Docket Call

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Patrick J. Austin, Esq., Editor
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Q & A with the Honorable Glen A. Huff, Chief Judge-elect of the Court of Appeals of Virginia

Patrick J. Austin

The Honorable Glen A. Huff was elected by his fellow judges to serve as chief judge of the Court of Appeals of Virginia. Judge Huff succeeded Chief Judge Walter S. Felton, who retired on December 31, 2014. Judge Huff will serve a four-year term as chief judge. I had a chance to interview Judge Huff about his new position and plans as chief judge.

Q: What was the election process like for the Chief Judge position?

A: Whether a vote pertains to the Court's decision in a case, electing the Chief Judge, or deciding other business matters, our Court engages in candid but professional discussion followed by a majority vote. The particular discussion and the tally remain confidential. Once the vote is taken, the Court speaks with a singular voice.

Q: What is life like as a judge? Does each day present new challenges or do you find yourself getting into a routine?

A: Each day, I am excited about going to work because I constantly am learning and now have the luxury of being able to devote my full attention to law. Unlike my experience in private practice, I have the time and resources to read thoroughly everyone's brief, research the law, and engage the minds of brilliant young law clerks in an effort to understand the law impartially. The years I spent in a busy practice, however, have influenced my drafting of opinions; practitioners (and their clients) can ill afford the time required to read lengthy opinions. Recognizing that case decisions are tools for busy practitioners and trial judges, I favor concise decisions.

The Court of Appeals has well-established routines to assure quality work product. For example, before an opinion is released for publication every Judge on the Court is required to read and comment on the opinion. In that sense, there are routines in the life of an appellate judge. The work, however, is neither routine nor monotonous because we are reviewing decisions rendered by keen intellects, hearing arguments from creative and capable lawyers,

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Q & A with Virginia State Bar President-elect Designee Michael Robinson

Patrick J. Austin

Michael Robinson will soon be the new President-elect of the Virginia State Bar (VSB). He assumes that post at the VSB's annual meeting in June 2015. Michael was chosen by active members of the VSB during a month-long election that ended in December 2014. I had a chance to interview Michael about his ascendency to the position of president-elect and plans for the VSB.

Q: Congratulations on being elected as president-elect of the Virginia State Bar. What was the election process like for the position?

A: Thank you. The election process was both interesting and, at times, very humbling. The candidates do not really have different platforms, so to speak, and it is hard to project the issues the Bar may face two-and-a-half years out. You are

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➢ *Honorable Glen A. Huff*, continued from previous cover

and reviewing nuanced factual scenarios that often challenge the "routine" perspective.

Q: Did you always aspire to join the bench or was it an unexpected opportunity you decided to pursue?

A: My interest in the bench began with a wonderful clerkship with Chief Judge Richard B. Kellam in the U. S. District Court in Norfolk in 1976-77. Much was required, however, before I was able realistically to seek the opportunity to serve on the bench. The intervening thirty four years of practice were important so that I could develop as a lawyer and so that I could better appreciate relationships that underlie social order and the role of the rule of law in an ordered society.

Q: You practiced law for over 34 years before becoming a judge. Do you ever miss practicing?

A: I loved the practice of law. Interacting with people in legal matters was often satisfying, challenging, and fascinating. Those same aspects of law that I found personally appealing remain within my focus, albeit now from a viewpoint of neutrality.

Q: What objectives or goals do you have as Chief Judge?

A: My primary objective is to perpetuate our being diligent and faithful to the law, while maintaining the strong spirit of collegiality that permeates our Court. We are in an era of change driven by technology and by finances. Electronic filing and appearances by videoconference (in limited instances initially) are inevitable. Efficiencies for the Court and for the practitioner eventually will result in financial savings and enhance the delivery of legal services and access to justice. Effectuating these changes will require coordination between our Court and the Supreme Court of Virginia. Those efforts already are underway and should be available for testing in the very near future.

Additionally, the year 2015 marks the 30th anniversary for the Court of Appeals. The State Law Library has begun documenting the history of our Court and I am hoping that by fall an appropriate celebration can be held commemorating those 30 years of service to the Commonwealth.

Q: Over the years as a judge, does any case stand out to you as particularly fascinating and/or challenging?

