Law, PLC. Like a good catcher who earns the trust and confidence of his pitcher, Mac’s humor, kindness, and genuine interest in his

clients allowed him to earn their personal trust and confidence. Catchers also have the best view of the entire field and can help a team make adjustments accordingly. To have the best possible plan, clients must share the joys and successes of their lives but also the hardships, concerns, and sadnesses. With great insight, Mac could see the broad complexities of a person’s life and provide wise and thoughtful counsel. Even after Mac’s retirement due to his Parkinson’s Disease, his clients continued to ask about him and expressed gratitude for all he had done for them. His exceptional empathy for and interest in people, combined with his keen intellect, resulted in his being recognized as one of the preeminent trusts and estates attorneys in the country as a Fellow of the American College of Trust and Estate Counsel.

Mac also understood that, like baseball, life is a team sport. To achieve success in life, we must

all share our talents, and Mac was most generous in sharing his. He was active in the Bar, serving as Chairman of the Virginia State Bar Committee on Trusts and Estates and as a member of the Legislative Committee of the Virginia Bar Association. He also shared his knowledge as a lecturer on trusts and estates topics. He also gave tirelessly and enthusiastically to his community. He chaired Reveille United Methodist Church's Board of Trustees and its Congregational Care Committee as well as the board of the Tuckahoe YMCA, where he was also active in coaching youth sports. He was a long-time coach with Tuckahoe Little League. Mac's involvement in the community was motivated by his desire to help others, but because those with whom he served valued his judgment and his intellect, they often became clients. His client development did not involve marketing; it was simply Mac being himself and paying attention to and caring about those around him.

He was also a skilled mentor and was mine from my first day as a lawyer. As an Orioles fan, Mac was a fan of Cal Ripken, Jr. Ripken once said, "Leadership is sharing your knowledge and your direction so that others grow and reach their potential." Whether it was with young attorneys, paralegals

or staff members or with community boards or fellow members of the Bar, Mac took great delight in helping those around him grow and reach their potential.

In good catcher fashion, Mac paid close attention to the simple but important things in life. Like his father, the noted columnist Guy Friddell, who wrote wonderful essays about the everyday joys of life like a mayonnaise and tomato sandwich, Mac had a deep appreciation for the gifts of each day – reading a good book or the box scores, watching his children play sports, eating cart food outside on a nice day, following UVA sports, participating in a good practical joke, listening to old tapes of interviews by his father, and most especially being with family and friends. His love for his wife, Anne, his children, Mac, Ginnie, Francie and Robert and their spouses and children was immeasurable.

By his own example, he showed the importance of having balance in your life and not taking life too seriously. As people shared kind words about Mac after his death, many mentioned his laugh. Just hearing his laugh emanating from the office next door would make me laugh. It was just that contagious and will forever remain in my memory.

Mac was in my office one day when I was a young associate. I received a call from a friend, asking me if I would be interested in driving Hank Aaron around Richmond while he was in town promoting his book. I told her I'd check my work calendar and would call her back. I shared with Mac what the call was about, and he insisted I call her immediately and agree to drive Mr. Aaron. Work could wait. He was teaching me to pay attention too. To live life well, you have to see the whole field.

Mac had a special place in his heart for Camp Virginia and later Camp River's Bend. There is a baseball field at Camp River's Bend named for Mac – his very own Field of Dreams. In one of the last scenes of the movie of that name, Shoeless Joe Jackson and other players from the past mysteriously disappear into the Iowa cornfield after a game of baseball. One player remains – a catcher named John Kinsella. He thanks Ray Kinsella, his son, for building the field, and as he turns to leave, Ray asks him if he wants to have a catch. I miss my friend Mac Friddell, but someday, I hope we will get to have another catch together and to score another baseball game. In the meantime, I'll do my best to follow his example to pay attention to any baseball game and especially to life and to do so doubly.





Senior Lawyers Conference of the Virginia State Bar for providing this opportunity to do so..

My father loved the practice of law. He inspired three of his sons to enter the bar, of whom I am one. I spent many days with him in the Tazewell and Russell Circuit Court Clerks' offices learning the ins and outs of title examinations, gaining practical knowledge and wisdom for my own later legal practice. "Proofread everything!", he'd say. That advice, sadly, still occasionally fails me. But it never did him.

Dad mentored or practiced with many members of the Tazewell County Bar, whose many stories of his curiosity, creativity and generosity could best be summarized by Dad's catchphrase, "Check the Code!" It's an admonishment that the initial source of legal research should always be the Code of Virginia. He leaves that bit of professional advice for the many younger members of the profession in Virginia who did not have the pleasure to know him.

Dad remained what he was from the day he hung out his shingle as a sole practitioner above the Rexall drug store in downtown Richlands in 1952: a small town attorney with a wide range of practice areas. I think that his great professional accomplishment is his reputation for courtesy, civility, curiosity, creativity and generosity with time and knowledge that he established with members of the Virginia Bar over his long career, especially in the southwestern counties. He didn't set important precedents.

He didn't rise to high office in political or business spheres. But his door was always open to his fellow attorneys, and, having checked the Code, he offered his take on the strengths and weaknesses of his colleagues' cases, if asked. He loved that! My Dad provided (mostly) free legal consultations... to other attorneys. Two more of his enduring traits were his collegiality and generosity. With his open door, and his blessedly long life, it's easy to understand how he earned the respect of his peers.

