

## INSIDE THIS ISSUE:

|   |    |
|---|----|
| 2017 Virginia Supreme Court Update  | 1  |
| President's Corner  | 2  |
| Claude D. Carter: 2017 Frank W. "Bo" Rogers Lifetime Achievement Award Winner | 2  |
| Macel H. Janoschka: 2017 Young Lawyer of the Year                             | 3  |
| Families Learn to Love Reading with Turn the Page                             | 3  |
| Roanoke Law Library News and Information                                      | 4  |
| Roanoke Law Foundation Continues Its Mission                                  | 4  |
| You and the Law: A Look Inside Your Juvenile and Domestic Relations Court     | 5  |
| Pro Bono Attorneys in Training  | 7  |
| Roanoke Law Foundation Awards Grants and Scholarships                         | 10 |
| In Memoriam   | 11 |
| Announcements   | 12 |

The views expressed in the *Roanoke Bar Review* do not represent the policy or carry the endorsement of the Association unless specifically noted.

## Editors

Justin E. Simmons - 983-7795  
jsimmons@woodsrogers.com

Robert E. Dean - 585-1776  
rob@robdeanlaw.com

Linda L. Gustad - 857-5100, Ext. 5323  
lindag@vawd.uscourts.gov

Richard D. Scott - 400-7997  
richard@rscottlawoffice.com

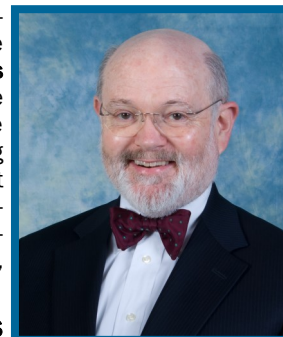
Christopher S. Dadak - 387-2320  
christopherd@guynnwaddell.com

Bradley C. Tobias - 983-9396  
tobias@gentrylocke.com

## 2017 VIRGINIA SUPREME COURT UPDATE

BY JOHN D. EURE, ESQ.

Recent Rules changes significantly affect appellate practice. Several are highlighted here, but there are more. Please consider this a reminder that we all must **read the Rules** afresh whenever considering an appeal. Amendments to the Rules of Professional Conduct have significantly limited the Bar's control over the information lawyers provide regarding legal services. A new rule requires courts to offer payment agreements allowing defendants to retain their driver's licenses while paying off fines and costs. Finally, two recent Supreme Court decisions have been overruled by the legislature, to the relief of many practitioners.



### NEW FILING DEADLINE CALCULATION FOR PETITIONS

**FOR APPEAL.** Effective July 1, 2017, and reflecting an amendment to Code § 8.01-671, the deadline under Rule 5:17(a)(1) for filing a petition for appeal in the Supreme Court on direct appeal from a trial court will be **90 days** after the date of the order appealed from. Formerly, the interval was phrased as "three months." The new deadline standardizes the time between the trial court's order and the appellate filing deadline, regardless of which calendar months are embraced by the calculation. **Caution:** Until July 1, 2017, the old "three months" calculation still applies.

**POSSIBLE EXTENSIONS OF SUPREME COURT DEADLINES.** Most filing deadlines in the Supreme Court are mandatory and inflexible. The deadlines remain "mandatory," but as of April 17, 2017, an extension in a civil appeal is at least a theoretical possibility in dire circumstances. Rule 5:5 now permits the Court to extend, one time and for no more than 30 days, several crucial deadlines including those for filing a notice of appeal, a petition for appeal, and a petition for rehearing. An extension can be granted only "if at least two Justices . . . concur in a finding that an extension . . . is warranted by a showing of good cause sufficient to excuse the delay." Never count on getting an extension, but remember that, in an emergency, a possible remedy now exists. If that emergency arises, file the extension request as soon as humanly possible!

**ELECTRONIC APPELLATE FILINGS.** Virginia's appellate system is moving closer to electronic filing. These Rules changes have also reduced or even eliminated the required numbers of paper copies, thus reducing the costs of an appeal. Digital filings are governed by the Guidelines and User's Manual for using the Virginia Appellate Courts eBriefs system (VACES), located on the Court's website at <http://www.vacourts.gov/online/vaces/resources/guidelines.pdf>. The services of an appellate printing service may be needed in order to produce compliant documents.

