Each year, the Young Lawyers Conference of the Virginia State Bar recognizes exceptional service to the conference, the legal profession, and the community by bestowing the R. Edwin Burnette, Jr. Young Lawyer of the Year Award to an outstanding young attorney. Giovanni Di Maggio, co-chair of the Immigration Outreach Committee, is that young attorney.

Di Maggio, the son of a Cuban asylee and an Italian immigrant, channeled his passion for immigration law into growing the Immigration Outreach Committee’s activities over the last three years, garnering local and national attention. Di Maggio worked to increase the effectiveness of the Committee’s continuing-legal-education seminars and to expand the Foreign Language Attorney Database, which is designed to assist members of the public in finding Virginia-licensed attorneys who can speak their language and provide the most effective representation experience. In 2015, Di Maggio launched the Committee’s annual Pro Bono CLE Series, a program that received special recognition from the American Bar Association and aims to narrow the justice gap in Virginia by supporting and increasing immigration pro bono work among Virginia attorneys, according to the Virginia State Bar.

I had a chance to speak with Di Maggio, who is currently clerking for the United States District Court for the District of Columbia, about receiving the prestigious Young Lawyer of the Year Award.

Q: Congratulations on winning the 2016 R. Edwin Burnette, Jr. Young Lawyer of the Year Award! How did you find out you were the winner and what was your reaction?

A: I got a call from then YLC President Nathan Olson, who told me he had some good news. He delivered it so casually that it took a few beats for it to sink in—I did not even know I had been nominated. When I realized what he was telling me, I was floored. I was deeply appreciative and honored.

Q: You’ve been heavily involved with the Immigrant Outreach Committee. What drew you to that Committee?

A: I am the son of a Cuban asylee and an Italian immigrant. From an early age, I developed a curiosity for how and why people move—sometimes by choice, sometimes not—from one place to another. I indulged that curiosity in college by majoring in International Relations, and in law school by focusing on immigration, refugee, asylum and human rights law. After law school, when I ended up in a job that had almost no immigration connection, the Immigrant Outreach Committee was a natural fit to keep my immigration flame burning.

Q: You previously taught English at a language center and a public school in Hanoi, Vietnam. Did that experience influence your decision to focus on immigration law or on the programs you helped create for the Committee?

A: I think my year in Vietnam, especially the portion of it I spent at In This Issue

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I think the trick to balancing everything has been resisting the urge to take on more, prioritizing those things about which I care the most, and surrounding myself with people about whom I care deeply and who care deeply about me. So, if I had to pick a motto, it would be a combination of “less is more,” “quality over quantity,” and maybe “listen to your heart.”

Q: What is life like as a law clerk? You’ve had extensive experience as a clerk for various courts.

A: Life as a law clerk has been just great. I have worked directly with over a dozen judges, observed many more, and had the good fortune to form close relationships with a handful. I’ve also worked alongside as many as five co-clerks and as few as one, and, similarly, had the good fortune to form close friendships with a handful. If you can’t tell, for me, the best parts of these experiences have been the mentorship and friendship I have found along the way. Of course, the legal training has been useful too.

Q: What plans and objectives do you have going forward with the Committee?

A: I’ll preface my answer to this by saying that the fact that the Immigrant Outreach Committee is presently the only immigration-related entity of the Virginia State Bar can sometimes serve as a double-edged sword—theoretically, the sky’s the limit, but there’s only so much we can do! In practice, I think what’s made the Immigrant Outreach Committee so successful is our thoughtful approach to planning and executing a few signature programs and building a brand that Virginia attorneys trust and rely on for quality programing and volunteer opportunities. So, first and foremost, I’d like to focus on fine-tuning our existing signature programs—the Pro Bono CLE Series, our CLEs addressing the Immigration Consequences of Criminal Convictions, the Naturalization Clinics program, and our Foreign Language Attorney Database. For instance, with the help of new tools like online registration, we have opportunities to do some streamlining that will make it easier for Virginia attorneys to participate in our programing and will minimize our operational costs—hopefully this would also have the effect of increasing our capacity to develop new programing. Another thing I would like to focus on is increasing opportunities for volunteerism with the Committee. This need is addressed in part by our new Naturalization Clinics program, which connects Virginia attorneys to naturalization clinics hosted by a Virginia-based non-profit immigrant services provider. However, at times we have more interest from prospective volunteers than we have volunteer opportunities. While I suppose that is a “good problem,” it is one I would like to “fix” right away. Otherwise, I am looking forward to another fun and productive Bar year!

