



John M. Oakey, Jr. Honored with Lewis F. Powell Pro Bono Award

Jack W. Burtch, Jr., Attorney at Law and Chair, Senior Lawyers Conference

Richmond lawyer John M. Oakey Jr. likes his pro bono work because, “I get as much out of it as my clients do and it really makes me feel good.” Mr. Oakey has been named a recipient of the 2007 Lewis F. Powell Pro Bono Award. The award, named for the former associate justice of the U.S. Supreme Court, was made by the Virginia State Bar in recognition of Mr. Oakey’s longstanding service in providing pro bono legal representation. The other 2007 award recipient is Cooperating Counsel and Volunteer Faculty affiliated with the Mortimer Caplin Public Service Center at the University of Virginia School of Law.

A Phi Beta Kappa undergraduate at UVA, Mr. Oakey graduated from its law school and made his legal career with McGuire Woods in Richmond, becoming a partner in 1969. Following his formal retirement in 1999, he has undertaken pro bono representation including domestic violence and child support issues, personal injury and insurance coverage matters. He has been an active volunteer with the Richmond Legal Aid Housing Program.

**“Many of us became lawyers
in the first place because we
wanted to help others”**

Lawyers who enjoy the practice of law, Oakey says, really don’t want to retire. Becoming involved in pro bono work allows the “retired” lawyer to maintain an active practice and at the same “do something fun.” When he was thinking about retirement, Oakey says he approached his firm with the idea that he would work more pro bono representation into his case load a few years before his retirement date. Now, as

a retired lawyer he spends at least ten to twenty hours a week working on pro bono matters.



▲ Edward R. Slaughter, Jr. (L) and Frank O. Brown, Jr. (R) of the Senior Lawyers Conference congratulate John M. Oakey, Jr. upon his receipt of the Lewis F. Powell, Jr. Pro Bono Award at the University of Richmond T. C. Williams School of Law on May 17, 2007. Photo by Sandra Adkins.

“It’s not burdensome; I have a lot of free time, but I sure get a lot out of it.”

According to Oakey, the young lawyers he knows contribute substantial pro bono hours to clients who need legal help but cannot afford to pay a legal fee. He thinks this may be a carry-over from encouragement by law professors or from doing pro bono work themselves in law school. As a group, he thinks young lawyers are doing more pro bono legal work than other lawyers. It’s at the mid-level, where a lawyer has practiced ten to twenty years, he says, that participation drops off. “Many of us became lawyers in the first place because we

Roby Greene Janney 1920-2007 A Remembrance

George W. Shanks, Attorney at Law and Chair Elect, Senior Lawyers Conference

When Roby Janney died on Sunday, April 29, 2007, at age 87, he left behind a legacy of collegiality and compassion, of prosperity through perseverance, of dedication and devotion to our profession. But he took with him our last tangible connection to the era when the law was a calling and not just an occupation.

In his signal tribute to those who raised most of us [or who raised those who raised the rest of us], Tom Brokaw called them *The Greatest Generation*. And they were. And Roby was of them and one of them and exemplified all that they represent to us today.

Roby Greene Janney, known affectionately to those in the Clerk's Office as "Papa" Janney, was possessed of a rare combination of attributes - a man of gentle character and subtle humor, a man of dignity and decorum, a man of probity and devotion to his family and his faith. He was, in a phrase, "Old School". You would not know, nor would he tell you, that he was among the Marines of the 4th Marine Division, USMC, who witnessed the raising of the American Flag on the summit of Mount Suribachi on Iwo Jima in 1945. Many who went through this crucible of Hell later lived their lives with abandon, feeling they were already living on borrowed time. Mr. Janney repaid his good fortune by living each day as a gift to be savored and repaid with goodwill to his fellow man. Of his War record, and make no mistake - like all of his comrades in arms, he was a true American hero - he would only say that he went into the service wearing glasses but after several years of having the Japanese shooting at him his eyesight improved to the point where he no longer needed them.

Educated at the University of Virginia and a passionate supporter of Mr. Jefferson's institution, he could have settled in any community in the Commonwealth and prospered. He chose Luray, at the time hardly more than a village and still today but a small town in a county of less than 24,000 souls.