Dad's professional partnerships included Donald R. Mullins, Roger Mullins, Susan Bundy, Robert M. Galumbeck, J. Wesley McClintock III and Patrick R. McClintock, all of whom went on to distinguished public legal service. Dad also served as Substitute District Court Judge for the 29th Judicial Circuit Judge from 1994 until 2006, and was actively engaged in the practice of law for 67 years until retiring on October 1, 2019.

Born in Jewell Ridge in Tazewell County, Dad had eight uncles on his mother's side, all accomplished in trades or professions, but most inspirational to him was his uncle Walter M. Elswick, an attorney. When Dad was a boy, Dad's other visiting uncles would often slip him a nickel. Uncle Walter would give him a quarter. For a kid, that's inspiration! Dad's natural curiosity and later respect for learning were fostered by Helen Power, librarian at Emory & Henry College, who remained a lifelong friend and inspiration. After Dad's military service from

1944 to 1946 in the Philippines and Japan, further professional inspiration came from Richlands attorney T. G. Shufflebarger, who wrote the gold standard for recommendation letters in 1948 in support of Dad's admission to the University of Virginia, where Dad completed his law degree in 1952.

Dad met his beautiful wife Jayn while he was a law student and she was a nursing student at the University of Virginia. After graduating, they moved to Richlands with a table lamp and a brand new baby. Six more children followed. Much of Dad's very early legal work was in collections, but, in the long run and because he treated everyone with courtesy and respect, many of those defendants in those cases subsequently became long-term and trusting personal clients. He represented many local businesses and families for four generations. He was very proud of his work in adoptions, and especially valued criminal defense work.

Dad was a former Mayor and Town Attorney of the Town of Richlands; former Director of The Richlands Area Industrial Development Corporation; past Commander of the American Legion Post No. 138, Department of Virginia; past president of the Richlands Lions Club; life member of the Veterans of Foreign Wars; member of the Richlands Lodge No. 318, A.F. & A.M., Scottish Rite 32nd degree Mason; and a Shriner, Kazim Temple, Roanoke. He was also a benefactor of Camp Joy in Tazewell County.

I don't think a remembrance of my dad's professional life would be complete without including four bits of wisdom which he included in his self-written obituary:

*Life is short - don't hurry, don't worry.*

*Blessed is he who hath found his work.*

*I am still learning.*

*Have something growing while you are sleeping.*

Finally, to the readers of this remembrance, if you are, or know, members of the Bar in Tazewell, Russell or Buchanan counties, and you need a good laugh, give someone there a call and share a story or two about John McClintock. He had a wicked sense of humor and he will be grinning right along with you.

I'll tell one, true, very family friendly story, since Mom and Dad had seven kids. Seven kids who drank a lot of milk!

In the days a half century ago when Leatherwood Dairy delivered milk right to the front door, Dad

had a jury trial. Among the prospective jurors was the milkman. During voir dire, inquiry was made into the milkman's acquaintance with any of the participants in the trial. The milkman said, "Well, I don't know him personally, but I am familiar with Mr. McClintock. He's one of my best customers!"

After the laughter subsided, and establishing that this familiarity would have no impact on his view of the evidence or law, the milkman made the jury.

Dad won the case.

That's my Dad!



Slaughter continued from page 1

I had no idea of the successes that he would achieve. In fact, I did not realize the full extent of his life in helping others less fortunate in our society until his death. Alex died on October 5, 2020, and it was then revealed that he was a member of the prestigious "Seven Society" at the University of Virginia.

Alex's successes began early in his life and were built on a solid foundation. His father was a football coach, and both his older brother and sister had been very athletic. Alex attended Woodberry Forest School, where he starred in football, wrestling and tennis as well as being a top student. He was an honors graduate at Yale in addition to again having a solid athletic record. In law school he was president of his class in his second year. Because of his academic achievements

he was selected for the editorial board of the Law Review.

After graduation, Alex served as a law clerk on the Eleventh U. S. Circuit Court in Florida. In 1964, we became associates two weeks apart at Battle, Neal, Harris, Minor, and Williams. In those days, associates were listed on firm stationery below the line of Partners. I was listed just above Alex because I arrived two weeks earlier. I think this is the only time I was above him in all the years of our friendship. From that date we became good friends. We became closer after he introduced me to my future wife. A year later the firm was one of the two original firms that became McGuireWoods. We were close friends, and both of us remained at the firm for the rest of our legal careers.

Alex's real contributions came after he moved to Richmond. We were both litigators, but he soon became involved in more complicated cases. Soon he was the "go to" lawyer in insurance coverage matters. Even Dick Williams relied on him for many of his answers although he never admitted it. Then he became the ethics expert and then general counsel of the firm. He was consulted in this area even after he retired. He also served as a member of the executive committee. In his retirement, he also served on the Board of the VSB Senior Lawyers Conference.

Early in our relationship, I discovered Alex's strong commitment not only to ethics but to doing the right thing even when it was not easy. We were both tennis players, and one incident demonstrated this to me. In the 1970's Alex was

a linesman at one of Richmond's only National Tennis Tournaments. One of the game's "bad boys" was serving with the games tied at 18-18 (the good old days). When Alex shouted "foot fault" the crowd was stunned. It was the right call, but I don't think I could have been that brave at that score.

