Docket Call

Vol. 27 No. 4
Spring 2011
Joanna L. Faust, Ed.

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

In this issue:


Family Law, p. 2


Bankruptcy, p. 4


Criminal Law, p. 5


Ethics, p. 6

A Day at the YLC's Minority Pre-Law Conference

Brian T. Wesley

On February 26, 2011, George Mason University School of Law hosted undergraduate students from around the Commonwealth for the 2011 Northern Virginia Minority Pre-Law Conference. Sponsored by the Young Lawyers Conference, the day-long conference provided students interested in legal careers with information to successfully transition from college to law school.

The YLC's Immediate Past President, Lesley Pate Marlin, gave opening remarks regarding the roles and importance of the Virginia State Bar and the YLC. Her remarks were followed by a panel of law school admissions officers, who discussed law school admissions processes and application components. Next, students discussed LSAT test strategies, tips, and scoring with Griffon Prep, a testing preparation service located in northern Virginia, which had also sponsored a mock LSAT examination the prior evening. Following the LSAT panel, students were introduced to lawyers from a variety of practices and industries who shared insights on their careers as well as highlighted the diversity of opportunities within our profession. This panel was moderated by YLC Board Member, Macel Janoschka.

After the morning's session, the YLC facilitated a luncheon in which students interacted with law students, panelists and volunteers in a more intimate setting. The Law School Fair, a forum including sixteen law schools, followed the luncheon. This forum provided students with an opportunity to learn specific school admission requirements, tuition rates, and financial aid opportunities. Law school representatives from American University, Catholic University, Charlotte School of Law, CUNY School of Law, The John Marshall Law School, George Mason University, Howard University, Liberty University, Regent University, Seton Hall University, the University of Maryland, the University of Memphis, the University of Richmond, Washington & Lee University, West Virginia University, and the College of William & Mary participated.

The Council on Legal Education Opportunity (CLEO) informed participants of benefits and opportunities that it provides prospective law school students. Afterwards, students participated in a mock law school class led by Professor Christopher Newman of George Mason University School of Law, which focused on critical thinking and case analysis. Ending the day, students gained perspectives from current law school students and recent graduates regarding school/life balance, career placements, and law school experiences.

The Minority Pre-Law Conference Committee thanks Maureen Stengel and Catherine Huband of the Virginia State Bar; Macel Janoschka and Rachel Sanford of the YLC Board; Bianca Mack of George Mason University School of Law; and Samantha Ahuja, former Chair of the Northern Virginia Minority Pre-Law Conference, for their assistance with the Conference.

Brian T. Wesley practices law at Reynolds Wesley, P.C. in Richmond, Virginia. He can be reached at bwesley@reynoldswesley.com

Family Law Corner

Andrew R. Tank

Who Gets the Family Pet?

I was caught off guard when a client told me that he expected the most contentious issue of his divorce to be ownership of the family dog. My client was eventually able to work out a visitation schedule, but what if that was not the case and a court had to decide?

As heartless as it may sound to animal lovers, the law views pets as property.[1] And like other property in dispute in a divorce, courts will apply the equitable distribution statute[2] to settle disputes over pet ownership. You might think that there is no appellate case law on point, but you would be wrong. In February of 2011, the Court of Appeals decided the case of *Whitmore v. Whitmore*,[3] where the central issue was the ownership of the parties' Welsh Corgi.

The Whitmores purchased the dog during their marriage for $750. Both parties' names were on the dog's registration certificate. When the parties separated, the dog stayed in the marital residence with Ms. Whitmore, but Mr. Whitmore kept it for periods of time during the parties' separation. Mr. Whitmore asked the trial court to award him sole possession of the dog or shared possession with a visitation schedule. Ms. Whitmore did not want to share the dog because Mr. Whitmore's adulterous affair had destroyed their marriage.

Applying the equitable distribution statute, the trial court found the dog to be marital property. The court noted that both parties contributed to the acquisition, care, training, and maintenance of the dog, and that both loved the dog, considered it to be a family member, and had a strong bond with it. The court declined to establish a visitation schedule and instead awarded the dog to Ms. Whitmore because she had the dog during most of the parties' separation. Mr. Whitmore was awarded $750 to compensate him for the price of the dog. Among Mr. Whitmore's arguments on appeal were that the trial court erred by treating the dog as an inanimate object, and that it failed to consider the best interests of the dog. The Court of Appeals disagreed and upheld the trial court's decision.