Patrick J. Austin is a 2013 graduate of George Mason University School of Law. He now works in the Office of Information Policy with the U.S. Department of Justice and is Editor-in-Chief of the Docket Call.
Gerald Bruce Lee never thought he would become a lawyer. Growing up in the housing projects of Southeast Washington D.C. with no family members considering college, let alone law school, Judge Lee remarked, “If you saw me on the street wearing my backwards cap and sunglasses, you may have assumed I would one day need a lawyer, but never actually become a lawyer.”

Today, Gerald Bruce Lee is an admired and accomplished judge for the United States District Court for the Eastern District of Virginia. He is also the recipient of the 2016 Virginia State Bar Diversity Conference’s Clarence M. Dunnaville Jr. Achievement Award. Judge Lee is being honored for his years of tireless effort to foster, encourage, and facilitate diversity and inclusion throughout the legal profession.

Upon graduating from American University’s Washington College of Law in 1976, Judge Lee entered private practice handling an array of civil and criminal matters. He could have easily rested on his laurels; become the first member of his family to graduate college, then graduate law school, then enjoy success in private practice. Such accomplishments alone would make a prima facie case for “success at life.”

Not for Judge Lee. He lives by the motto, “To whom much is given, of him much is required.”

While in private practice, Judge Lee was shocked by the paucity of African-American prosecutors in the Commonwealth Attorney’s Offices in the Northern Virginia region. He also learned about the disturbingly low percentage of minority partners working at mid-size and large law firms in Virginia.

In an effort to improve diversity and inclusion in the legal profession, Judge Lee worked with fellow attorneys and state lawmakers to create programs aimed at assisting minority law students and attorneys in obtaining internships at law firms, federal clerkships, and full-time legal employment.

For example, Judge Lee helped create the Share the Wealth program, which places minority law school graduates in federal clerkships. Also, Judge Lee co-founded the Just the Beginning program, which has helped over 300 underrepresented minority law students find summer employment in judicial chambers across the country.

Judge Lee is proud of these accomplishments, but he is not satisfied with the state of diversity in the legal profession. The percentage of minority lawyers and partners at large law firms is still far too low.

“Some people believe that diversity just means opening the door for underrepresented individuals,” he said. “That is not the objective. We need to promote inclusion, which means that underrepresented individuals not only get through the door, but a seat at the table.”

In addition to helping aspiring attorneys, Judge Lee devotes his free time to volunteering as a counselor and speaker at Kamp Kappa. This is a program focused on educating and informing at-risk youth, specifically boys ages 10 to 16, about the justice system, and possibly sparking their interest in pursuing a career in the law. Judge Lee considers this program to be absolutely critical, especially in the current contentious climate between law enforcement and African-American youth. Judge Lee remarked that some of the boys who arrive at Kamp Kappa believe that if they do not flee from a police officer, they will likely be killed. The program works to dispel these types of misconceptions and ensure that participants understand how to react and behave if they ever are involved in an encounter with a police officer. They also hold mock trials so participants get a sense of how the judicial process works. Judge Lee believes the mock-trial component is vitally important because “we want these boys to know that they can go into a courtroom without it being a traumatic experience.”

Kamp Kappa has been successful in helping at-risk youth turn their lives around. Judge Lee fondly remembered a young man who came up to him and...
said, “I attended Kamp Kappa years ago. Now I’m at George Mason University getting a degree.”

Judge Lee’s years of service volunteering and participating in Bar programs has not only yielded tremendous personal satisfaction by helping at-risk youth and underrepresented law students and attorneys, it also helped him professionally. When asked what advice he would give to new Virginia attorneys, he stressed the importance of being involved in the profession. That means not just working diligently for your clients, but joining and participating in the numerous opportunities available through the Virginia State Bar, non-profits, civic leagues, and other organizations.

“The attorneys involved in Bar activities typically are leaders in the profession,” he said. “They generally get the work done; they come to court prepared and demand excellence of themselves.”

Judge Lee’s extensive involvement with the Bar played an important role in his ascension to the bench. While in private practice, he volunteered to help review and recommend judicial nominees. After a few years of participating in this process, Judge Lee realized that his résumé stacked up fairly well to the nominees he was reviewing. At that moment, he realized he could become a judge.

Judge Lee was right. He was elected to the 19th Judicial Circuit, Fairfax, in 1992. He was then appointed to the Eastern District of Virginia in 1998, after being nominated by President Bill Clinton. Judge Lee’s appointment was met with bipartisan support. In fact, Judge Lee received highest rating available from each of the 12 Bar associations that evaluated his appointment.