Here is the current paper vs. electronic status for some of the more frequent filings:

- **Supreme Court petitions for appeal and briefs in opposition:** Still paper at the petition stage. File 7 paper copies. You may serve either a PDF or paper on the appellees. Rules 1:7, 5:17, and 5:19. Note that, under Rule 1:7, electronic service changes the time given for the reply.
- **Supreme Court merits filings and all petitions for rehearing:** For briefs on the merits and appendices, file a PDF plus three printed copies. Serve only the PDF versions. Rule 5:26. Except for pro se prisoner filings or with leave of Court, all petitions for rehearing, at all stages, must be filed electronically. Rules 5:20, 5:37.
- **Court of Appeals – petition stage:** Still paper – file four paper copies. Rules 5A:12, 5A:13, and 5A:14. You may serve either paper or a PDF on the appellee. Rule 1:7.

(Continued on page 5)

## PRESIDENT'S CORNER

BY HUGH B. WELLONS, ESQ.



Is this Bar year almost over? It went so fast! I hope that it was a good year for you.

We started this bar year emphasizing service, whether through pro bono legal activity, Barrister Book Buddies, teaching Rule of Law, volunteering for Santa in the Square, or even working for your favorite nonprofit, church, synagogue, or mosque. This year we read to 627 elementary students, gifting each with a new book in the spring. We taught Rule of Law to a combined total of 67 middle school classrooms in the fall and spring. We spread Holiday cheer to 186 children and their families at Santa at the Station and approximately 300 pro bono hours were donated to Blue Ridge Legal services.

Early in the year, we discovered that our relationship with the local legal aid organizations was broken. We created a committee to investigate and discuss how the RBA could help. The committee developed a list of possible pro bono offerings the RBA might organize. Committee representatives met with Susan Proctor of Blue Ridge Legal Services. She was a terrific help, and with her advice, a plan developed. Two trainings were scheduled this spring. Ross Hart trained some of us to advise people who need to be guardians for loved ones. Patrick Kenney trained others to handle driver's license reinstatements and criminal conviction expungements. Next year, the RBA will provide new training for no-fault divorce representation and restart traditional support for BRLS referrals. Thanks to so many of you for volunteering for these efforts.

We also started this year with a new executive director, Diane Higgs. She has done a great job! I was told by many that part of my job would be advising Diane about the job. It really was the other way around. Diane supported our organization in every needed way and kept me out of trouble.

Kevin Holt has been a constant source of advice and support for me and served on our special pro bono committee. He provided fine speakers for our member meetings, dealing with inconvenient cancellations. He will do an exceptional job as the next president of the RBA. Please support him as well as you supported me. And our president-elect, Lee Osborne, is already working on his duties for next year. We can expect some exciting member meetings!

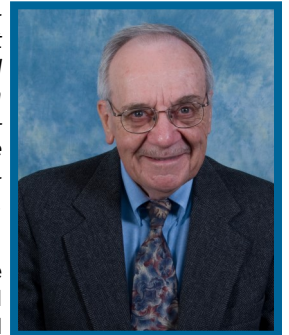
Our board has performed admirably. I will not identify individuals, in fear of failing to mention someone's extraordinary efforts. All board members dedicated many hours to their duties, trying to improve the RBA and the services we provide to members and the community. I am very grateful for all of their efforts.

Thank you for allowing me to serve as your president this year. It has been my honor. This summer, please think about what form of service suits you best. We are blessed as lawyers to have many opportunities to improve our community. Sometimes we can do that through pro bono work, but often our best opportunities are in other ways. Find what suits you and do it. It will enrich your life and the lives of others.

*Hugh B. Wellons is a partner at Spilman Thomas & Battle, PLLC.*

## CLAUDE D. CARTER: 2017 FRANK W. "BO" ROGERS, JR., LIFETIME ACHIEVEMENT AWARD WINNER

*This award recognizes an outstanding lawyer who embodies the highest standard of personal and professional excellence in Southwest Virginia and, in doing so, enhances the image and esteem of attorneys in the region. J. Lee Osborne, Esq., offered the following remarks in presenting this award to Mr. Carter at the Law Day luncheon.*



Good afternoon. My name is Lee Osborne and it is my distinct privilege and honor to introduce to you Claude Daniel Carter as the twelfth recipient of the Frank W. "Bo" Rogers, Jr., Lifetime Achievement Award presented today by the Roanoke Bar Association. I should mention also that Claude is the second Woods Rogers attorney to receive this award, Bill Poff having been honored to receive it in 2008. I have practiced law with Claude since coming to Roanoke in 1983 and we have been partners in one law firm or another for thirty years. He is my esteemed colleague, my mentor and my friend.