The lesson of the *Whitmore* case is to avoid going to court over pet ownership. The equitable distribution statute was not drafted with pets in mind, and it is a clumsy means by which to resolve such disputes. Nothing in the equitable distribution statute suggests a court has the authority to establish a visitation schedule for a pet, and pets cannot be divided in half. In the worst-case scenario, an unsympathetic judge who is annoyed to have to hear the case could order that a pet be sold with the proceeds divided between the parties. More likely, the court will award the pet to one of the parties and the other will be given a monetary award that will not come close to compensating the parties for the loss of any pet worth fighting over.

1. *See* Virginia Code §3.2-6585.
2. Virginia Code §20-107.3.
3. *2011 Va. App. LEXIS 57*

Andrew R. Tank practices family law at Surovell Isaacs Petersen & Levy, PLC in Fairfax. He may be reached at atank@siplfirm.com.

Make a Difference. Volunteer.

The YLC's Immigrant Outreach Committee is now recruiting volunteers to help organize a number of projects, including CLEs on the Immigration Consequences of Criminal Convictions, Immigration Hot Topics and Red Flags for General Practitioners, and Immigration Options for Victims of Domestic Violence. The time commitment is not large, but we need volunteers who would like to actively participate. For more information or to sign up, please contact Emily Sumner at esumner@challaw.com or Hyojin Bae at HBae@berrylegal.com.

President's Message

Carson H. Sullivan

Well, this is it — my last column as President of the YLC. First, I want to say that I am so proud of the work that the YLC has done this year; I cannot thank our dedicated volunteers enough for all of their efforts on our programs and initiatives. From our Oliver Hill/Samuel Tucker Pre-Law Institute last July, to our three Minority Pre-Law Conferences (held in Lexington, Williamsburg and Arlington), to our new Mental Health Law CLE, volunteers all over the Commonwealth have been doing so much for the Bar and their communities. I have been highlighting our successes in my Virginia Lawyer articles, so I won't repeat them here. If you have not read those articles, look them up in your spare time! http://www.vsb.org/site/publications/.

The Top Ten Reasons You Should Attend the VSB Annual Meeting

Second, I want to convince you all to come to the VSB Annual Meeting to be held in Virginia Beach from June 16-19, 2011. There are a lot of reasons you should join us for the meeting, but here are the top ten (in no particular order, unlike a true Letterman list):

1 **The Reception on the Hill.** This reception takes place on Thursday, June 16, at 6:30 p.m. It's a great venue – on the hill in front of the original Cavalier Hotel overlooking the ocean.

2 **You can run a race.** If you're the sporty type, you can run in the 30th Annual Run in the Sun, which the YLC co-sponsors with Virginia Lawyers Media. It's a 5K that takes place on the Boardwalk on Friday, June 17, at 7:30 a.m. Yes, it's early, but if you're a runner, you probably expect that.

3 **The YLC is hosting the Showcase CLE.** The topic is evidence, but the theme is Judiciary Squares – a spin on the classic game show Hollywood Squares. Our "squares" are nine judges, including Supreme Court of Virginia Chief Justice Cynthia D. Kinser. I can't promise that they will be sitting in a giant tic-tac-toe board, but I can promise you will be entertained as you earn your CLE credit. The CLE starts right after the race on Friday at 8:45 a.m.

4 **There is lots of CLE credit to be had.** In addition to the Showcase CLE, there are many other CLE programs you can attend. Take a look at the brochure at http://www.vsb.org/special-events/annual-meeting/index.php.

5 **You can attend the YLC's annual membership meeting.** Join the YLC for cocktails and lunch as we present our Outstanding Service Awards and our R. Edwin Burnette Jr. Young Lawyer of the Year Award. I will also be passing the gavel to our incoming YLC President, Christy Kiely of Richmond.

6 **We're having a poolside reception.** Where else would the young lawyers be than gathering beside the pool on Friday night at 5:30 p.m.?