When asked if he preferred being a judge or practicing law, Judge Lee unequivocally stated his preference for the bench.

“As a judge, I am able to impact more people,” he said. That is the driving force of Judge Lee—impacting the lives of as many people as possible, both in the legal profession and in the community.

Patrick J. Austin is a 2013 graduate of George Mason University School of Law. He now works in the Office of Information Policy with the U.S. Department of Justice and is Editor-in-Chief of the Docket Call.

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Good Cover Letters are Worth Writing—Here’s How to Write Them

T. Alexander MacDonald

The job-search process can be miserable—especially writing cover letters. We wonder, as we re-tweak our standard letter for the thirtieth time, if anyone ever reads these things. We wonder why employers even ask for them. We wonder what the point is.

Well, the point is this: a good cover letter can separate you from the crowd.

No, employers don’t always read cover letters, even when they’ve asked for them. And when they do read them, they’re likely to just skim them. But that’s not a reason to write a bad letter; it’s a reason to write a perfect letter.

An employer may give your letter only the most minimal attention, so you have to use what attention you get to your greatest advantage. These tips will help you do that.

1. Nail the basics.

The fundamentals of cover-letter writing may seem obvious—but that doesn’t make them less important. If you don’t nail the basics, nothing else matters. Remember, employers today are stampeded by well-qualified candidates. They’re looking for ways to thin the herd. That means they’ll seize on any excuse to toss your application into the garbage bin. Don’t give them that excuse.

First and foremost, format the letter correctly. Check the job advertisement for special requirements. If there are none, limit your letter to one single-spaced page. Use a conservative, serifed font; something like Garamond or Times New Roman. Never use Courier or Arial. If the person reading your letter is a typography aficionado, you might provoke a fit of nerdy rage.

When addressing the letter, make sure you identify a real person. If the job advertisement doesn’t list someone, search social media or the employer’s website for the hiring manager’s name. In the age of Google, there’s no excuse for addressing your letter, “Dear sir or madam”—or worse—“To whom it may concern.”

Don’t spend the bulk of the letter reiterating your résumé. Yes, you want the employer to know about all your undoubtedly superior qualifications—but that’s what your résumé is for. Your cover letter is an opportunity to advocate for yourself. Don’t waste that opportunity by dryly recounting everything the
employer is about to read in your résumé. That’s a good way to make sure neither document gets read.

Also, avoid gimmicks. Don’t use pictures, symbols, or word art. The impression you’re aiming for is “professional.” And you’re applying for a job as a professional attorney, not a professional clown.

Finally, proofread your letter as many times as necessary. Overlooking typos is the surest way to land your application in the trash. Employers today have their pick among dozens, if not hundreds, of qualified candidates; they have no incentive to excuse slovenly writing.

2. Tailor your message.

Write each letter for the job you’re applying for. In other words, don’t send the same generic letter to every employer. The employer is looking for someone with a genuine interest in the job. A canned letter doesn’t say, “I’m interested, hire me”; it says, “I’m ambivalent, toss me.”

Yes, tailoring the letter will require a bit of work. You’ll need to know something about the employer’s practice, its industry, and its challenges. That requires research, which will take extra time—time most people don’t want to spend. But ask yourself: Do I really want this job? If yes, then it’s worth spending the extra time to tailor your letter. If not, then why are you applying in the first place? You’re better off spending your time writing a good cover letter for a job you actually want.

When tailoring your letter, focus on the employer’s needs and emphasize how you can satisfy them. Is the employer looking for a quick-thinking litigator? Highlight the summer you spent working in a prosecutor’s office. Is the employer looking for a diligent researcher? Emphasize your work on the law review or a journal. In each case, stress the relevant skills and experience you bring to the position. Your goal is to convince the employer that it can satisfy its needs by hiring you.

If you have a personal connection to the employer, make sure you highlight that. For example, if you interned with the employer during college or law school, make sure you say so.

If you don’t have a personal connection, at least say why you’re interested in the employer now. A little flattery won’t hurt: for example, “I’ve always had a passion for complex real-estate transactions, and your firm has the most respected commercial real-estate practice in the tri-county region.” Of course, you won’t be truly passionate about every job you apply for. Still, try to come up with something better than “I have student loans, and your firm pays in real American dollars.”


As an applicant, you are a salesperson. Your services are your product; your cover letter is your sales pitch. Try to think about the letter from your customer’s perspective: if you were in the market for a new lawyer, would you buy your services?