Alex was an excellent lawyer and a modest person, but as our friendship grew, I realized that there was something far more important to him. He was always active in his church and community matters, but I later found out he was doing things that most of his legal friends knew nothing about.

Everyone knew that he was active at the Daily Planet (now known as Daily Planet Health Services) and president of the Board. Few knew that for many years after work he gathered nutritious prepared food from the Wendy's in our building

and took it to the Daily Planet to feed those who had no food.

Once I was helping the CEO of the local Legal Aid to raise a large sum of money for a much needed project. We were having difficulty when he told me not to worry since he knew he could get it from a person who had helped him before. He would not tell me who. Finally, he swore me to secrecy and told me it was Alex. I have since wondered how many times Alex had done this and no one knew. Maybe this is why he was selected to be a "Seven."

We were both personally involved in our churches. I was amazed at how he could travel so much on his cases and be so active. He was very involved at St. James Episcopal Church and served in many capacities including Senior Warden. He was also on the Standing Committee of the Diocese and served on its Ecclesiastic Court.

His only comment about the latter was that he couldn't talk about it.

Alex tried most of his cases outside of Virginia, so he did not become involved in many local legal activities, but his dedication to helping others seemed to be known by many. He did receive the Hill-Tucker Public Service Award from the Richmond Bar Association, and he was also a Fellow of The Virginia Law Foundation

Alex was the perfect friend. Alex was a modest person. He never discussed his successes or contributions. He wanted to talk about what others were doing. This made him loved and respected by everyone. He is missed by a lot of people including many who knew him well, and many who did not know him personally, but who were the beneficiaries of his generosity and good works.

I feel blessed to have known Alex as a great friend and colleague.



## AVAILABLE NOW

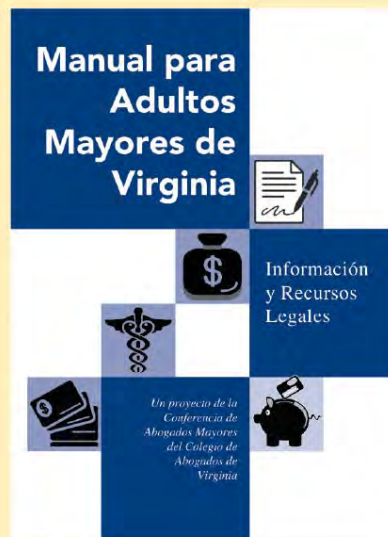
### Manual para Adultos Mayores de Virginia

The Senior Virginians Handbook is now available online in Spanish thanks to the VSB Senior Lawyers Conference.

This book contains over 100 pages of information designed to assist older Virginians with a range of legal issues, and life decisions.

The *Manual para Adultos Mayores de Virginia* is available for download online. [www.vsb.org/docs/Spanish\\_Senior2020.pdf](http://www.vsb.org/docs/Spanish_Senior2020.pdf)

The *Senior Virginians Handbook* in English is available at [www.vsb.org/docs/Senior\\_Handbook.pdf](http://www.vsb.org/docs/Senior_Handbook.pdf)



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# The Importance of Civility as a Civic Virtue and as a Fundamental Principle of Professionalism in The Law

By Brian L. Buniva, Esq.  
President, Virginia State Bar

I have been asked to provide my thoughts on “The Importance of Civility as a Civic Virtue and as a Fundamental Principle of Professionalism in the Law.” When Frank O. Brown, Jr. asked me, I felt truly humbled as Frank was one of the earliest examples of an attorney exuding civility and professionalism in my career. Candidly I feel it a bit presumptuous in providing advice to a body of Virginia lawyers who have practiced for a minimum of more than thirty years and who have collectively honed the nationwide reputation of Virginia lawyers practicing law with civility and professionalism shown toward the people with whom they encounter.

Why should lawyers aspire to conduct themselves with civility? After all, aren't we engaged in an adversarial profession with one side pitting its wits and evidence against the other side in a courtroom battle designed to find the truth? Don't we wear as a badge of pride and honor compliments from our clients and opponents describing us as a “mean S.O.B.” in the courtroom? Isn't the adversarial process the very essence of trial combat? I suggest that while the answers to these questions may be “yes” in some form, the “yes” is qualified. I think the full answer is yes, but with civility and professionalism.

More than a decade ago the Supreme Court of Virginia adopted “Principles of Professionalism.” These Principles focus on personal behavior. They state, in part, that we should:

Act at all times with professional integrity, so that others will know that my word is my bond.

Avoid all bigotry, discrimination, or prejudice.

Treat everyone as I want to be treated  
– with respect and courtesy.

Act as a mentor for less experienced lawyers and as a role model for future generations of lawyers.

All the Principles are worthy of reflection and incorporation into our daily lives, but for Senior Lawyers (55 and above), perhaps the most important principle is the admonition for us to act as a mentor for less experienced lawyers and as a role model for future generations of lawyers.

I will share with you an embarrassing but important lesson I learned from one of my former partners, Tim Kaine. We were litigating a case together in circuit court some thirty plus years ago. Back then I had a personal rule to act with civility toward opposing counsel, but if they did not act similarly and crossed my imaginary line, from that point on I would behave in kind with vengeance.