7 **You won't be sitting home bored on a Friday night.** After the YLC poolside reception, you can attend incoming VSB President George Shanks's President's Reception. We'll then head to the Banquet where he will be installed as President. The YLC usually has several tables at the banquet, so be sure to purchase your tickets for that event.

8 **Everyone loves volleyball.** The Annual David T. Stitt Memorial Volleyball Tournament, which is co-sponsored by the YLC and Fidelity National Title Group, will start at 1 p.m. on Saturday, June 18th. Come play (or watch others) bump, set, and spike in the sand.

9 **Networking, anyone?** I've said it before and I'll say it again—it is nice to meet other lawyers besides those whom you work with every day. The Annual Meeting offers great opportunities to network with lawyers and judges from all over Virginia. Also, if you are interested in getting involved with the YLC, come meet our Board members, circuit representatives, and program chairs.

10 **It's at the beach.** Last, but not least, I promise you that being at the beach is better than sitting in your office. I have been attending the meeting for several years, and you will definitely be able to make time for a little ocean-going, or the pool if you're less adventurous.

So there is my list. Since you are already on-line reading this column, why not register now? If you are a first-time attendee, the cost is only $130, and if you have been before but register before May 13, you can take advantage of the early bird pre-registration ($155, v. $180 after May 13). All the forms are on the VSB website – go ahead, sign up today! I hope to see you there.

Carson Sullivan lives in Arlington and practices employment law at Paul, Hastings, Janofsky & Walker LLP in Washington, D.C. She can be reached at carsonsullivan@paulhastings.com.

Bankruptcy Bullets

Martha E. Hulley

Learning the Lingo

Welcome to the latest installment of Bankruptcy Bullets, a quick-reference guide intended to assist attorneys in navigating the sometimes intimidating and often confusing arena of bankruptcy law. This article is the second installment providing some elementary explanations for words unique to the bankruptcy process. Remember that what is presented here are merely the most basic of descriptions.

- ADVERSARY PROCEEDING: An adversary proceeding is a separate proceeding from the main bankruptcy case and is commenced by the filing of a complaint. Although it is separate from the main bankruptcy case, it is related and the results of such a proceeding impact the main bankruptcy case. The procedures mirror those of standard federal court proceedings. For a technical definition of what disputes are brought as adversary proceedings, *see* Federal Rule of Bankruptcy Procedure 7001.

- CONTESTED MATTER: A contested matter is similar to an adversary proceeding, except that it occurs wholly within the main bankruptcy case, and does not have the same due process requirements of a separate adversary proceeding. Contested matters are evidentiary hearings, and discovery is often permitted. Generally contested matters cover those subject areas not included under FRBP 7001. Some examples of common contested matters are motions to lift the automatic stay and objections to proofs of claim.

- 341 MEETING OF CREDITORS: Following the commencement of a bankruptcy case, a debtor is required to appear and testify before a meeting of all his creditors. The meeting is presided over by the trustee, not the bankruptcy court, and is often held at an alternative location, such as the U.S. Trustee's office.[1] The debtor is deposed by the trustee and any creditors in attendance. Many creditors use this meeting as an opportunity to gain valuable information regarding collateral, the debtor's intentions to reorganize, and the likelihood of distributions on claims. The meeting is often referred to as the "341 Meeting" because it is governed by 11 U.S.C. § 341 of the Bankruptcy Code.

- CONFIRMATION: In bankruptcy cases where a debtor must file a plan of reorganization (or liquidation), the bankruptcy court must confirm a debtor's plan in order for a debtor to successfully navigate his bankruptcy case and receive his discharge. The debtor first files his plan of reorganization, which describes how he intends to reorganize his debts and pay his creditors. The plan is then subject to voting by all eligible creditors, and then must be "confirmed" by the bankruptcy judge. A confirmed plan receives the same treatment as a final order, and *res judicata* applies.

- EXECUTORY CONTRACT: An executory contract is a contract where performance by the debtor and/or the other party/creditor to the contract is still remaining following the filing of the bankruptcy petition. In other words, failure to perform by either party would result in a breach of contract. Examples of executory contracts include leases, intellectual property licenses, and employment contracts. A debtor can choose to assume or reject an executory contract in bankruptcy. Be forewarned, however: executory contract issues can get messy quickly.