If the answer is no, you may need to adjust your tone. Believe it or not, some lawyers are naturally self-effacing; they’re more inclined to humility than to braggadocio. If you fall into that camp, you may have to work harder to promote yourself. But you’ve still got to do it.

No matter how natural it feels, you should never write something like, “I’m sure you received applications from many qualified candidates, some of whom may be more qualified than I.” If you’re not the most qualified candidate, why should the employer hire you? Think about it: you’re applying for an attorney position. You’re supposed to be a skilled advocate. If you won’t advocate for yourself in a job application, what are the chances that you’ll advocate for a client in the courtroom?

This may all seem like a lot of work for little payoff, but try to think of the letter as application insurance. Writing a perfect letter won’t guarantee you your dream job; even the best cover letter may not get read. But writing a good letter will, at least, improve your chances. No one ever lost out on a job because a cover letter was too good.

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Key Tips to Effectively Cross-Examine a Witness
Blaire Hawkins

Cross-examination is perhaps the most difficult skill for young trial attorneys to develop. We all want to show that the other side’s witness is not telling the truth, the whole truth, and nothing but the truth, but how? Is there any way to avoid that “deer in the headlights” feeling? Practice, practice, practice—that much is obvious. But there are skills and strategies immediately available to each of us that can improve our cross-examinations from our first trial throughout our careers. The following points are just a few basic suggestions you might consider incorporating into your next cross-examination.

1. Ask only leading questions.

Think of cross as your opportunity to testify. Every question should include a statement of fact and a request that the witness confirm that fact to be true. (You normally wear glasses, correct?) This sounds easy, but even one open-ended question—What? When? Why?—is an invitation to the witness to start explaining away all the good work you have done up to this point in your cross. And if you lose control of the witness, the court or the jury will notice, and the point you wanted to make will be lost.

2. Include one new fact per question.

The facts of a case may be complicated, but your questions about those facts cannot be. Asking run-on questions risks confusing the witness or—even worse—confusing the jury members, causing them to focus more on you than on the weaknesses of the witness’s testimony on direct. Moreover, asking simple questions will make it easier to be disciplined about leading the witness and will help the jury follow your logic.

3. Cross in a logical progression to a specific goal.

The best cross-examination is relentlessly logical. Ask one simple leading question. Then ask another, adding just one new fact to the previous question. Then ask another. (You normally wear glasses, correct? But you do not wear your glasses when you are asleep, true? So your glasses would not have been on when you first woke up in the morning?) Asking your questions in this kind of progression will help the jury to follow the logic of your argument and will give the witness very little room to deviate from what you want him to testify about. Remember: you are the one testifying and you are in charge.

4. Don’t be a jerk.

During cross-examination, it is tempting to adopt an aggressive tone with the witness when she disagrees with you, as she inevitably will. More often than not, anger will only distract from the facts you are trying to prove and the logical power of your argument. Arguing with a witness will never convince him to agree with you, and it does not make you sound lawyerly or correct; it just makes you sound mad, and the jury may trust you less for it. Focus on keeping an even tone and being respectful. For a great example of what we might refer to as “killing ’em with kindness,” watch Vincent Gambini’s cross-examination of Constance Riley in the 1992 classic film My Cousin Vinny.

5. Plan ahead.

Yes, cross-examination is inherently responsive: we cannot be sure what the testimony will be until the witness actually testifies. But waiting until the witness is on the stand before you think about cross is a waste of a golden opportunity. You must plan for both the concessions you will seek from the witness to advance your own theory of the case, as well as any sources of impeachment that raise questions about a witness’s credibility. If you draw these goals narrowly and stick to them, you can advance your own theory of the case in important ways. Do you need to focus on the witness’s bias? Lack of foundation for knowledge? Prior inconsistent statements? The fact that she is an elderly woman who was not wearing her glasses when she “witnessed” the incident? Identifying what you can accomplish and sticking to those narrow goals will help you stay out of the weeds when the time comes during trial.

6. Know when cross may not be necessary.

Before planning any other part of your cross-examination, always ask yourself, “Why am I cross-examining this person?” Another way of asking this question is, “Does this witness really hurt my case?” If a witness has said nothing to harm your case and can provide you with nothing to advance your case, it is perfectly acceptable to ask very few or even no questions on cross. This can be risky—you do not want to give the impression you are not fighting for your case—but choosing not to cross a witness at all can send a very strong message to the jury that the witness had nothing important to say and should be ignored.