But Roby Janney was not about the flash and glitter. While others of his day were building stone and glass empires in the canyons of concrete and steel, he was building a following that made him a local icon, synonymous in the community with the law and its processes. His method was his character: to persevere and to care. Any student of practice building would perceive in his simple formula the path to success and personal fulfillment. His knowledge of the families of Page County was encyclopedic. And in his routine query on meeting a client or examining a witness - "What's your Daddy's name?" - was an understanding of all he was to hear and a roadmap for the questions to be asked to learn the things he was not hearing. Few out of town counsel tried cases successfully in Page County without first consulting Papa Janney. More's the pity if he was on the other side.

Perseverance is rewarded with success. And Roby Janney was a success by any measure. To have your family appreciate the bounties of your success is unquestionable fulfillment. To pass your practice along to your son and see him grow and prosper and become the attorney you would most want at your side is a reward few men can savor. And, surely, Roby savored this, even as his vigor declined.

He lived his faith, even if as a rock-ribbed Southern Baptist he was a little hard on the Methodists. In one memorable exchange between legal counsel handling a complex inter-faith real estate transfer, Roby asserted that the Baptists could have accomplished in a week what the Methodist had not done in months, which provoked a predictable response from opposing counsel. Religious warfare did not ensue, but there was no mistaking where Roby Janney's sympathies lay.

Yet he practiced what he preached and he was, without doubt, one of the most generous attorneys in the local Bar. Eulogizing his former law partner, Judge John J. McGrath, Jr. recounted that the recipients of his monetary largess were legion and, indeed, in many cases never even knew the identity of their benefactor. In a day of non-profits and deductible

continued on page 8

United States Senate Honors Oliver White Hill On His 100th Birthday

On April 18, 2007, the United States Senate passed Senate Resolution 161, honoring Richmond lawyer and Senior Lawyers Conference member Oliver White Hill:



RESOLUTION

Honoring the life of Oliver White Hill, a pioneer in the field of American civil rights law, on the occasion of his 100th birthday.

Whereas Oliver White Hill was born on May 1, 1907, in Richmond, Virginia, moved with his family to Roanoke, Virginia, and graduated from Dunbar High School in Washington, DC;

Whereas Mr. Hill earned his undergraduate degree from Howard University and received a law degree from Howard University School of Law in 1933, graduating second in his class behind valedictorian and future Supreme Court Justice Thurgood Marshall;

Whereas, in 1934, Mr. Hill became a member of the Virginia Bar and began his law practice in Roanoke, Virginia, and continued in Richmond, Virginia, in 1939, leading the Virginia legal team of the National Association for the Advancement of Colored People (NAACP) from 1940 to 1961 and serving as one of the principal attorneys on the historic *Brown v. Board of Education* case in 1954;

Whereas Mr. Hill interrupted his law practice to serve in the United States Armed Forces from 1943 to 1945, and was later appointed by President Harry S Truman to a committee to study racism in the United States;

Whereas, in 1948, Mr. Hill became the first African-American elected to the Richmond, Virginia, City Council

since Reconstruction, and later served in appointed capacities with the Federal Housing Administration and the then-newly-created Department of Housing and Urban Development;

◀ Senior Justice Harry L. Carrico (standing) with Oliver W. Hill April 12, 2007, at the University of Richmond's Rule of Law Conference.

▼ A University of Richmond Law School resolution was read to celebrate Hill's legacy on the occasion of his 100th birthday, which was on Law Day, May 1, 2007. In the photo (L-R) are Elaine R. Jones, former president of the NAACP Legal Defense Fund, and Rule of Law Conference chairs Rodney A. Smolla, dean of the law school, and Justice Donald W. Lemons of the Supreme Court of Virginia. Photos by Dawn Chase.



Whereas Mr. Hill served as legal counsel in many of the Nation's most important civil rights cases concerning equal opportunity in education, employment, housing, transportation, and the justice system;

Whereas Mr. Hill has remained actively engaged with civic enterprises at the community, State, national, and international levels, and earned numerous accolades and awards, including the Presidential Medal of Freedom from President William Jefferson Clinton in 1999; the NAACP Spingarn Medal in 2005; and the dedication of a building on the grounds of the Virginia State Capitol in his honor by the Commonwealth of Virginia in 2005; and

Whereas Mr. Hill served as a mentor to generations of attorneys, activists, and public servants: Now, therefore, be it

Resolved, That the the Senate honors the life and legacy of Oliver White Hill, a pioneer in the field of American civil rights law, on the occasion of his 100th birthday. 🏛️