- ASSUMPTION: If a lease or executory contract is assumed in a bankruptcy case, then the debtor must bring the lease or executory contract current, and that creditor is then treated as a priority creditor for all obligations owed on the assumed lease/executory contract. Further discussion of the requirements and consequences of assumption can be found at 11 U.S.C. § 365.

- REJECTION: If a debtor opts to "reject" the lease or executory contract, he gives up the benefits of the contract, and the other party to the lease becomes a pre-petition unsecured creditor for any damages under the contract. Depending on the type of contract/lease, certain damages caps are articulated in the Bankruptcy Code. Further discussion of the requirements and consequences of rejection can be found at 11 U.S.C. § 365.

- PREFERENCE: Probably one of the most hated and confusing concepts of the bankruptcy code is the concept that creditors who are paid by debtors immediately prior to the bankruptcy filing are required to pay that money "back" to the debtor, or face a lawsuit (an "adversary proceeding" for those paying attention!) The concept here is that often a debtor on the brink of bankruptcy will choose to pay certain creditors over others. Because one of the main tenets of the bankruptcy system is to promote fairness among creditors, the trustee is granted the power to recover transfers paid to a "preferred" creditor, so that the funds may be distributed among all creditors in similar positions. There are, of course, many statutory defenses that may be raised in a "preference action," and further discussion can be found in 11 U.S.C. § 547.

1. The chapter under which the case has been filed determines which trustee presides. For example, the Chapter 7 trustee will preside over Chapter 7 341 meetings, whereas the U.S. Trustee will preside over Chapter 11 341 meetings.

Martha E. Hulley practices bankruptcy law at LeClairRyan, P.C. in Alexandria. She may be reached at martha.hulley@leclairryan.com.

Criminal Corner

Amy L. Bradley

If you've spent any time in the hallways of a courthouse during a criminal docket call, chances are you have heard the name "Hernandez". In January, the Supreme Court of Virginia decided the case of *Hernandez v. Commonwealth*, 281 Va. 222 (2011). Since then, defense attorneys, prosecutors, and judges alike have been consumed with speculation about the implications of *Hernandez*, the proper use of the Court's decision, and whether or not the General Assembly will react.

In *Hernandez*, the Supreme Court of Virginia held that until a court enters a finding to hold a defendant guilty of a crime, the court retains inherent authority to take the matter under advisement or to continue the case for disposition at a later date. *Id*. This decision draws into sharp focus a debate which has raged within the defense and prosecution bars regarding the power of *Moreau v. Fuller*, 276 Va. 127 (2008).

In *Moreau*, the Court held that the act of rendering final judgment was a discretionary, not ministerial, act, and thus not subject to compulsion by a court to fashion creative and individualized dispositions in criminal cases. The Hernandez decision touches on an oft-debated issue previously sparked by the Supreme Court's decision in mandamus. *Id*. at 138-39. That holding followed the question of whether a court, having taken a criminal case under advisement for deferred disposition, may be forced to enter final judgment as a ministerial duty enforceable by mandamus.

Two years later, Rafael Hernandez was indicted for felony assault of a police officer. Under the relevant statute, a conviction requires the imposition of "a mandatory minimum term of confinement of six months." Va. Code § 18.2-57(c). Following the close of evidence at a bench trial, Hernandez asked the court to defer disposition of the case for a period of time and continue his bond for the same period, while subject to any conditions the court proscribed, and consider dismissal of the case if the defendant complied with the court's order. The trial court found that it did not have the inherent authority to defer a disposition where the Commonwealth did not agree and the evidence was sufficient to support a finding of guilt.

Hernandez challenged the trial court's ruling in the Court of Appeals, but to no avail. The Court of Appeals held that the circuit court had neither statutory nor inherent authority to defer disposition of the case. *Hernandez v. Commonwealth*, 55 Va. App. 190 (2009).