7. Get concessions that assist in building your own theory of the case.

Getting concessions that are helpful to your own case from your opponent’s witness is absolutely critical during a cross-examination. Even if your opponent’s theory of the case is completely different from...
to your argument and only gives the witness the opportunity to explain away all your good work.

9. Save impeachment and attacks on credibility for the end.

Because getting concessions is such an important goal of cross-examination, they should be the priority. Raising points on which the witness can agree with you sets a friendlier tone at the outset of your cross and makes it more likely you might actually get some of those concessions from the witness. There is also logical dissonance in first questioning a witness's credibility and then asking the jury to believe what that witness says about certain facts that support your side of the argument. Save the questions about prior inconsistent statements, felony convictions, or other attacks on credibility for the grand finale.

Blaire Hawkins is a 2012 graduate of the University of Virginia School of Law. She is now an Assistant Commonwealth Attorney in the Office of the Commonwealth’s Attorney, City of Richmond.

Conversation with the Carrico Award Winner, Michael N. Herring, Commonwealth’s Attorney for the City of Richmond

T. Alexander Cloud

The Virginia State Bar honored Commonwealth Attorney Michael N. Herring with the Harry L. Carrico Award for Professionalism. The award recognizes an individual who has contributed significantly to the improvement of the criminal-justice system in the Commonwealth of Virginia. Attorneys representing Michael Kenneth McAlister were part of the group that nominated Mr. Herring for the award. Mr. McAlister received a pardon from Governor McAuliffe in 2015 after serving twenty-nine years in prison for a crime he did not commit. Mr. Herring publicly supported that petition.

I had a chance to speak with Mr. Herring about his background, impressive legal career, the McAlister case, and receiving the Professionalism Award.

Q: Where are you from? Are you a native Virginian?

A: I am a native Richmonder. Other than being in school for Charlottesville for undergrad and law, I’ve been there my whole life.

Q: Where did you attend college and law school?

A: UVA: undergrad ’87 and ’90 from the law school. I am a “double Wahoo.”

Q: What was your first job out of law school?

A: My first job was at Hunton & Williams.

Q: What drew you to prosecution?

A: I had a nice long chat with Chief Justice Hassell when he was an Associate Justice on the Court. I wanted more contact with people. I wanted to interact with folks, to have ownership of cases, and to be on my feet. I wanted to be a trial lawyer.
Herring continued from page 7

The Commonwealth’s Attorney’s Office at that time presented those things. I didn’t stay, I did it for four years and then went back to Main Street, I did private practice for a while, and then I ran for office.

Q: I see that you have big-firm experience and small-firm experience. How have those helped you as a prosecutor?

A: I avoid tunnel vision. More than big firm or small firm, my time as a defense lawyer affords me an additional perspective at times for being able to spot the other side of cases and the other side of issues. Frankly, having had some diversity in my background, I think I can suspend judgment of people and cases. That ensures, for me, depth of objectivity. That has proven to be invaluable to me.

Q: What does professionalism mean to you?

A: Collegiality, decency, and honesty. I think we all presume a degree of competence in what we do. Fairness is also important. You can do a lot of good as a prosecutor, but if you’re heavy handed and vindictive, you can do a lot of harm as well.

Q: Tell me about the Michael Kenneth McAlister Case.

A: It was a sexual-assault case from the early to mid-80s where there was an attempted rape. As a result of it being an attempted rape, there was no DNA. It ended up being a single-witness identification of a person wearing a mask. The photo array from which the witness identified Michael Kenneth McAlister included a guy who could have been his twin. The victim picked McAlister.

The innocence project, largely at the insistence of Frank Green, a local reporter, adopted his cause. They came in to see me and said, “I think you got the wrong guy.”

We started going to Court. At one point, the judge opened a sealed envelope and asked us, “Have you seen this?” We had not. It was the original photo array. Everyone’s hair on top of their necks pricked when they saw a man that DNA linked to similar incidents.

It became a process of connecting the dots. The victim did not want to involve herself in the case because she felt victimized by the system. We subsequently involved an investigator in the case. She worked for the parole board. The governor’s office arranged to see McAlister. She interviewed him, and he admitted to the things for which McAlister had been wrongfully convicted.

Q: How did you make your decision to become involved in the case?

A: It took a while. The folks at the Innocence Project prepared a packet. I did my own research. The original prosecutor, Joe Morrissey, and original detective came forward and said that they thought they got the wrong guy. I assumed they would not have advocated for his release had they not been shaken that there was not proof beyond a reasonable doubt.

That’s where I started.