A: Forgive me if I seem evasive, but I am prohibited ethically from offering commentary on any pending case and constrained by bounds of confidentiality from commenting on internal discussions of the Court. Suffice it to say that the interplay between state and federal law and the social issues affected (e.g. ERISA, the institutions surrounding personal relationships, use of internet technology) likely are to present challenges in the near future.

Q: Did you have a favorite class in law school?

A: Yes. My favorite class in law school was first year property. In fact, while in law school, I had my future planned. I envisioned a small general practice in rural Maine, emphasizing residential real estate. Such thoughts remind me of the Proverb, "Many are the plans in a man's heart, but it is the Lord's purpose that prevails." (Proverbs 19:21).

A: If you had to choose another profession besides law, what would you choose?

A: Architecture. I've always been interested in building design and structure. The need for a sound foundation, the interdependence of structural components and the aesthetics of a building all work together to make it useful and appealing.

Q: The legal job market is tough right now and many law school graduates are having a difficult time securing that first job out of school. What advice would you give to a recent graduate who is trying to get their foot in the door at a law firm, or just get a legal job in general?

A: Winston Churchill was onto something great when he said, "Never give in. Never, never, never, never... give in!" (Harrow School, October 29, 1941). Be persistent. Also, be open to options you previously have not considered. We think we have our future planned, but a force greater than any of us has an important role in our future. Be open to the possibility that your future success lies in a place where you would not expect to find it.

Q: What advice would you give to younger attorneys to be a successful Virginia attorneys?

A: Success is not measured by what we receive. It is measured by what we give. Zig Ziglar used to say, "You can have anything you want in life, so long as you help enough other people get what they want in life." This is the formula for success. It dates back thousands of years to the ancient law of reciprocity, "Give and it will be given to you. A good measure, pressed down, shaken together and running over, will be poured into your lap. For with the measure you use, it will be measured to you." (Luke 6:38).

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➢*VSB President-elect Michael Robinson*, continued from cover

hoping people will appreciate the judgment, experience, and demeanor you hope to offer.

I spent a great deal of time meeting lawyers, having meetings at various firms, and attending local or voluntary statewide Bar-association meetings to raise my profile in a very large Bar, and to gain new and different perspectives on the practice of law.

It was a wonderful opportunity to meet so many terrific lawyers, and I often considered myself fortunate for having the opportunity to run regardless of the outcome of the election.

Q: Did you always plan to become a leader in the VSB, or was your ascension the product of timing and circumstances?

A: It was a combination of both. When I was in law school in 1984, I clerked for the then president, and was exposed early on to the demands of professionalism and our privilege of self-regulation. I then became active in the VSB, and remained so for a long time, and always derived great personal and professional satisfaction from my work with the Bar and the Bar leadership. When you work with so many fine people, and I have been fortunate to work with many of the Bar's past presidents, you of course start to think about your potential role as well. When I was elected to the Council in 2008, being president was not at the forefront of my thinking. But after serving on the Council for a couple years, while continuing with other Bar-related work, I started thinking about the Executive Committee, and the potential to serve as an officer. And when I started thinking hard about seeking the position, I met and spoke with many friends and colleagues, and was very appreciative of both the advice and strong encouragement I received to run.

Q: What objectives and goals do you have as VSB President?

A: When Tom [Edmonds], Ray [Benzinger], and I appeared at meetings to discuss the election, I think we all made the point that it is so difficult to set specific objectives because one is never sure of the issues that the Bar might be facing at any given time.

On a very large scale, my goal is to enhance our shared commitment to professionalism, which allows us to operate as a self-regulated profession. The Bar's core mission is the necessary and appropriate regulation of our profession. While that may sound grandiose—to enhance our commitment to professionalism—I don't see it quite that way. I think we all have that opportunity in our daily practice, and can reinforce that through our work with and participation in various Bar activities.

Our mission also requires us to look at ways to improve our profession, the legal system, and to expand the public's access to needed legal services. I think the VSB can work even better with the local and voluntary Bar associations to both improve our profession and help meet the public need for legal services. It is frankly inspiring when you see what different groups around the Commonwealth are doing, but at the same time we must recognize that the problem of assuring access to justice is daunting, and needs focused and consistent attention.

Q: How do you successfully manage your time working at a large law firm, volunteering for the VSB, being a father to five children, etc.?