The Supreme Court of Virginia awarded Hernandez an appeal on the single assignment of error. The Court agreed with the Court of Appeals' observation that once a court has entered a judgment of conviction of a crime, the question of the penalty to be imposed is entirely within the province of the legislature and the court has no inherent authority to depart from the range of punishment legislatively proscribed. 281 Va. at 225 (citing 55 Va. App. at 196-97). However, the Court disagreed with the Court of Appeals' holding that the mere statement by a judge that the evidence was sufficient to support a conviction amounts to a judgment of conviction. 281 Va. at 225-26 (citing 55 Va. App. at 202). In sum, the Court found that until a written order is entered finding a defendant guilty of a crime, the court has the inherent authority to take a matter under advisement or continue the case for final disposition at a later date. 281 Va. at 226.

Prior to the *Hernandez* ruling, only ten statutes authorized a court to defer and/or dismiss a criminal case:

- § 4.1-305 – Purchasing or possessing alcoholic beverages
- § 16.1-278.8 – Delinquent juveniles
- § 16.1-278.9 – Delinquent juveniles; loss of driving privileges for alcohol, firearm, and other drug offenses
- § 18.2-57.3 – First offense assault and battery against a family or household member
- § 18.2-61 – Spousal rape
- § 18.2-67.1 – Spousal sodomy
- § 18.2-67.2 – Spousal object sexual penetration
- § 18.2-251 – First offender drug possession
- § 18.2-258.1 – Prescription fraud
- § 19.2-303.2 – First offender misdemeanor property offense

Following the *Hernandez* ruling, Assistant Commonwealth's Attorney and Delegate C. Todd Gilbert, R-Woodstock, introduced House Bill 2513, to effectively revoke the new common law authority of Virginia courts to defer disposition in criminal cases. The bill sought passage of a new Code section which would have read: "No court shall have the authority, upon a plea of guilty or *nolo contendere* or after a plea of not guilty, when the fact found by the court would justify a finding of guilt, to defer proceedings or to defer entry of a final order of guilty or to dismiss the case upon completion of terms and conditions except as provided by statute." The Bill passed the House (76 to 22) with an amendment limiting the time for entering final order to 60 days from the conclusion of evidence. The Bill never made it out of the Senate after being referred to the Courts of Justice Committee.

The scope of cases where a *Hernandez* disposition could be requested is seemingly unlimited. As of now, the General Assembly has not acted. However, the likelihood of future legislation to limit *Hernandez* is almost certain. Until then, the limits of *Hernandez* rest within the discretion of Virginia's courts.

Amy L. Bradley practices criminal law at the firm of Greenspun, Shapiro, Davis & Leary, P.C. in Fairfax. She may be reached at ab@greenspunlaw.com.

Ethics Corner

Emily F. Hedrick

A Lawyer's Duty to Disclose Error to a Client

A lawyer who makes an error in the representation of a client must determine whether she has a duty to disclose that error to the client. The primary source of any duty to disclose is Rule 1.4, which requires the lawyer to "keep a client reasonably informed about the status of a matter" and to "explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." Further, Rule 1.7 requires disclosure, and possibly withdrawal, in any case in which the lawyer's error creates a conflict between the lawyer and client, such as when the lawyer's representation of the client will be materially limited by the lawyer's interest in avoiding malpractice liability or otherwise avoiding responsibility for the error.

These rules will not require disclosure of every error the lawyer makes. An error that does not affect the client's case or that is easily remedied will not require the client to make an informed decision regarding the representation, nor will it create a conflict between the lawyer and her client. On the other hand, if the mistake creates a possible malpractice claim against the lawyer, then the lawyer is required to disclose that mistake, and to advise the client that he has a potential malpractice claim against the lawyer. LEO 1817. The rationale of LEO 1817 also appears to require the disclosure of any substantial violation of the Rules of Professional Conduct affecting the lawyer's representation of the client, even though not all such violations will give rise to a civil claim against the lawyer. The fact that the lawyer has a clear personal interest in not admitting mistakes suggests that she should err on the side of disclosing the error in any close case.

If the lawyer determines that she must disclose her error to the client, then she should provide a relatively broad disclosure. The disclosure must be sufficient to allow the client to make an informed decision about whether to change lawyers, whether to waive any conflict of interest and continue with the current lawyer, and to what extent corrective actions are possible. Additionally, if the error is one that she reasonably expects will give rise to a malpractice claim, the lawyer's malpractice insurance policy likely requires that she immediately notify her insurer of the claim.