I then verified what the Innocence Project provided. Next, I went to see McAlister. I didn’t want to sign off on someone’s innocence without having spoken to the person. Hearing what he had to say and how he described it was invaluable in working this case.

Q: Why did you comment publicly on it? Can you explain the ethical rules surrounding prosecutors and public comment for the noncriminal lawyers reading Docket Call?

A: By the time I commented on this, this case was not going to trial. I had no concerns that we would improperly influence a trier of fact. Instead, this case was headed to the governor’s office. That gave me some liberty to speak candidly about it.

More importantly, to me, while I was required to abide by the professional rules, I thought it was equally important for the public to understand. The system isn’t currently foolproof, and the system thirty years ago was less perfect. I think that conceding error and conceding limitation, when they exist, goes a long way to maintaining credibility. If we admit error and concede it, people will be more willing to work with the justice system. When we handle cases, we certainly think and hope we’re prosecuting the right person. Sometimes, unfortunately, we get it wrong.

Q: Do you have any advice for young lawyers?

A: The cost of a legal education has become terribly expensive for young lawyers. As a result, so many of them have to make decisions on how and where they practice (because of money) that they are robbed of happiness and peace of mind. There’s nothing wrong with pursuing a practice that makes you happy, be it public or private sector work. I think I arrived at that point because, sitting on disciplinary boards, you come across at so many lawyers who just toiled away. The demands of their practices took such a toll on them that they made costly mistakes. It seems to me that the people who find an area of practice that makes them happy have longevity. The really lucky lawyers enjoy the convergence of two things: happiness (fun) and wealth.

Continued on following page
When I joined the Board of Governors of the Young Lawyers Conference in June 2011, I did not know quite what to expect. Having taken the somewhat unorthodox step of nominating myself for the position, I found later that my appointment was due in large part to high marks on the “I could definitely see myself having a beer with that guy” metric. Fair enough.

What I found on the Board was a diverse group of extraordinarily generous people working on a broad array of important rule-of-law and justice issues in the Commonwealth of Virginia. Despite being comprised entirely of attorneys in their twenties and thirties—or perhaps because of that—I saw none of the dysfunction or petty infighting that I had seen derail other organizations. Everyone was focused on admirable objectives, and the whole conference worked together toward those goals. That is truly rare.

For the past five years, it has been my privilege to continue to work with exceptional people—Board members, representatives, program chairs, and volunteers—to expand and improve our efforts to help not just other young lawyers, but also lawyers of all ages and a grateful public.

While we are the second largest conference in the mandatory Virginia State Bar, the YLC has an undeniably personal feel, and our members’ participation is anything but compulsory or grudging. Dozens of programs are conceived, organized, and implemented by enthusiastic young lawyers each year. Many of our public programs assist people who cannot afford legal services, taking to heart the message of Bryan Stevenson, the founder and Executive Director of the Equal Justice Initiative, that the opposite of poverty is not wealth, it is justice.

In an inequitable world, justice is the great equalizer that gives meaning, value, and dignity to people’s lives, and we are proud to be an incubator for programs that work toward that personal brand of justice.

I invite you to follow the YLC’s social media pages to stay up to date on events and programs, fill out a volunteer interest form on our website, or reach out to me personally or another YLC Board member if you have an idea for a project or would like to become involved in one of our current initiatives. I look forward to working alongside you all this year!

Q: How about for young prosecutors?
A: Resist the temptation for arrogance. Resist the urge to pass judgment.

Q: Where do you think the practice of law will head in the future in the criminal field? Has it and will it embrace technology in the years ahead?
A: It should merge more with some of the social sciences so that we are a bit better at distinguishing between people who need to be punished and people who need help and need to be restored. The current system in Virginia does not incorporate those needs. Our system starts from a place of punishment; it considers cause of behavior as an afterthought. I think the state will get a better return on its money if the starting point is drilling down to the cause of the behavior. Maybe we’d spend less money trying to cure the causes of the behavior.

That will make prosecutors’ jobs more challenging. They will become one part lawyer, one part investigator, and another part social scientist.

Q: Is there a singular thing or trait that can help a young lawyer stand out and learn quickly in his or her field?
A: People still take notice of individual integrity in the bar, even as things have become more global. You can squander a good reputation in the blink of an eye. The excuse that you were swamped with work is not going to hold sway.