The Honorable Walter T. McCarthy

A Remembrance

Ken McFarlane Smith, Attorney at Law, SLC Board of Governors Member

Judge Walter T. McCarthy was a memorable Court House personality. The very force of his personality molded and formed the Arlington Court House during his years on the bench. He was tough and could be unbelievably firm. He was extremely intelligent and, in the opinion of practically everyone in the Arlington Bar Association, he was as accomplished as anyone across the river on the United States Supreme Court, or on the Virginia Supreme Court of Appeals (as it was then called) in Richmond. Young lawyers are usually in awe of older judges, but everyone was in awe of Judge McCarthy. He was about 32 years old when he became a Circuit Court Judge. His original circuit encompassed Arlington, Alexandria, Falls Church and Fairfax, Loudon, Fauquier, and Prince William counties. He stated that his early days on the bench were spent driving an automobile. During his tenure, his circuit reduced to Arlington, and he ended his career as the Chief Judge of the four-judge Arlington Circuit. All of the judges in Northern Virginia emulated this judge in some fashion. It was the sincerest form of flattery. He had a judicial presence about him which was almost eerie. Young lawyers who did not know him will scoff at this latter observation, but ask any other lawyers in my generation and see if they don't agree. He absolutely dominated the courtroom. There was no question about who was in charge. He had an uncanny ability to remember case holdings and statutes. Time and time again, he would recite to the attorneys in a case some holding in an obscure case about 50 years or so old in age. He would give an

Young lawyers are usually in awe of older judges, but everyone was in awe of Judge McCarthy.

approximation of the book and page number and tell them what the case held. And time and time again the lawyers would check him out and be astounded to learn that he was absolutely right on the holding and usually right or close to right on the book and page number. His legalistic approach was later tempered by the addition of Judge William D. Medley to the Circuit Court and, together, they were as effective a local judiciary as I have ever seen...McCarthy's excellent legalism was tempered by Medley's sense of equity, and they consulted frequently. Either was great in his own right, but together they were awesome...

Judge McCarthy was good to me and many other of the, then "young lawyers." He was instrumental in getting me

appointed Assistant Commonwealth's Attorney under William J. Hassan. After I had served in that capacity for four years, Judge McCarthy then appointed me Assistant Commissioner of Accounts and I have served there for a total of 49 years. He told me, in advance, that I was to be appointed Substitute Judge when a vacancy occurred. In 1961, I was appointed just as he said that I would be appointed, and I have served there for almost 46 years. Yet, in his courtroom, what I considered his fatherly feelings for me never counted for anything. If anything, he really expected more of me because of his fatherly concerns. He did the same thing with a lot of young lawyers...

Judge McCarthy finally retired in 1972, having established a record for longevity on the Circuit Bench - 42 years. He continued to hear cases after his retirement, when needed and when called - until 1980. In his earlier years, he had written several far-reaching opinions which were revolutionary for conservative Virginia. It was said that politically he destroyed his chances to be "promoted" to another level of the judiciary. This could be true. Several times his name was considered for the Supreme Court of Appeals, but always got lost somewhere. He loved Arlington, so he didn't mind being passed over. He didn't want to have to move to Richmond. The day of his retirement, every jurist from around the area came to honor him. The courthouse was jammed with admirers and well-wishers. The ceremonies were presided over by Judge McCarthy's next-door neighbor and good friend, Warren Burger, Chief Justice of the United States Supreme Court. The room was crowded with judges and dignitaries from all over Virginia and several other jurisdictions. Many were serving on judicial levels far above the Arlington Circuit Court level. Many of us present knew in our hearts, beyond any doubt, that Judge Walter T. McCarthy was as capable, if not more capable, than any of these "higher" judicial dignitaries present. They knew it too!

Judge McCarthy died in 1985 at age 87. He is directly remembered today by those of us whom he helped to teach and shape in the profession of law, and indirectly by those who have been taught and shaped by us. He is also remembered in a visible and tangible way today through the Walter T. McCarthy Law Library. The Walter T. McCarthy Law Library has existed for more than 40 years as a legal research library with particular emphasis on Virginia materials. Conveniently located in the Arlington County

continued on page 8

Senior Lawyer James C. Roberts Chosen to Receive 2007 Tradition of Excellence Award

Frank O. Brown Jr., Attorney at Law and Past Chair, Senior Lawyers Conference

Richmond lawyer James C. Roberts of the law firm of Troutman Sanders has been selected by the Virginia State Bar's General Practice Section to receive its prestigious annual Tradition of Excellence Award. The award recognizes a lawyer who embodies the highest tradition of personal and professional excellence and enhances the image of attorneys in Virginia. The award will be presented to Jim during the Virginia State Bar Annual Meeting in Virginia Beach in June, when he will also be honored by the Senior Lawyers Conference when receives his award for 50 years of service as a member of the Virginia State Bar.