As the case progressed, I determined that opposing counsel had crossed the line with his conduct. The war was on. One day, opposing counsel asked for a short extension to respond to discovery. With a self-righteous tone, I refused the request. Subsequently opposing counsel called Tim with the same request, which Tim granted without hesitation. When I learned of this, I was furious. After all I was lead counsel. I went into Tim's office and in no uncertain terms told Tim that he should have checked with me first. Tim very politely asked me if the granting of the short extension requested would have any impact on the ultimate outcome of the case. Of course, the answer was no it would not have any bearing. He then told me that no matter how big a jerk opposing counsel was, he always acceded to requests if granting them would not compromise our client's cause. I remember sheepishly asking, “Where can I get some of your wisdom?” and walked out of his office a better man and a better lawyer.

I believe that among the greatest services senior lawyers can provide, is to mentor other lawyers in the ways of civility and professionalism. We do not have to be obnoxious fighters in representing our clients even in the most hard-fought cases. Indeed, I dare say that we do our clients a disservice when we

behave overly aggressively. Numerous “tips from the bench” panels in continuing legal education presentations have advised that an attorney in a jury or bench trial does not advance his or her client’s cause by use of caustic remarks and overly aggressive behavior. Indeed, the judge is turned off as is the jury. I suggest it is our duty as senior lawyers to mentor our colleagues on professionalism who require it, especially informally.

When I was a young solo attorney in Chesterfield County in the 1980s, the senior and young attorneys who were sharing office space gathered each day in the common library for lunch and discussed their cases, courtroom tactics, and behavior, both judicial and attorney conduct. The discussion often turned to matters of civility and professionalism in court. While there was no formal mentor/mentee relationship established, I received greater encouragement and knowledge about how to be a professional and civil lawyer there than any place else in my career. Do not underestimate the power of conversation over a sandwich.

The principles of civility and professionalism are not limited to the practice of law. I grew up as a Yankee fan and admired all the baseball heroes that were Yankees over the decades, even those who lived well before my time. My favorite of all time is Lou Gehrig, not because of what he did on the field, but because of his professionalism exhibited by what he said the last time he was in uniform as a New York Yankee in Yankee Stadium on July 4, 1939. Here is part of his remarkable farewell speech.

“Fans, for the past two weeks you have been reading about the bad break I got. Yet today I consider myself the luckiest man on the face of this earth. I have been in ballparks for 17 years and have never received anything but kindness and encouragement from you fans...Sure, I’m lucky. When the New York Giants, a team you would give your right arm to beat, and vice versa, sends you a gift – that’s something... When you have a wonderful mother-in-law, who takes sides with you in squabbles with her own daughter – that’s something. When you have a father and a mother who worked all their lives so you can have an education and build your own body – it’s a blessing. When you have a wife who has been a tower of strength and shown more courage than you dreamed existed – that’s the finest I know. So, I close in saying that I may have had a tough break, but I have an awful lot to live for.”

Two years later Lou Gehrig died of Amyotrophic Lateral Sclerosis (ALS or Lou Gehrig’s Disease), just shy of his 39th birthday.

So, in closing my friends, I want to thank you for being my mentors even though I do not know many of you. I am proud to be a Virginia lawyer because I am in the company of people who make civility and professionalism the touch stone of their daily lives. Thank you for allowing me to be your President of the Virginia State Bar. Your grace, courage, and devotion to your clients and the law are an inspiration and – That’s something.

## Pro Bono Activities By Senior Lawyers

The SLC actively encourages individual pro bono activities by senior lawyers. To find out how you can become involved in providing pro bono services, please call John Oakey at (804) 775-4336.

## Be a Mentor!

The Young Lawyers Conference Mentorship Network (in partnership with the Senior Lawyers Conference) helps newer lawyers learn from experienced lawyers (retired lawyers, too). Take a quick survey [here](#) if you are willing to help.

# Metabolic Syndrome and How to Fight It

by Edward F. Ansello, Ph.D.,

Director, Virginia Center on Aging, *From Age in Action*, Volume 36, Number 2, Spring 2021 (with permission)

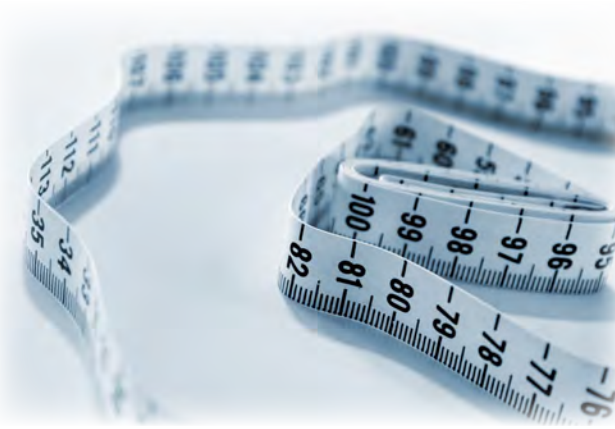
While Metabolic Syndrome sounds like a great name for a rock band, it's actually a health condition that's gaining an increasing amount of attention. It's present in one of three adults in the United States. Fortunately, there's good news to share about fighting this condition.