T. Alexander Cloud is a 2008 graduate of the William & Mary Law School. He is now an associate at Parks Ziegler PLLC, a boutique law firm in Virginia Beach, Virginia.
Many young attorneys feel compelled to be “aggressive” and to “not back down” while engaging with opposing counsel at a hearing, a deposition, during trial, and so forth. These traits are equated to strongly advocating for one’s client and being a “good attorney.” Sadly, this mentality is often counter-productive and one of the main reasons that practicing law is so difficult.

We are mere human beings. Because of that, we are inclined to focus on the negative. For that very reason, here are a couple of recent stories to bring us back around to positivity, a mindset you need to have for a fulfilling legal career.

The Seasoned Attorney vs. the Young Guy.

Recently, I got into a bit of a sparring match with a well-known, seasoned attorney during a deposition. We disagreed on a point, we argued, I noted my objection for the records, and he got to ask his questions. I felt out maneuvered because I was confident I was right. But then again, he’s been doing this for 30 years, and he got me. Admittedly, I felt slighted. A couple days later, however, this attorney gave me a call out of the blue. His words to me are ones that I won’t soon forget.

“I just wanted to call and apologize about what happened at the deposition. I reviewed my case and realized I was wrong. I didn’t mean to take advantage of you, because that’s not the way I do things.”

I’ve got to admit, I was speechless. It was a truly classy act on his part. And I was glad that at the deposition, I didn’t say anything that I would now regret.

Family Problems.

I recently had a case where I neglected to return a couple e-mails to opposing counsel, who is much more experienced than I am. When I finally spoke to him on the phone, I informed him that I had a serious family issue come up and apologized for my lack of response. I felt flustered and was sure I was about to get an earful.

He responded with, “James, next time an issue comes up, just let me know. We are human beings before we are attorneys, and family should always come first.” The sincerity in his voice was real. His kind words made my day.

To Be Zealous, We Don’t Have to Be Jerks.

I’m sure for these attorneys, their graceful words didn’t mean a whole lot. But for me, it was a reminder that our profession has some truly good people trying to do good work.

Sure, there are jerks and immature attorneys that we all have dealt with. And sure, sometimes our kindness is confused with weakness. In reality, because of our own flaws, we have been the very jerks and immature attorneys that we all despise.

But life often goes back to the basics that we were taught in grade school, such as “treat others the way you would want to be treated.” It’s as simple as being honest and empathetic with the people we deal with daily. We should all strive to develop the compassion that these attorneys recently demonstrated.

“…Our profession has some truly good people trying to do good work…”

What’s more, by developing your own reputation as a compassionate and honest attorney, your client’s needs are better served in the long run. When people know that your words matter, you are more persuasive to opposing counsel and the court.

Most importantly, you will be a better person by living with compassion and honesty. Remember, we are all human beings before we are attorneys.

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As estate planners, we work really hard to prepare our clients and their families for dealing with death and disability situations. However, what happens when a death actually occurs? Your clients will certainly come to you for answers. Unfortunately, during this stressful time, there is only so much information a client can take in. Below are some helpful tips to share with your clients and their families when facing a recent-death situation:

1. Take care of the final arrangements. Locate any funeral or burial instructions. The decedent may have written out his or her preferences, obtained a funeral-insurance policy, or purchased a burial plot. The funeral director will ask how many copies of the death certificate are needed. We recommend requesting at least 10 to 15 death certificates.

2. Locate the decedent’s important paperwork. This can require investigation by several members of the family. Try to determine whether the decedent had a trust and/or will. These documents name the executor or trustee of the estate. If there are no estate-planning documents, the court will appoint an executor during the probate process.

3. Obtain the appropriate professional help. Depending on the estate, the settlement process could be complex. Find a knowledgeable attorney, CPA, and financial advisor to advise the client on the requirements to properly handle the settlement.

4. Keep good records of time spent and any expenses personally paid. Both time spent and expenses can be reimbursable by the estate, but only if there is proper documentation.

5. Locate and secure the assets of the decedent. If a list of assets is not readily available, try to find bank statements or a checkbook to track down bills and deposits. Life-insurance contracts, deeds, and other financial statements are often kept together in a home office or filing cabinet. Notify the financial institutions of the death and secure the house if nobody is living in it.

6. Don’t use any Powers of Attorney. These are no longer valid after death.

7. Don’t let family members or friends start taking items out of the house. Valuable items can suddenly disappear, or specific bequests can end up in the wrong hands. Once distributions are made, it is a good idea to have each individual sign a receipt of items received.

8. Don’t drive the decedent’s car. Until the title and insurance are brought up to date, driving the car can unnecessarily expose the entire estate to creditors.

9. Don’t use the decedent’s credit cards. You could be liable for fraudulent charges if you use the card after the date of death.