Jim was nominated for the Tradition of Excellence award by W. Reilly Marchant, chair of the Richmond Bar Association's Nominations and Awards Committee. "Mr. Roberts has done almost every kind of case imaginable and he has done it with skill in the law and a common-sense approach to justice", Marchant wrote. "He is a man of great character and integrity, and yet he remains completely approachable by the newest and youngest lawyer seeking encouragement or advice. He is a shining example of how lawyers can serve the community and their profession, as well as make a great living ... as a general practitioner."



We do not often think of big firm lawyers as general practitioners, but in 2006 when Law & Politics magazine published its first Virginia Super Lawyers issue containing the top attorneys in Virginia, James C. Roberts was featured on the cover, with the caption, "The Last Great General Practitioner," and that is such an apt description of him. He is known as the "go-to" lawyer for individuals, businesses and others who need to be represented in any area of the law by an advocate with consummate skills, an impeccable reputation, and a keen sense of justice and service.

Jim Roberts is an example to us all because of his devotion to his family, his community and his alma mater (the T.C. Williams School of Law at the University of Richmond, where he graduated in 1957), his unyielding dedication to the ideals of justice and the legal profession, his zealous representation of his clients, and his service pro bono publico. 

▲ 2007 Tradition of Excellence Award recipient James C. Roberts.

Clients' Protection Fund Fee Assessment

The Virginia Supreme Court has amended Paragraph 16, Section IV, of the Rules for Integration of the Virginia State Bar, Part Six of the Rules of Court, to require that, effective July 1, 2007, each active member of the Virginia State Bar shall be assessed a required fee of \$25.00 for the Clients' Protection Fund on the bar's annual dues statement.

The \$25.00 annual fee is in addition to each member's annual dues. The bar shall report annually on or about January 15 to the Virginia Supreme Court on the financial condition of the Clients' Protection Fund, and the assessment will be reduced or discontinued whenever directed by the Court. 

The “Senior Law Day Program” - A Win-Win-Win Program

William T. Wilson, Attorney at Law and Immediate Past Chair, Senior Lawyers Conference

There is an old saying that from tiny acorns large oak trees grow – and, in this case, the “acorn” was the Senior Law Day Program which was first held in Covington by the Alleghany-Bath- Highland Bar Association on May 24, 2005. A panel of lawyers from that bar association, including one General District Court Judge, divided up the material in the Senior Citizens Handbook, a book jointly prepared by the Senior Lawyers Conference (SLC) and the Young Lawyers Conference (YLC), and presented the program to an audience of about 100 senior citizens at the Courthouse. From that “acorn” a Senior Law Day Program has developed statewide through the sponsorship of the SLC. Gradually, more and more bar associations are putting on Senior Law Day Programs, and the reports being submitted to the SLC indicate that each one has been a smashing success. The Alleghany-Bath-Highland Bar Association received an award of merit for its efforts, and the Senior Law Day Program has been nominated for recognition at the ABA convention in June, 2007. In my judgment, the program is “win-win-win.” The senior citizens “win” because they are receiving information about legal issues affecting their lives which they otherwise might not receive. If you have been present for one of these programs, you know how attentively the senior citizens received the program and how interested they were in the subject matter. The program is also a “winner” for the lawyers and their bar associations because it is impossible to be a part of one of these programs and not see the enormous good that is being accomplished. To be able to give information to senior citizens and know that they are receiving information vital to their well being is a rewarding thing to do. The program is also a “winner” because it raises the image of the lawyers in the bar associations in the eyes of the public. I cannot tell you how many people have heard the program on the radio or who read about it in the newspaper and came up to me thanking our bar association for putting on the program. With so many negative remarks about lawyers being bantered about in public, it is nice to receive that kind of praise and positive feedback.

For those bar associations which would like to do a Senior Law Day Program, the SLC has a “Blueprint” of the program which was put on by the Alleghany-Bath-

Highland Bar Association. It also has information from the Harrisonburg-Rockingham Bar Association which put on a first class Senior Law Day Program with approximately 300 people in attendance. I have said that the Alleghany-Bath- Highland Bar Association invented the “wheels”, as far as the Senior Law Day Program is concerned, but the Harrisonburg- Rockingham Bar Association added the “vehicle” to the wheels. That bar association conducted its program in a larger facility, solicited a number of paying sponsors for the program

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and obtained the cooperation of both senior citizen groups and the churches. It was a great success - and even raised funds for legal aid in the process. If your bar association obtains information about both of those programs, it will have all that it needs to put on a successful program of its own, and to help the senior citizens in your community.