A: I am never sure that I have. I am fortunate that my firm fully supports my VSB work and encourages our lawyers to be involved the profession. Personally, we all struggle to differing degrees with attaining an appropriate "work/life" balance. I coached youth soccer for about 20 years, and I learned I had to treat practices and other school activities like a deposition on my calendar. Technology has in some ways made it easier; we can work more easily from home and stay connected to our clients and offices. At the same time, that benefit comes with the burden of now being always connected and making it more difficult to be truly "away" from the office.

Q: Did you have a favorite class in law school?

A: I enjoyed the intellectual challenges and complexity associated with Constitutional law, and was lucky enough to be recognized for an award for scholarship for that class. But I actually loved civil procedure classes, including one that examined aspects of civil procedure as "substantive" law. It was there I first heard a phrase that I have repeated a few times: procedure is power. My affinity for procedure continues, and I sometimes include in my resolutions the goal of being a procedure expert.

Q: If you had to choose another profession besides law, what would you choose?

A: Film critic; probably because I wouldn't make it as a film director. I have a great love of the cinema, and my family and friends sometimes get pulled to see obscure or old movies.

Q: Has working with the VSB directly helped you professionally, either through networking or business development, or both?

A: I don't think my VSB work has or will directly help with business development. But it certainly has provided me with a broader

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Top Five Résumé Tips for New Attorneys Looking for Employment

Jessica O'Connell

There's no hiding the fact that the legal job market is still pretty rough right now. The overall employment rate for recent law graduates fell for the sixth year in a row, to 84.5 percent, according to the National Association for Law Placement. This means that if you're looking for that first legal job, or looking to lateral into a new job, there's no room for error on your résumé. Below are some important tips that everyone should use when applying for jobs.

1. Words Matter.

Review the job posting and use keywords from the posting in your résumé. This is important because the keywords in the posting are what the employer is specifically looking for. As an example, if you saw a job posting for a private law firm seeking an attorney with litigation experience, be sure to use the term "litigation" in your résumé. The federal government, in particular, uses keyword search software to eliminate résumés before they even reach a human being. If there is no job description, look up similar positions online and find the skills they are looking for. Also, be concise and use a variety of action verbs throughout your résumé.

2. Decide if you should create a chronological or a functional résumé.

A chronological résumé is the most popular format. If you went straight to law school from undergrad, or only took off a couple years in between, this format is probably best for you. If you haven't held many legal positions or internships, don't be afraid to include significant volunteer positions or leadership roles in law school activities. This is particularly pertinent for public-interest positions. For instance, if you were president of your pro bono society in law school, put this in your experience section and highlight your accomplishments instead of just noting it in the education section. However, do not add volunteer or leadership experience at the expense of eliminating substantive job experience.

A functional résumé might be more appropriate for someone who has held a number of jobs or who has a job history in a different field. This allows you to highlight positions you want prospective employers to focus on. For example, consider using separate headings for "legal experience" and "other professional experience." You may even have a chronological and a functional résumé, each tailored to specific positions you are applying for.

3. Make your résumé visually appealing.

A résumé that is well organized and nicely formatted will get noticed. If you want to check the visual appeal of your résumé, zoom out on Microsoft Word so the text is illegible and blurry. Note the ratio of text to blank space—too much text can make a résumé overwhelming and discourage the reader. Make sure your margins are not too wide or narrow; a good rule of thumb is use one inch margins, and if you are really struggling for space you can make the top and bottom margins half an inch.

Use 11 point font at the very least if you need to conserve space (i.e. don't try to stuff too much on one page by using 8 point font). Make headings and your contact information one point larger than the rest of your text. Use bullet points rather than paragraphs to make it easier for the reader to digest information in small pieces. Use bold caps for section titles and separate sections with a horizontal line.

If you are submitting an electronic copy, you should convert your résumé to a PDF. If the office you are applying to uses a different version of Microsoft Word, it could potentially destroy your formatting and all the time you spent making your résumé look aesthetically pleasing will have gone to waste. If you are submitting a hard copy, do not use regular copy paper; it is well worth the money to invest in bond paper. White and off-white are traditional and safe color choices.

4. Do not include an objective statement.

Objective statements are often vague and add little to no value to your application. Don't waste valuable space with an objective statement – the content of your résumé and a strong cover letter will convey to prospective employers not only your objectives but, more importantly, how your education and experience can help them meet their objectives (which is really what they care about after all).