10. Don’t start closing or moving financial accounts until you have obtained the advice of an attorney or have a good understanding of the decedent’s estate. Creditors will need to be paid before the funds are distributed to beneficiaries.

The most important thing to remember is that the settlement process takes time to complete and is an emotional time. We suggest giving clients the tips above, and then scheduling a meeting to discuss the next steps a few weeks later. This gives clients and their family’s time to digest and handle immediate arrangements before making any decisions on the estate.

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In the last year, new attack vectors and new targets are substantially increasing the risk to attorneys around the world. It is incumbent on us to protect our clients and ourselves by being aware of the threats and employing the appropriate counter measures. Below are some recent developments you need to be aware of.

**Trust Accounts**

Your client trust account is likely one of the most regulated bank accounts you will ever have. The reasons for the regulations are quite simple and I think most are universally supported. It should come as no surprise that protecting this account is one of your top priorities.

Let's begin with a brief, but not comprehensive review of trust accounts. Rule 1.15 governs the creation and duties of a trust account. Of particular note are section b(4), the duty to provide prompt payment or delivery when due to a client, and b(5), the duty to not misuse funds. Further, Rule 5.1 makes all partners and supervisory attorneys responsible for their subordinate's actions.

These rules are very strict. For example, LEO 183 states, “An attorney assumes strict fiduciary responsibility when he holds money belonging to a client.” One example of a restriction comes in LEO 1256, which asks if the attorney may disperse funds won in medical-malpractice cases without waiting 10 days for it to clear the trust account via a bank loan taken out by the law firm. The Committee felt that this would be a matter of taking an interest in the case, which is prohibited by Rule 1.8.

So now let’s look at a not-so-hypothetical case where a criminal steals money from an attorney trust account. A quick Internet search will reveal that this has happened a number of times since 2010. This threat, however, is very likely to be under-reported due to the severe damage that it can cause.

While Virginia has not answered the question of whether there is a professional violation when a client trust fund is compromised, North Carolina has taken a stab at it in its ethics opinion 2015 FEO 6. That opinion states that “[i]f Lawyer has managed the trust account in substantial compliance with the requirements of the Rules of Professional Conduct (see Rules 1.15-2, 1.15-3, and 5.3) but, nevertheless, is victimized by a third party theft, Lawyer is not required to replace the stolen funds.” However, if the attorney fails to follow the professional rules and a theft occurs, the attorney will be responsible. Regardless of how this plays out, no one wants to be the test case for this in Virginia.

**Insider Information**

Trust accounts, however, are not the only target. Another lucrative target can be a client’s insider information. Insider information can be used for a number of purposes. Information may be used to perform insider trading, as a group of Ukrainian hackers did when they broke into Business Wire and PR Newswire.

Other client information could be used to subvert patents or other intellectual property. Such information could be used to determine or otherwise damage filing dates in order to gain a competitive advantage.

Likewise, an unscrupulous law firm could employ hackers to take advantage of an opponent in a large litigation. Of course, such an action would likely cause all supervising attorneys to lose their law license; but even so, the risk is there.

This type of attack has already happened against Cravath Swaine & Moore LLP, Weil Gotshal & Manges LLP, and others.

**Online Ad Based Attacks**

Alright, so you now know some of the information a hacker may want, and you have probably attended several CLEs that include some information on cyber security. You know that ransomware is a problem. You know that you should not open e-mail attachments without scanning them for viruses, or likely at all. You know that you should be careful of what files you download and what websites you visit.

Now hopefully that was all review, but what if you could get hacked by the New York Times? It seems far-fetched; the Times is a reputable company and no employee there would dream of hacking you. Well, it has happened. Not because of the webpage, but through the ads that the webpage serves.

Ads on webpages are sold very cheaply and can be used to load malicious code within your browser. Ads can be targeted based upon personally identifiable in-
formation of the user—for example, the information that is stored in cookies—and be served to an attorney. Once the hacker is on that attorney’s computer, the hacker can then move along the internal network until valuable information is found. From now on, AdBlocker is a must.

**Conclusion**

The threats outlined above are only a sampling of the cyber threats that we face. As time goes on, the threats will continue to become more ingenious and deceptive. In keeping with our Rule 1 obligations, we must understand and counter these threats as they arise.

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From top: The Annual Meeting winning volleyball team, Clarence Dunnaville and Judge Lee, and The Hon. R. Edwin Burnette, Jr, all at the 2016 Annual Meeting in Virginia Beach.