If your bar association does decide to put on a Senior Law Day Program, I suggest that you involve some of your judges, along with lawyers in your bar and both senior citizens groups and churches. An easy way to do it, is to let the lawyers and judges put together the panel and the place to meet and let the churches and senior citizen groups get the crowd to the meeting. Coverage by radio stations and newspapers is always a big plus. If you are interested in this program, please get in touch with Mrs. Pat Slinger, the liaison between the Virginia State Bar and the SLC. Call her on (804) 775-0500. Good Luck! 

Protecting Your And Your Clients' Interests In The Event Of Your Disability, Death Or Other Disaster

Frank O. Brown Jr., Attorney at Law and Past Chair, Senior Lawyers Conference

Since the establishment of the Senior Lawyers Conference (SLC) in 2001, as one of the SLC's core programs, the SLC has worked to encourage and to help Virginia lawyers to plan to protect their and their clients' interests in the event of the lawyer's disability, death, or other disaster (and thereby to avoid receiverships). As part of that effort and as a service to the Bar, I have presented Ethics CLE programs throughout the Commonwealth. More about those CLE programs and about how to schedule them appears at the end of this article.

In November of 2003, the Virginia State Bar Receivership Task Force was established to study the costs and procedures involved when receivers are appointed to terminate the law practices of deceased or impaired attorneys, or of attorneys whose licenses to practice law have been suspended or revoked under circumstances that would preclude their further involvement in client matters, or with client funds in possession of the law practice. The Task Force focused on the issues of costs of receiverships, qualifications and responsibilities of receivers, insurance for receivers, and the relevant Virginia Code Sections. The Task Force examined the Virginia statutes dealing with receivers for law practices and drafted amended Code Sections 54.1-3900.01 and 54.1-3936, and 2.2-1839, all of which were passed by the General Assembly and signed by the Governor in 2005. The Task Force prepared a Handbook for Receivers to assist receivers for law practices throughout the Commonwealth in performing their duties, and to lend uniformity to procedures statewide. When an attorney is appointed as a Receiver, then the Receiver will receive a copy of the Handbook from the

VSB. In support of the VSB's and the Senior Lawyers Conferences's efforts to encourage lawyers to plan for their own disability or death (and thereby to reduce the need for the appointment of receivers), the Receivership Task Force, in conjunction with the Standing Committee on Legal Ethics, proposed a new Comment [4] to Rule 1.3 of the Rules of Professional Conduct, which was debated by VSB Council at its meeting on October 20-21, 2005, amended, and recommended to the Virginia Supreme Court. The Virginia Supreme Court modified the proposed new Comment [4] and adopted the amendment, effective February 28, 2006, as follows:

“A lawyer should plan for client protection in the event of the lawyer's death, disability, impairment, or incapacity. The plan should be in writing and should designate a responsible attorney capable of making, and who has agreed to make, arrangements for the protection of client interests in the event of the lawyer's death, impairment, or incapacity.”

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In support of members of the Bar in planning in compliance with the new Comment [4] and in furtherance of the SLC's goal of encouraging and assisting lawyers in doing such planning, local and specialty bar associations can arrange to have the Ethics CLE program presented to their members. The program may be presented as a one, one and one half, or two hour program, and the program qualifies for full MCLE Ethics credit. The program is presented at no charge, and is titled, “Protecting Your And Your Clients' Interests In The Event Of Your Disability, Death, Or Other Disaster”; it provides practical advice and forms for the lawyer's use in doing the planning. To arrange for this program for your bar association, please call Mrs. Pat Sliger at the VSB, at (804) 775- 0500. 

contributions, Roby Janney preferred to bestow his gifts on those he personally knew to be in need. He cared about people.

It is no surprise, therefore, that he became a vital force within the community. He was a longtime chairman of Page County Unit of the American Cancer Society [his only daughter suffered an untimely death to cancer], a founding member and president of Page Valley Kiwanis Club, a former commander and chaplain of Luray American Legion Post No. 22 and chairman of Page County Democratic Committee. He was a stalwart member of the Main Street Baptist Southern Church and taught Sunday School for 50 years. He gave back to the community in full measure even as he served it from his modest offices on South Court Street.