Metabolic Syndrome involves the presence of five features in our bodies:

1. a larger than preferred waist size (above 35 inches for women, 40 inches for men),
2. high levels of triglycerides (150 or higher),
3. low levels of the good cholesterol HDL (under 50 for women, 40 for men),
4. blood pressure higher than ideal (systolic 130 or higher, diastolic 85 or higher), and
5. too much blood sugar (100 or higher).

We have metabolic syndrome, a sign of insulin resistance, if we have three of these five features.

Understanding metabolic syndrome and the ins and outs of relationships among these five conditions or features goes a long way in helping us



to understand the fundamental functions of our well-being.

Not surprisingly, our diets contribute to having the metabolic syndrome. One culprit seems to be too many of our calories coming from carbohydrates in refined grains, potatoes, fruit juices, and added sugars rather than from vegetables, whole grains, beans, and whole fruits. Consider a common American lunch: a sandwich, with a small bag of potato chips, with a cookie for dessert. This is carbohydrates, with a side of carbohydrates, with a dessert of carbohydrates.

When we eat too many refined carbohydrates, we can develop “carbohydrate-induced high blood triglyceride levels,” basically, fat that can overwhelm the liver and cause it to send these fats into the bloodstream, which, in turn, raises the risk for atherosclerosis, a cardiovascular disease.

Higher levels of triglycerides often go hand-in-hand with low levels of the good cholesterol

HDL. Together, they signal a greater risk for developing type 2 diabetes, the adult-onset condition that is rampant in many developed countries.

Diabetes affects most every part of our bodies from top to toes. Eyes: diabetes can cause spots, blurry vision, and retinopathy. Brain: diabetes is increasingly seen as a risk factor for dementia

and stroke. Kidneys: diabetes is the leading cause of kidney failure. Heart: diabetes doubles the risk of heart attack. Extremities (fingers and toes): diabetes increases risks for numbness, pain, and weakness, peripheral artery disease, and the chances of amputations.

Obesity creates an amazing range of health consequences. Fat around the waist is the most dangerous. But we must differentiate among subcutaneous fat (just below the surface), visceral fat, and liver fat, the latter two causing greater damage. Visceral fat appears to be more closely linked to type 2 diabetes and coronary heart disease, theoretically because visceral fat cells release fat that goes straight to the liver helping to make the body “resistant” to its own insulin and excess fat in the pancreas helps to make the pancreas produce less insulin. With insulin resistance, our insulin cannot keep up with moving blood sugar into cells and type 2 diabetes

results. The relationship to diet in this process is fairly direct. Consuming foods made with saturated fat (e.g., palm oil, butter) rather than polyunsaturated fat (e.g., canola, olive, sunflower oils) produces more visceral fat and liver fat. Fructose (and its dozens of variants with other names) and high-fructose syrups, all found abundantly in so many canned and packaged foods, soft drinks, and snacks, are strongly associated with visceral and liver fat.

### Measure your waist size.

Place a tape measure around your middle, just above the hipbones. Pull the tape snug, then breathe out, and measure. Just like the advice to stand on scales daily, regularly measuring our waists will help avoid unwanted gains. At least we are less likely to say, “Where did these 10 pounds or two inches come from?”

Consider a common American lunch: a sandwich, with a small bag of potato chips, with a cookie for dessert. This is carbohydrates, with a side of carbohydrates, with a dessert of carbohydrates.

Carbohydrates account for about half of the calories in a typical American diet, with about two-thirds of these coming from refined grains, added sugars, fruit juice, and potatoes. Researchers working to lower triglycerides are testing diets where carbohydrates account for only 40% of

the diet. The OmniCarb studies with overweight and obese adults have shown that when carbohydrate intake was cut to only 40% of calories, triglycerides fell sharply,<sup>1</sup> and HDL rose. This reduction to 40% also lowered levels of fructosamine, a marker of blood sugar levels and predictor of type 2 diabetes.

High blood pressure or hypertension affects some 70 million Americans, and is a risk factor for stroke, and heart and kidney disease, if it is not controlled. About one of three American adults has high blood pressure, defined as 130/80 or more. The DASH (Dietary Approaches to Stop Hypertension) Diet was designed to combat high blood pressure, but, because it is a lifestyle change, it can produce positive results in fighting all five features of the metabolic syndrome. Daily recommended consumption is: Grains: 6-8 servings. Vegetables: 4-5 servings. Fruits: 4-5 servings. Nuts, seeds, legumes: 4-5 servings. Dairy 2-3 servings. Lean meat, poultry or fish: less than 6 one-ounce servings. See this NIH link for an extensive analysis of DASH: <https://perma.cc/YDG9-G89M>.

The Mediterranean Diet has become almost a generic term for a way of eating healthy foods. It is a plant-based diet rather than meat-based. Its components have been endorsed by the World Health Organization. We have all heard of its benefits and each of us has some concept of what it entails: daily consumption of vegetables, fruits, whole grains, and healthy fats

(especially olive oil), with weekly rather than daily consumption of fish, eggs, beans, and poultry. The Mayo Clinic offers a good overview: <https://perma.cc/3BDC-W5ZJ>.

What I found in visiting Sardinia, a famed Blue Zone for healthy longevity, was not crowds of older adults exercising in public squares but rather older adults enmeshed in activity and movement.