Emily F. Hedrick is Assistant Ethics Counsel for the Virginia State Bar in Richmond. She may be reached at hedrick@vsb.org

The VSB's 73rd Annual Meeting will be held June 16–19, 2011. Go online to http://www.vsb.org/special-events/annual-meeting/index.php/ to keep up-to-date on all Annual Meeting events.

photo courtesy of Virginia Beach Convention and Visitors Bureau

What Today's Real Estate Investors Need to Know About Foreclosure-Related Lawsuits in Virginia
(Part One of Two)

John C. Cowherd

If a borrower defaults on a mortgage in Virginia, the lender does not need to file a lawsuit in a court in order to foreclose on the real estate. In December 2010, a bill was introduced in the Virginia General Assembly requiring court approval for foreclosure on all new mortgage loans. *See* S.B. 798 (Va. 2011). In February 2011, the Senate Courts of Justice Committee decided not to move the bill forward. Given the General Assembly's disinterest in transforming Virginia into a judicial foreclosure state, lenders and borrowers should not expect a radical transformation of foreclosure law in 2011. While a lender is not required to file suit in order to sell a distressed property, courts in Virginia can become involved in disputes over real estate loans at the parties' request. If your client is investing in real estate in the current economic environment, he must be aware of how the court system may become involved in the foreclosure process.

In a non-judicial foreclosure state such as Virginia, the lender secures the Promissory Note made by the borrower by filing a Deed of Trust in the local land records. The Deed of Trust authorizes a Trustee to sell the property at a public sale in the event of a default by the borrower on the Promissory Note. *See* Va. Code § 55-59(7). Default is most often due to non-payment. The bank-appointed Trustee must follow the foreclosure terms of the Deed of Trust and the Code of Virginia, which includes giving certain notices. *See* Va. Code §§ 55-59.1 to 55-59.4.

Short Sales

Many investors today consider investing in real estate where the current owner has a past-due loan. Sometimes the owner tries to avoid foreclosure by negotiating with the lender to sell the property for which the sum owing under the loan documents exceeds the current sale price. This scenario is called a "short sale." Short sales are attractive to investors because the property tends to be in better shape than those that have been through foreclosure. However, few short sales actually close. Short sales frustrate loan servicers, borrowers, and Realtors because it is difficult to persuade the financial institutions that hold the promissory notes to agree that a short sale will reduce the lender's losses. For this reason, investors tend to avoid short sales unless the property is of unique interest.

Foreclosure Sales

Some investors buy homes at foreclosure trustees' public sales. Normally the only bidding party is the mortgagee bank itself. However, foreclosure sale properties are attractive to some investors seeking to acquire the property at the lowest possible price. Unfortunately, buyers at foreclosure sales do not enjoy the typical benefits of purchasing real property, including many warranties and disclosures that give investors peace of mind concerning their investment. If a problem arises with property purchased at a foreclosure sale after settlement, the investor may lose months of rental income pending resolution of the issue, regardless of who is responsible for the problem.

Post-Foreclosure Sales

Alternatively, investors may seek to purchase properties already foreclosed upon by the lender. Most financial institutions holding the promissory note secured by the deed of trust are not in the business of holding foreclosure homes as long-term investments. Sales of bank-owned properties to investors do not possess the peculiarities of short sales or foreclosure trustee's sales.

Part Two of this article will discuss the common types of legal actions arising out of the foreclosure process. Wise investors, and their attorneys, take into account the pendency or threat of such a suit in weighing a potential purchase.

John C. Cowherd is an Associate Attorney at Culin, Sharp, Autry & Day, P.L.C. in Fairfax. He can be reached at jcowherd@csadlawyers.com.

Free Mental Health Law CLE

On Friday, May 27th from 10 a.m. to 1 p.m. the Mental Health Law Committee will be hosting a free CLE (including one hour of ethics) on the campus of the George Mason University School of Law in Arlington regarding recent developments in mental health law. Learn about recent developments in Mental Health Law in Virginia with an emphasis on involuntary civil commitment, why these developments affect lawyers in every area of practice, and why every lawyer needs to be educated on these issues.