5. Seek advice from practicing attorneys.

Practicing attorneys have not only seen a number of résumés come through their doors, but they were in your shoes once too. Seek advice from a number of attorneys, particularly those who are currently

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Copyright Basics: Understanding Works Made for Hire

Andrew B. Stockment

Copyrights are unique among the various types of intellectual property rights because they are both the most easily obtained and the most misunderstood. In the United States, copyrights exist from the moment that original works of authorship (such as poetry, software code, and musical works) are fixed in a tangible medium of expression (such as paper or flash memory cards). Registration provides additional benefits, but is not required.

Except in the case of a "work made for hire," the author of a work is the initial owner of the copyright in the work. Copyright owners have several exclusive rights, including the rights to reproduce, distribute, publicly perform, publicly display, or create derivative works based on the work. Copyright protection lasts from creation until 70 years after the author's death, or, in the case of works made for hire (and pseudonymous or anonymous works), the later of 120 years after creation or 95 years after first publication.

The employer or commissioning party is considered the author and the initial owner of the copyright in a work made for hire. Although copyrights may be assigned, an assignment is less desirable than original ownership because it may be terminated by the author (or by certain family members if the author is deceased) during a five-year window beginning approximately 35 years after the date of the assignment, and the right of termination may be exercised "notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant" (17 U.S.C. § 203(a)(5)). If a business expects a work to be of significant value over the long term, it should consider taking the steps necessary for the work to qualify as a work made for hire.

The concept of a "work made for hire" is frequently misunderstood, even by lawyers. A work is not "made for hire" simply because one person pays another to create the work or because an agreement between the parties labels it a "work made for hire." Under the Copyright Act (17 U.S.C. §§ 101 *et seq.*), a work is a "work made for hire" only if: (1) it is prepared by an employee within the scope of his employment; or (2) it is specially ordered or commissioned from an independent contractor pursuant to a written agreement and the work falls within one of nine statutorily defined categories.

For works created by employees, courts apply general principles of agency and employment law to determine whether an individual is an "employee" and whether the work was created within the "scope of employment." (See *Community for Creative Non-Violence v. Reid*, 490 U.S. 730 (1989); *U.S. Auto Parts v. Parts Geek, LLC*, 692 F.3d 1009 (9th Cir. 2012)). Courts generally apply a three-prong test to determine whether a work is an employee-created work made for hire:

1. whether the work is of the kind the employee is employed to perform;
2. whether the work occurs substantially within authorized work hours; and
3. whether the work is performed, at least in part, to serve the employer.
4. If a company is uncertain whether an individual is an employee or whether the creation of the work falls within the scope of such individual's employment, it should obtain a written agreement from the individual expressly assigning the copyright in the applicable works to the company.

For works created by independent contractors, only the following types of works are eligible to be "works made for hire":

1. a contribution to a "collective work" (a work, such as a periodical, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole);
2. a part of a motion picture or other audiovisual work;
3. a translation;
4. a "supplementary work" (a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes);
5. a "compilation" (a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship);
6. an "instructional text" (a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities);

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➢ *Top Five Résumé Tips*, continued from page 4

in, or have been, in positions you are seeking. Ask for constructive criticism and ask as many attorneys as possible. You may not agree with a suggestion one attorney makes, but after you hear the same suggestion from five attorneys you may see things differently. An added bonus is that you have an extra set of eyes for proofreading your résumé.

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On January 27, 2015, the YLC honored 18 newly elected or elevated female and minority judges at the **Bench-Bar Dinner** at the Jepson Alumni Center at the University of Richmond. Honorees included the Hon. M. Hannah Lauck; the Hon. Roderick C. Young; the Hon. Lynn S. Brice; the Hon. Grace Burke Carroll; the Hon. Jeanette Aldora Irby; the Hon. Bryant L. Sugg; the Hon. Joi Jeter Taylor; the Hon. Victoria A.B. Willis; the Hon. Stephanie Elizabeth Merritt; the Hon. Kimberly M. Athey; the Hon. David M. Barredo; the Hon. Linda Schorsch Jones; the Hon. Vanessa L. Jones; the Hon. Jayne Ann Pemberton; the Hon. H. Jan Roltsch-Anoll; the Hon. Stephanie Murray Shortt; the Hon. Deborah S. Tinsley; and the Hon. Onzlee Ware.