His relations with the bench were an extension of his sterling character. He began practice in 1948, at a time when dockets were not so overwhelming that judges didn't have time for informal chats with lawyers. He knew the judges before whom he appeared. He liked them. And they liked him. No war stories here, Roby didn't win every case he tried. But he was unfailingly polite in victory or defeat to the Court, to Court personnel and to opposing counsel. And this builds a reservoir of good will that can only be the envy of others less concerned about such niceties - and a model to be emulated by those wise enough to watch and to learn.

He was not stingy with his experience. Mentoring has become a hot topic in Bar publications and in CLE programs. For Roby, it was just a part of who he was. No need for an organized program, a lesson plan, a referral list. His door was open and any young lawyer was welcome to drop by for advice and counsel, which he shared without hesitation or

obligation. He once said to me, on the day I opened my practice in a converted garage, that I was welcome to use his library any time I liked, but he wouldn't send me any cases. His son listened to this with a twinkle in his eye, knowing the bark was worse than the bite. When five years later he sent me one of his long-time clients whose hotly-contested case he couldn't ethically handle, I knew I had been given a blessing of approval to be coveted as much as any formal recognition or award I could ever receive.

He was Page County Commissioner of Accounts, a Commissioner in Chancery, substitute District Court judge for the 26th Judicial District and a marriage officiant by Circuit Court decree. In the latter, he took special delight, performing ceremonies in his law office with his staff as witnesses whenever a young couple would happen through Luray and, so overcome with its natural beauty and romance, would hurry to the Clerk's Office for a license and then half a block down the hill to his door. One such couple showed up, the groom with a traditional Class "A" Marine haircut and his bride, a demure oriental girl in a stunning yellow silk wedding kimono. In a day before digital cameras and upon learning they had no plans for photographs, Roby would not let them depart his chambers until he had his faithful assistant, Jane Nichols, run down to the local drug store for Polaroid film so he could memorialize their union for them. Yes, Papa Janney was a romantic, too.

The long career of Roby Greene Janney was and is an inspiration to the profession. We who knew him were privileged to have him walk among us.

We shall not see his likes again. 🏛️

Courthouse, the Law Library provides legal reference materials and the services of a professional law librarian for the benefit of the Arlington community, including its citizens, judiciary, members of the Bar, and government agencies. It is the only legal resource available to the

general public in Arlington providing free access to local, state and federal materials through a commercial legal database service. It is truly fitting that Judge McCarthy's spirit and love for the law live on in this way in the Arlington County Courthouse. 🏛️

Virginia State Bar E-News: STAY INFORMED, GET CONNECTED

VSF President Karen A. Gould announces two new services to help bar members stay in the know and in touch. First, bar members will receive periodic electronic newsletters to keep them informed about important news and upcoming events. Each edition of the E-News will provide brief summaries of news and events with links to more detailed information.

Second, Gould encourages all members to sign up to have their names and addresses of record included in the new Online Member Directory, which may be done by clicking on the Member Login button and following the prompts on the Member page. Classes to be listed are limited to active, associate, active Virginia corporate counsel and emeritus. www.vsb.org

Living Greatly In The Law: Excellence, Civility, Professionalism, and Civic Engagement—Inspirational Words From Justice Donald W. Lemons

On May 12, 2007, at the University of Richmond T.C. Williams School of Law Commencement, Justice Donald W. Lemons of the Supreme Court of Virginia gave the following Commencement Address, which is printed here in its entirety because of its relevance to all of us:

“It is reported that Woody Allen gave the shortest commencement speech in American history. He is supposed to have taken the podium, looked at the assembled graduates and said, ‘We have given you a perfect world; don’t screw it up.’ My remarks will be slightly longer.

Each of you graduating today will receive your Juris Doctor degree, evidence of successful passage of rigorous study in the law. When you look at that framed diploma, you will



remember how hard you worked for it, sleepless nights, anxious moments, occasional self doubts, and moments of triumph, like when some of your professors tried to ‘hide the ball’ – but you saw it, and it wasn’t that mysterious and complicated after all.

Ah, but you don’t get to practice law yet. Another obstacle is in your way – that last form of professional hazing known as the bar exam. After 3 years of study, most of you will spend the better part of the next 2 months in intense study in preparation for the bar exam of the state of your choice. I predict that many of you will have what could be called

‘eureka moments’ during bar exam preparation. It will be that moment when you finally understand and say to yourself, ‘If that is what Professor Berryhill meant – why didn’t he just say so?’

After you pass the bar exam, if you are admitted to practice in Virginia, you will stand before the Supreme Court of Virginia and take your oath of office as an attorney at law.