For more information or to register, please contact one of the Committee's co-chairs, Lara Jacobs at jacobs.lara@gmail.com or Ron Page at rpage@rpagelaw.com, or the Committee's Board liaison, Nathan Veldhuis, at nathan.veldhuis@allenandallen.com.

A Day in the Life of a Judicial Law Clerk

Christopher G. Findlater

The jurors file down the halls of the chambers peering into our office as they pass by, the cannonade of feet clashing with the classical music cascading from our radio. They disappear into Court Room 1.

Thereafter, a booming "Good Morning!" follows. Judge Nolan Dawkins, glasses in his left hand, stands tall at the office doorway. "Good Morning," we reply. "Ready, sir?" his deputy asks. Judge Dawkins turns, slips on his glasses and replies, "Yeah. Let's go render some justice." The deputy opens the courtroom door and ushers in the judge. "All rise. Court is in session. The Honorable…," the deputy bellows, until the slowly shutting door silences the pronouncement.

I turn my focus back to my illuminated window from which I view the world, nine to five, when Judge Haddock strolls in, wearing brown loafers, khakis, a white dress shirt with a colorful bow tie, cupping his morning coffee in one hand and a paper in the other.

"Here's some more knowledge." He drops the latest publication of *Virginia Lawyer's Weekly* onto my colleague's desk. "That's good stuff to know." A stack of old issues lie on a desk in the corner, a yellow tint settling in with age. All read by the Judge over the years, he expects his law clerks to scan highlighted court decisions for any notable shifts in theory and procedure.

Smiling, Judge Donald Haddock walks back to his office decorated with books, plaques, degrees, autographed pictures of presidents, and deer heads, one mischievously wearing Elvis-type sunglasses since April 1st.

Multicolor files containing various pleadings and orders are sprawled across my desk. Each color represents a type of case. Yellow — Divorces; Red — Civil; Brown — Felonies; Blue — Misdemeanors. Scraping cheese onto her bagel, my comical coworker erupts into song about eating bagels and other breakfast delights. She stops, only to say, "You know, yellow folders really should be reserved for happier occasions." I nod and laugh.

I review the pleadings for my assigned divorces. All are fine, except one. I call the *pro se* plaintiff to explain to her that she will have to wait an additional six months to obtain her divorce since she has a child. Understood but not well received, she chooses another *ore tenus* date, and our call concludes.

Reclining in my chair, I extend my legs to stretch, when my right shoe brushes a box full of exhibits lying under my desk, and I am reminded that I have to finish my memo analyzing a motion filed by a corporation concerning a billion-dollar government contract. When done, Judge Lisa Kemler will read it, continue on with the inquiry to her satisfaction, and discuss and evaluate my positions with me as we prepare for Wednesday's hearing.

Time now flutters. Holst's *Jupiter* plays. The once-solemn jurors, passing by for a fourth time, are now jovial, due to either an erosion of reverence for the setting, a saturation of enthusiasm that permeates our workplace, or simply because … it's time to go home.

Christopher G. Findlater is a judicial law clerk in Alexandria Circuit Court in the City of Alexandria. He can be reached at cg3f@aol.com.

Wills for Heroes is Seeking Applications!

Andrew G. Geyer

The Wills for Heroes program is currently seeking applications from individuals who are interested in conducting the program in their locality. Created in the wake of the September 11, 2001, terrorist attacks, the Wills for Heroes program offers free wills, durable powers of attorney and advance medical directives to Virginia first responders and their spouses. As part of the program, volunteer attorneys must attend a free CLE seminar to learn about the program and the computer software that is used to prepare the estate-planning documents. Prior to receiving the documents, first responders must attend a presentation to learn about the benefits of estate planning and the documents the program offers.

If you are interested in conducting the Wills for Heroes program in your locality, please contact Michael Abejuela (mabejuela@arin.net) and Joel Morgan (jwm@brennerevansmillman.com), the VSB YLC co-chairs of the Wills For Heroes program.

The Docket Call would like to welcome its new Editor-in-Chief, **Martha E. Hulley.**

Please contact Martha at martha.hulley@leclairryan.com with any questions or to inquire about how to write for the Docket Call!