➢ *Copyright Basics*, continued from page 5

1. a test;
2. answer material for a test; or
3. an atlas.

The above list does not include many types of works that businesses frequently hire outside personnel to create, such as websites, logos, advertisements, photography, and custom software. For works that do fall within the defined categories, the business must have a written agreement from the author expressly stating that the work is made for hire in order for it to qualify as such.

Although the agreement and course of dealings between a business and an independent contractor may give rise to an implied nonexclusive license for the business to use the works created by the contractor, it is highly preferable to avoid relying on an implied license. Any business that engages a nonemployee to create a work and intends to own the copyright to such work should have a written agreement with the author expressly stating that the work is made for hire (if it falls within one of the eligible categories). If the work is not eligible to be a work made for hire, and as a safeguard even if it is, the written agreement should include a provision assigning the copyrights to the business, such as: "To the extent that the Work Product is not recognized as a 'work made for hire' as a matter of law, the Contractor hereby assigns to the Company any and all copyrights in and to the Work Product." By doing so, a business can obtain the copyright to a work (subject to statutory termination rights) even if the work does not qualify as a "work made for hire."

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2015 Bench-Bar Dinner

Top: Honoree, Judge Victoria A.B. Willis of Fredericksburg, a former YLC Board member, is joined by her daughters Catesby and Phoebe, a UR law student.

Left: Keynote Speaker Judge Marla G. Decker of the Court of Appeals of Virginia with the Bench Bar Dinner Committee Chairs, Nerissa N. Rouzer and Melissa Y. York, and the evening's honorees.

Right: Honoree, U.S. District Court Judge M. Hannah Lauck and Clarence M. Dunnaville, Jr.

For additional photos, visit www.vayounglawyers.com.

Preserving Your Client's Legacy through Estate Planning

Jesci Norrington

Practicing estate planning has more to it than you would think. In addition to drafting legal documents and organizing bank accounts, there is an emotional, human element to estate planning.

Most people fly through life focused on work, soccer practice, dance classes, hitting the gym, grocery shopping, social functions, laundry, etc. Often times, people simply press the proverbial play button in life and forget to pause. What's the point of working so hard? Often times, people do it for loved ones, family, and close friends. People make time to create a will or a trust or strive for the best tax planning and retirement planning to ensure their loved ones are taken care of financially. But is this really passing on "wealth"? Are you really giving your clients what they would want to leave behind?

Real wealth is health, happiness, the people we love, strength of character, friends, and values. Real wealth is not simply the money in the bank or material possessions. Help your clients tell their story in the most impactful way possible. That's where legacy planning can come into play and make a major impact on how your client's life is remembered by their relatives and friends.

Legacy planning helps capture the essence of an individual's life. It gives your client the opportunity to share life lessons to their loved ones, their wishes, insights on their personal life journey, military stories, family values, faith, what love is to them, and angels and heroes in their lives. It memorializes your client's stories.

Legacy planning encompasses a broad range of strategies. It can be as simple as answering some questions on an audio tape, writing out a few life stories, leaving letters for loved ones, customizing trusts to explain why clients are making certain distributions, or even videotaping pictures and things your client wants their loved ones to see and discover. Do not just focus on a client's monetary wealth—help them pass on a legacy

My grandfather survived being a prisoner of war in Japan after the attack on Wake Island in World War II. He was a Purple Heart recipient, as well as a courageous father, husband, and teacher. Unfortunately, I was only 12 years old when he passed away. I did not even know about his military history until a military historian shared stories at his funeral. The incredible journey he must have faced was never shared with anyone in our family. A simple letter or tape recording to hear his scratchy voice recount his courageous battle would have been a priceless guidance tool for all four of his children and seven grandchildren.

What were your grandparents like? Describe the neighborhood you grew up in. What was your favorite memory from elementary school? What does money mean to you? What advice would you give your children to succeed in life? What were your biggest failures and successes like? Everyone has answers to these questions, everyone has stories to tell.

"When someone dies without telling their story, it's like a library burning down." Mary Lou James

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network of colleagues throughout the Commonwealth. One of the constant refrains I hear from lawyers who have served on the Council is the appreciation for meeting and getting to know on both a personal and professional basis lawyers throughout the state.