### Movement and exercise.

As soon as someone recommends more “exercise,” many of us tune out. Maybe we should discuss Exercise Resistance as well as insulin resistance. What exercise recommenders are basically encouraging is movement. This has become more difficult, admittedly, during COVID-19 induced isolation. Many of us stay in our homes, some before a television or a laptop, not moving for hours. But breaking this sedative habit is essentially important to countering metabolic syndrome.

Movement prompts digestion, circulation, and metabolism, strengthens joints and muscles, and changes stimulation. What I found in visiting Sardinia, a famed Blue Zone for healthy longevity, was not crowds of older adults exercising in public squares but rather older adults enmeshed in activity and movement. They walk to shop, to visit with family and neighbors, and are engaged as part

of their communities. Whether up in mountain villages near Nuoro or the Western flatlands around Oristano, older adults were moving. Perhaps as importantly, when they weren't moving, they were often socially engaged having coffee with friends at small shops or visiting with each other in streets or on benches. I was not struck by images

of an idyllic paradise, for there's widespread unemployment and youth exodus; but I was impressed by the integration of movement in the daily lives of these older adults. Movement, as well as seeing a healthcare provider and the aforementioned dietary improvements, are the basics we need to combat metabolic syndrome.

[Newsletter Editor's note: With all the concerns about well-being (particularly emotional and mental health, and substance abuse) among members of the legal profession, it is also important that we pay attention to physical health as a component of overall well-being.]

#### Endnotes

1. <https://perma.cc/Q37M-NSGD>

## You're retiring, but your law degree doesn't have to.



### Transition into emeritus status and practice only pro bono.

For questions about the program, contact the VSB Pro Bono / Access to Legal Services department at (804) 775-0522.

To start the application process toward emeritus status, call the membership department at (804) 775-0530.

## FREE ANNUAL CREDIT REPORTS

Federal law requires each of the three nationwide consumer credit reporting companies - Equifax, Experian and TransUnion - to give you a free credit report every 12 months if you ask for it. They also make it easy to accomplish many credit-related tasks right from your computer.

To assist consumers during the COVID-19 pandemic, Equifax, Experian, and TransUnion are now voluntarily offering free weekly online reports.

Additional information may be accessed at [www.annualcreditreport.com](http://www.annualcreditreport.com).



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# What's On the Horizon for Law Firms in 2021?

by Sharon D. Nelson, Esq. and John W. Simek

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Jim Calloway, Director of the Oklahoma Bar Association's Management Program, frequently speaks with us about the future of law. Recently, Jim recorded a Legal Talk Network podcast with Sharon which bears the same name as this article. You can find the podcast [here](#).

The authors continue the discussion below.

We were glad to see the backside of 2020. But 2021 carries many uncertainties with it and that makes predictions risky. Fortunately, we are not averse to risk-taking and it is a worthwhile effort to make predictions, especially about things we're fairly certain will come to pass.

One thing that both lawyers and clients seem to have changed their minds about is the importance of physical office space. Until we read the Clio 2020 Legal Trends Report which surveyed a combination of Clio users and non-Clio users, we had no idea that 21% of law firms were already operating without commercial office space and since the pandemic, another 7% of lawyers have given up their commercial offices and 12% are unsure they'll keep them going forward.

It's a pretty good bet that those numbers are higher today. We have heard from some of our big law friends that they are actively looking to sublet some of their space. Those that were near the end of their leases were the lucky ones because they can negotiate for downsized space. We, on the other

hand, signed a five-year lease in February 2020. Great timing, huh?

We may also see rotating offices (yes, there will be institutional resistance), where lawyers showing up to work get assigned to an office with the office space rotating among the firm's lawyers. Large, luxurious partner offices may also become a thing of the past. The physical footprint of the office may be reduced but virtually everyone seems to agree that firms of a certain size need some kind of office in which to conduct meetings, have a receptionist to deal with mail, packages, etc.

Another topic that comes up frequently is the cloud. We've been saying for a very long time that the cloud protects the security of law firm data better than the lawyers would and that is so true. We regularly hear stories of cloud breaches but lawyers often misunderstand their cause. The majority of those breaches are caused by users who misconfigured the security of the cloud and their presence in the cloud.

Recently, we've begun to say that the best time to move to the cloud

was five years ago and the second-best time is today. Clio CEO Jack Newton has said that if you're not in the cloud, you're not in the game. He calls the cloud table stakes, which we thought was a very interesting term. Also of note is the ILTA 2020 survey where the majority of respondents said, with every upgrade, they were going to the cloud. So, it's a staged process but it's in place for every upgrade.

In the beginning of the pandemic, those lawyers that had all their data in the cloud were way ahead of those who still had all their data locked in physical files. If your files were in the cloud, you could work. You weren't stuck with lugging files back and forth from the office.

We worry sometimes that lawyers are rearranging the deck chairs on the Titanic because they've been holding on to the past so much, not adapting to the future. We did see a lot change caused by the pandemic and we're hopeful that we will continue to innovate. Lawyers need to take a look at what they've always done and say, "Is this what we always should do? Is there a better way?" The seven

most dangerous words might be “But we’ve always done it that way.”

Cybersecurity has been a huge issue and will continue to be. The pandemic has been a nightmare of people calling and saying, “We’re down, we’re down, we’re down. We’ve got a ransom that we’re supposed to pay. What is all this about? What do we do?”