‘Do you solemnly swear or affirm that you will support the Constitution of the United States and the Constitution of the Commonwealth of Virginia, and that you will faithfully, honestly, professionally, and courteously demean yourself in the practice of law and execute your office of attorney at law to the best of your ability, so help you God?’

◀ Virginia Supreme Court Justice Donald W. Lemons (second from left) leads a procession at the University of Richmond School of Law Rule of Law Conference Commemoration and Plaque Unveiling at Historic Jamestowne on April 14, 2007.

Following Justice Lemons are the Retired Honorable Lord Phillips of Worth Matravers, Lord Chief Justice of England and Wales; Justice Sandra Day O’Connor (Ret.); and Chief Justice of the United States John G. Roberts Jr. The party was escorted by Jamestown/Yorktown Foundation Fife and Drum Corp. Photo by Philip Cheney Jr.

When you take this oath, you embrace the ideal expressed by Oliver Wendell Holmes who posited that it was possible to ‘live greatly in the law,’ a theme adopted by the University of Richmond School of Law. Oaths and themes have a way of uniting and motivating people, empowering them to action, but of course they always need definition – flesh on the bones, examples that make them real.

On this joyous day of well-deserved congratulations and recognition, will you permit me to focus our attention on two essential components of a life lived greatly in the law:

continued on page 10

Excellence, Civility, and Professionalism in the rendering of legal services, and Civic engagement – the duties and responsibilities of citizenship.

It is the highest honor, privilege, and responsibility to carry a client's cause in your hands. By virtue of specialized training and education and with licensure by the state, you have the opportunity to aid your fellow citizens as they encounter the often bewildering demands and requirements of the law. Your clients may be individuals or they may be businesses and organizations, or your client may be the government. Their cause may be civil, transactional, or regulatory in nature. Their cause may include advice, guidance, and protection against the power of government. Perhaps their cause will include the liberties promised and secured by the Constitution of the United States. Their cause could include the protection of property or even life itself. Whatever their cause may be, it is the highest honor, privilege, and responsibility to carry it on behalf of your fellow citizens. And when you carry that cause, you pledge to do so with excellence in work product, with civility as your only manner, within the bounds of ethical requirements and with higher aspirations of professionalism as the lodestar to guide you.

You have achieved a milestone in education today, but it is only that, a milestone, a marker along the way. As one committed to the delivery of excellent work product, you have pledged to continue your legal education for the entirety of your professional career. Every document you prepare, every argument you make, every negotiation in which you participate, and every counseling session you have with a citizen who has trusted you with their cause should be the very best you are capable of doing and should be delivered with the pride of a professional.

When you become an attorney in the Commonwealth of Virginia, you pledge to demean yourself with courtesy. I urge you to do your part to return an ethic of civility to the practice of law. Most assuredly, it is not only the legal profession that suffers from a decline in civility. Our entire society suffers from this social disease. But lawyers, of all people, should lead the way in the restoration of civility. Why lawyers? Let me quote Justice Anthony Kennedy of the Supreme Court of The United States:

‘Civility is the mark of an accomplished and superb professional, but it is even more than this. It is an end in itself. Civility has deep roots in the idea of respect for the individual. We are civil to each other because we respect one another’s human aspirations and equal standing in a democratic society. We must restore civility to every part of our legal system and public discourse. Civility defines our

common cause in advancing the rule of law. Freedom may be born in protest, but it survives in civility.’

In your studies, you have been required to comprehend the ethics of the practice of law. These ethical requirements define the lowest level of conduct acceptable, below which you will be deservedly subject to discipline by your peers. While you must know these rules and studiously apply them in your practice, may I suggest that rather than skirt the perimeters of the low road, you should walk boldly in the center of the high road. Your aim should be to lift the profession to higher standards – aspirational standards that will be applauded by your peers and by the community that we serve.

Finally, I want to address the subject of civic engagement and the duties of citizenship. Lawyers in America have always served a larger role than just representing the causes of their clients. The Frenchman Alexis de Toqueville made this observation in the early 1800s:

‘The more we reflect upon all that occurs in the United States the more we shall be persuaded that the lawyers, as a body, form the most powerful, if not the only, counterpoise to the democratic element. In that country we easily perceive how the legal profession is qualified by its attributes, and even by its faults, to neutralize the vices inherent in popular government. When the American people are intoxicated by passion or carried away by the impetuosity of their ideas, they are checked and stopped by the almost invisible influence of their legal counselors. These secretly oppose their aristocratic propensities to the nation’s democratic instincts, their superstitious attachment to what is old to its love of novelty, their narrow views to its immense designs, and their habitual procrastination to its ardent impatience.’