Q: What advice would you give to younger attorneys who are entering the profession to be successful Virginia attorneys?

A: Seek out, when possible, mentors and role models, and take advantage of the fellowship of your colleagues at the Bar. Keep in mind that while we all have families to support and need to earn a living, ours is a profession built on service to our clients and communities. In that vein, your non-billable time is extremely valuable to your growth as a professional. Finally, be involved in your profession. Whether it is the VSB, a local bar association, or statewide bar associations like the Old Dominion Bar or VWAA, I think you will find the effort and experience rewarding.

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Judging Statutes: Not for the Uninitiated (or the Initiated)

Alexander T. MacDonald

If you're looking for the definitive statement on statutory interpretation, look further. *Judging Statutes*, the latest book from Robert A. Katzmann, chief judge of the United States Court of Appeals for the Second Circuit, is not an all-encompassing treatise. Weighing in at a slim 105 pages (excluding footnotes), it is roughly the length of an especially verbose law review article. It reads like one, too. Its principle claim—that judges can and should use legislative history—is relatively simple. But it presents that claim in a style that is at once both cursory and ponderous. Readers who happen to be deeply interested in statutory interpretation may enjoy the book; for them, *Judging Statutes* will offer an interesting perspective on the ongoing debate over legislative history's proper use. But anyone in the market for a major scholarly work or an interesting pleasure read should look elsewhere.

Judging Statutes is, more than anything, a book about legislative history. In the literary press, the book has been presented as a response to *Reading Law*, Justice Antonin Scalia and Bryan Garner's 2012 *magnum opus* on statutory interpretation. And in some ways, that characterization is accurate: the chief antagonists in *Judging Statutes* are Scalia and his "textualist" ilk, who believe that a statute's plain language should trump all other interpretive sources, including legislative history. Judge Katzmann signals his opposition to that theory early and often, calling out Scalia by name on the very first page. He does not, however, attempt to rebut textualism in general or *Reading Law* in particular. Nor does he offer his own grand theory of interpretation. Instead, he limits himself to battling Scalia and his textualists on the narrow ground of legislative history.

While textualists abhor legislative history, Judge Katzmann embraces it. He argues that a judge's role is to give statutes the meaning intended by the legislature. And, in his view, legislative history can be strong evidence of the legislature's intent. Busy legislators often do not have the time or ability to understand the plain text of any given bill; thousands of such bills are introduced every year, and those bills are often incoherent when read in isolation. Thus, to understand the text they are to vote on, legislators frequently resort to interpretive materials like committee reports—i.e., legislative history. In other words, legislators understand the laws they enact through the prism of legislative history. And because legislators rely on legislative history to give text meaning, so ought judges.

The merits of this argument are debatable, and debatable arguments often make for lively reading. But not here. Judge Katzmann's prose is plodding and over-structured. Instead of seamlessly guiding the reader from point to point, he too often explicitly roadmaps his arguments, causing the book to read like a graduate dissertation. Judge Katzmann also doesn't seem to know who his audience is. He both over-explains and under-explains, veering from pedantic to inscrutable. For instance, in the first chapter, he briefly recaps *Marbury v. Madison*, as if the average reader of a book about statutory interpretation would not already be intimately familiar with the case. Later, he goes out of his way to define *dicta*—a term that will be immediately understandable to anyone who's likely to buy a book titled *Judging Statutes*. But then, toward the end of the book, Judge Katzmann notes in passing that the plaintiffs in one particular case were unable to recover expert-witness fees from a defendant school district under the Individuals with Disabilities Education Act (IDEA) because the district did not receive "clear notice" that it could be liable for such fees. He observes that the "clear notice" requirement comes from the Spending Clause of the U.S. Constitution, but does not pause to explain what "clear notice" is or why it is required. The answers to those questions won't be immediately apparent to most practicing lawyers, let alone the lay readers that Judge Katzmann apparently thinks will read this book.

Ultimately, it's hard to recommend *Judging Statutes* to anyone but those readers who are deeply interested in legislative history. Legislative history has lately been the subject of a heated public debate among judges and scholars; and despite its flaws, *Judging Statutes* contributes to that debate. But readers looking for something either comprehensive or easily digestible should look elsewhere. *Judging Statutes* is too plodding for pleasure reading and too cursory for practical use.

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