It was clear that there is not a lot of incident response planning going on because any incident response plans they had (if any) were just frozen in time, never updated. Cyber criminals of course are always sniffing for new opportunities and we certainly gave it to them with our new work from home environment. We saw more than a 750% rise in ransomware in the first six months of 2020 and home networks are about three and a half times more vulnerable than law firm networks. Using home machines rather than work-issued laptops that we bring home that are secured by the law firms – well, those home machines just complicate the problems.

As a result, one change we are seeing is that law firms are warming to the idea of making sure that all devices connected to the law firm network must be owned and secured by the law firm. That’s one trend we are sure will continue.

We have fond memories of the days when a thousand dollars was a big ransom. Seems like a long time ago. In the third quarter of 2020, the average cost of ransomware was approximately \$233,000 according to the cybersecurity and ransomware specialist firm Coveware.

Law firms are getting hit left and right among many other entities and, of course, recently, we’ve had government agencies and others hit in the SolarWinds attack which seems to be more about espionage than it does about ransomware.

With law firms, we now have the double ransom where the bad guys steal your data before they encrypt it. If you’re able to recover from backups without paying the first ransom demand, you will then get a second ransom demand for supposedly destroying your data and, of course, since we always trust cybercriminals, paying the ransom is often what we do. We pay them and trust them that our data has been deleted. When they make the demand, they will send you samples to show you that they have the data or they’ll post them on the dark web to scare you into paying. If you chose to pay for the decryption key in the beginning, you may still get that second ransom demand.

Insurance companies are often choosing to pay the ransom rather than pay for an extended business interruption and possibly the costs associated with the theft of the data. So, as of the end of 2020, fully 25% of victims today were paying ransoms.

We saw a 75% increase in business email compromise in the first three months of 2020, but the whopping great statistic was that we then saw a 200% increase each week from April to May. We have to assume that this means that cyber criminals are having a great degree of success using these compromised accounts.

Worse yet, once the criminals have all of your email, your contacts, your calendar, et cetera, you can’t do anything about that. That horse has left the barn. What everyone should do is have multi-factor authentication which prevents 99.9% of business email compromise attacks. Wherever you can, you should enable MFA. It’s almost everywhere these days. But it’s a matter of security versus convenience because lawyers don’t want to have to enter a text code from their phone. If you can block 99.9% of these attacks, focus on security instead of convenience. Microsoft itself thought it was so important that they made MFA free.

Yes, most lawyers are afraid they’ll have to enter a code from their smartphone, on their laptop or other device, but in most cases, that’s not true. It might be true of your doctor’s office. It might be true of your bank or your stockbroker but most of the time, you can make your devices “trusted devices” so that no code is needed unless you buy a new device, you change your password or perhaps you’re visiting someone and using their device for some reason.

Recently, we’re trying to move people away from text messages because SMS text messages can be so easily compromised. But if that’s all you have, it’s infinitely better than nothing. Authenticator apps and authenticator tools are what’s going to replace both two-factor authentication and multi-factor authentication. There are actually hardware tokens like Yubico’s YubiKey line or CryptoTrust

OnlyKey where you have a physical thing you carry on your key ring or in your purse and it plugs into either your USBA slot or USBC slot or Lightning for iPhone users.

Most people are going to prefer the software tokens - Microsoft authenticator, Google authenticator, etc. These apps constantly generate new codes that are only valid for about 30 seconds, so when you log into an account and you're prompted for a code, you just open your app and enter that most recent code and you're good to go.

Obviously, there's a lot of change in cybersecurity.

But let's go back to the daily business of law.

Some things are going to stick post-pandemic. Virtually all law firms now do electronic contracting, most using DocuSign (our preference) or AdobeSign.

Every lawyer now knows about e-notarization, which they didn't before. People who didn't have case management software are getting it and recognizing the value of secure client portals. Clients love the security of client portals where they can go in anytime and see their documents, review/pay their bills, etc. This has become part of being a client-centric law firm.

There are still an amazing number of lawyers who refuse to accept credit card payments. We've never understood that because 40% of consumers, according to one of the Clio surveys, would never hire a lawyer who didn't take debit

or credit cards. We've accepted credit cards for a very long time, but the pandemic caused cash flow to slow (slow mail delivery may have been a part of that). We began emailing our clients asking those who were writing checks to shift over to credit card payment. We immediately saw a marked increase in people paying promptly and the cash flow is much more dependable. It is critical these days to send out bills electronically with a payment link.

The thing that we are most certain will stick is the dependence on video conferencing. Yes, we'll go back to in-person meetings and courtrooms again, but now that the legal world and even the judicial world have learned to use virtual conferencing software, we doubt that we'll ever totally go back to our old ways. Too much money and time is saved by meeting clients via Zoom (the clear winner of the video conferencing software wars) – the same is true of court proceedings.

There are drawbacks of course. Some things are just better in person – when you can look a client or opposing counsel in the eye, you may “read” them better – and you may be more persuasive in-person. There are trade-offs and we're still figuring out what works when.

Clients are totally sold on video conferencing – they don't want to be waiting in your well-appointed reception area, which they are now keenly aware that they are

paying for. They don't want to travel to your office. They don't want to take time off from work. Clients and prospective clients all seem to have mastered Zoom – at least its fundamentals – so we doubt it will lose its dominance no matter how many of its features are imitated by its competitors.