When you take your oath of office as an attorney, you pledge to be a leader in your community, your nation, and the world. It may be that you will serve on the boards of non-profit organizations involving the arts or organizations providing needed services. It may be that you are coaching young children in sports. You may respond to the call to elective office on behalf of your fellow citizens. Or you may be called to serve as a citizen member of the many boards and organizations providing advice and guidance to government. One of the privileges and duties of being a lawyer is the call to service and leadership in your community, in your nation, and in the world.

Another privilege and duty of a lawyer is to provide services to those who do not have the financial resources to afford a lawyer. The promises of the American dream and the particular protections of our Constitution are often not

Senior Lawyer Philip Schwartz of Fairfax Receives Family Law Section Lifetime Achievement Award

On April 27, 2007, Fairfax Domestic Relations Lawyer Philip Schwartz, a member of the VSB Senior Lawyers Conference, who was admitted to the Virginia State Bar in 1959, was honored with a Lifetime Achievement Award by the VSB Family Law Section. The award recognizes an attorney: who has made a unique contribution to family law practice in Virginia; who has demonstrated dedication to excellence, competence and integrity; and who is committed to the “abiding importance of service to families through the legal system.”

Schwartz was nominated by Alexandria attorney, Sharon K. Lieblich, who wrote: “In a field where contentiousness often rules, Mr. Schwartz is always cordial; he exemplifies the highest degree of professional conduct to his fellow practitioners. In addition, he is consistently helpful to younger lawyers seeking his advice in complicated domestic relations situations.”

He is fluent in French, Spanish and Russian and has an international niche in his domestic relations practice. He has taught other attorneys to be sensitive to body language, gestures and linguistic elements that can cause misunderstandings with other cultures. “While he has personally handled a large number of interesting and

difficult situations, his willingness to assist others who encounter these troublesome international situations in their own practices is one of the hallmarks of his professionalism,” wrote Lieblich.

Philip Schwartz practices in Vienna, Virginia. 🏠



▲ Lifetime Achievement Award recipient Philip Schwartz and wife Mary Schwartz at the April 26 award ceremony at the Jefferson Hotel in Richmond. Photo by Sandra Adkins.

continued from page 10

realized by those who do not have access to lawyers and courts. All of us have the duty and the distinct privilege to render service to the poor.

If you took my class in Virginia Civil Procedure, you were introduced to a concept in the law: ‘Vigilantibus, non dormientibus, jura subveniunt.’ – the laws come to the aid of the vigilant and not the sleeping ones,” or as one student summarized it: ‘you snooze – you lose.’ If you have rights and don’t assert them, they may be lost.

A similar rule exists concerning life itself. Those to whom much has been given, much will be expected. Graduates of the law school class of 2007, you are people to whom much has been given. From you, much is expected. Equipped with specialized education, you will soon be licensed to render unique services. What is expected of you is nothing

less than excellence in work product, civility in manners, ethics in application, professionalism in aspiration, and leadership in your community and in a world that needs the gifts and talents you have to give. If you snooze, we all lose.

In a few moments, there will be various awards made to members of the class of 2007. Many of them recognize excellence in academics, leadership, and pro bono service. The faculty has seen something very special in this class – it is that service orientation that allows one to live greatly in the law. Not only are we confident that this class will not snooze, we look forward to learning of the great contributions you will make to the profession, to your community, to the nation, and to the world.

Congratulations and may Godspeed.” 🏠

wanted to help others”, Oakey says. He points out that we can continue to do this throughout our careers.

Even some clients who don’t technically qualify for legal aid need pro bono representation. Mr. Oakey remembers helping a working mother with three sons whose former husband was not paying child support. “I didn’t give her ‘not qualifying’ a second thought and we ended up getting her a lot of money.”

John Oakey thinks senior lawyers should do more pro bono work not just because it helps others who need it, but also because it helps them reconnect with why they became lawyers in the first place. “I get as much out of this as my clients do; it means a lot to me.” Even in “retirement” John Oakey continues to model the finest traditions of the Virginia lawyer. 

VISIT THE SENIOR LAWYERS CONFERENCE WEB SITE

Please visit the Senior Lawyers Conference at www.vsb.org/slc. This site contains a wealth of information, including newsletter archives, valuable links and other resources which will help you personally and in your practice. Please visit often for new information. Thank you.



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