Finally, we are seeing artificial intelligence being adopted more rapidly by firms of all sizes and that's likely to be a continuing trend in 2021. Could it be unethical NOT to use AI? We just read an article with that title. The answer is yes!

Though there are several ethical rules which may be implicated, notably a lawyer's failure to use AI could implicate ABA Model Rule 1.5, which requires lawyer's fees to be reasonable. If AI reduces costs, limits risks and is much faster, not using AI may result in a lawyer charging an unreasonable fee to a client.” We are seeing more and more lawyers, even in small firms, beginning to use AI in e-discovery, legal research, contract analytics, predictive analytics, document management and expertise automation, among many other arenas.

These are just some of the changes that law firms will see in the future. Nothing is more worthwhile to the thoughtful lawyer than to constantly scan the horizon for changes that can enhance the successful practice of law. If there's any silver lining to the pandemic, it is that it has shaken the legal world up and brought it years into the future.

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# Identity theft protection for taxpayers in six steps

Internal Revenue Service • June 1, 2021 • Issue Number: Tax Tip 2021-77

Thieves are actively working to steal the taxpayer information and identities. Everyone should do everything they can to prevent identity theft. Tax-related identity theft occurs when someone uses a taxpayer's stolen personal information, such as a Social Security number, to file a tax return claiming a false refund.

The IRS and its partners are working hard to prevent these types of crimes, and taxpayers can help by doing their part in stopping identify theft. Here are some tips to help taxpayers protect themselves against identity theft.

Taxpayers should:

**1** Always use security software. This software should have firewall and anti-virus protections.

**2** Use strong, unique passwords. They should also consider using a password manager.

**3** Learn to recognize and avoid phishing emails, threatening calls and texts from thieves. These scammers pose as legitimate organizations such as banks, credit card companies, and even the IRS.

**4** Don't click on links in unsolicited emails or messages from unknown senders. People shouldn't click on links or download attachments from emails that seem suspicious, even if they appear to be from senders they know.

**5** Protect personal information and that of any dependents. For example, people shouldn't routinely carry around their Social Security cards. They should also make sure tax records are secure.

**6** Get an Identity Protection PIN. [The Identity Protection PIN](#) is a six-digit code known only to the taxpayer and to the IRS that helps prevent identity thieves from filing fraudulent tax returns using a taxpayer's personally identifiable information.

## More information:

[Publication 4524, Security Awareness for Taxpayers](#)  
[Publication 5367, Identity Protection PIN Opt-In Program for Taxpayers](#)  
[Identity Theft Central](#)  
[Taxpayer Guide to Identity Theft](#)

## Contributing Authors

Thanks to the following who have contributed to the writing of articles included in this newsletter:



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Brian L. Buniva is the 82nd president of the Virginia State Bar. His career spans over four decades in government service and environmental law. His firm, Buniva Strategic Advisors, advises clients on land use development, working with federal, state and local agencies, and environmen-

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Margaret A. Nelson, of Lynchburg, is a solo criminal defense attorney representing children as a Guardian Ad Litem in the 24th Judicial Circuit where she was appointed and served the Lynchburg J & D Court on its Foster Care Best Practice Team. Admitted to the Bar in 1988,

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Nelson now chairs the Senior Lawyer Conference Board of Governors of the VSB, serves on the Executive Committee and Bar Council for the Virginia State Bar and serves on the board of the Virginia Law Foundation. She holds a B.A. from the College of William and Mary with double majors in Economics and History and her J.D. from the University of Richmond School of Law.

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John M. Oakey Jr. became a partner with McGuireWoods in 1969 and retired in 1999. He is currently active in the pro bono area. He is a Fellow in the American College of Trial Lawyers and is a past president of the Virginia Association of Defense

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Nancy Newton “Newnie” Rogers, with more than 30 years of experience, focuses her practice on estate planning and trust and estate administration. Her career began at Mays & Valentine, later Troutman Sanders, and she has been a member of Virginia

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Newnie is a Fellow of the American College of Trust and Estate Counsel (ACTEC). She has been listed in Best Lawyers in America® and Virginia Business magazine’s Legal Elite in Taxes, Estates and Trusts. She is rated as a Virginia Super Lawyer® in Estate Planning & Probate Law.

She is a former member of the Virginia Bar Association’s Board of Governors and past president of the Virginia Law Foundation. She is a member of the Virginia State Bar and the Virginia Bar Association and serves as President of the Estate Planning Council of Richmond and Secretary of the Virginia Gift Planning Council. Newnie also serves on the Legislative Committee of the Wills, Trusts and Estates Section of the Virginia Bar Association.

Newnie is an active community volunteer. She is a member of the Richmond steering committee of the Hollins University Alumnae Association and a member of the board of directors of the YMCA of Greater Richmond and a member of the board of the Virginia Environmental Endowment. She is a former board member of Westminster Canterbury Foundation and the Memorial Child Guidance Clinic Endowment Board. She is a former member of the vestry of St. James’s Episcopal Church. She serves Hands On Greater Richmond as a member of its Advisory Committee. She is a member of the Junior League of Richmond and a former assistant coach of Geronimo Lacrosse.

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