Before I introduce Claude to share with you why he is being honored today, I must first say a few words about the man for whom this award is named. Bo Rogers represented everything that a person and a lawyer should be. He was knowledgeable, tenacious and effective as an attorney, both wise and understanding as a counselor at law, and gracious and giving of both his time and his talents as a human being and as a member of this community. As members of the bar we all aspire to be the type of person and the type professional that Bo Rogers in fact was.

In the next few minutes I will try to share with you some of the details of Claude's life that were included in his nomination, but these will still only scratch the surface of what he has accomplished and contributed in his eighty-four years on this earth. I would argue that since this is a lifetime achievement award and given Claude's long life and storied career, I should have at least three times as much time allotted for my introduction as Linda Frith had for the Young Lawyer Award! I understand, however, that our time is limited and there is much left to do this afternoon, including hearing a few words from Claude himself when I am done, so I will endeavor to be succinct.

Claude was born in the City of Roanoke and has spent his entire legal career practicing in Roanoke and the surrounding counties. His father had a dairy farm which gave him a love for the land, an appreciation of hard work, and a desire to do something with his life other than milking cows (although Claude did for many years raise a few beef cattle on his nine-acre farm in Daleville where he and Nancy still live). He was educated in Roanoke County and Fincastle elementary schools, Botetourt County middle and high schools, and majored in finance and accounting at Virginia Tech, where he also served in the Corps of Cadets. After a few years in the army, Claude fulfilled his lifelong interest in the law by attending Washington & Lee. In 1959, he finished law school, passed the bar and married Nancy Kraige, quite a year I would say! Claude and Nancy have one daughter, Sarah, and one grandson, Joshua, who are here today to share in this recognition.

As an aside, Claude is a great teller of stories and jokes and was often called upon to share some at office birthday celebrations or other gatherings. One of my favorite jokes he told was purportedly

*(Continued on page 8)*

## MACEL H. JANOSCHKA: 2017 RBA YOUNG LAWYER OF THE YEAR AWARD WINNER



Linda D. Frith, Esq., offered the following remarks in presenting this award to Ms. Janoschka at the Law Day luncheon.

Macel joined Frith, Anderson & Peake as an associate attorney a little over six years ago and is now a partner in our firm. She focuses her practice on civil litigation, particularly in the areas of insurance coverage issues, premises liability, automobile liability, and workers' compensation.

She received her undergraduate degree from Virginia Tech and her law degree from University of South Carolina School of Law. She received her license to practice law in Virginia in 2006.

She is married to Stephen, whom she met while attending Virginia Tech. She and Stephen are the proud parents of two young boys, Ben, age 7, and Harrison, age 4.

In addition to excelling in the practice of law, Macel is extensively involved in bar and community activities.

Macel's extensive community involvement includes serving in 2013-14 as Chair of the Board of Directors of the Junior League of Roanoke Valley and she still serves as a member of that board. In August 2016, she joined the Board of Directors of Mill Mountain Theatre. Her interest in becoming a leader in her profession and community is exemplified by the fact that while working as a busy attorney, she took a professional leadership course at Hollins' Batten Leadership Institute and graduated with a certificate in professional leadership.

She currently serves on the Board of Governors for the Virginia State Bar Young Lawyers' Conference and on the Board of Directors of the Roanoke Bar Association. She is a former Chair of the Virginia State Bar Young Lawyers' Conference Southern Virginia Minority Pre-Law Conference. She is also a former Chair of the Virginia State Bar Young Lawyers' Conference Women and Minorities in the Profession Commission. In addition, she has participated for several years in the RBA Barrister Book Buddies program and a number of other RBA sponsored events.

As a result of her extensive state bar involvement, several years ago Macel received the Virginia State Bar Young Lawyers' Conference Outstanding Service Award. She was also recognized last year by *Virginia Lawyers Weekly* as an Up & Coming Lawyer.

I reached out to a number of Macel's close friends in the Roanoke Bar Association to elicit their comments and thoughts in an effort to give you a better idea of the person Macel is. Here is just a sampling of the comments and thoughts I received.

### Lawyer #1

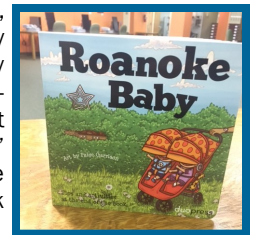
After attending a hearing with Macel, both Macel and I received an email from the judge's secretary, who stated that the judge wanted both of us to know how much he appreciated the kindness and professionalism we demonstrated in his courtroom.

(Continued on page 9)

## FAMILIES LEARN TO LOVE READING WITH *TURN THE PAGE*

Babies need to hear words—a lot of them. There is a huge gap between the number of words children in high-income and low-income households hear during the early years of life. Research estimates that children in professional households hear around 11 million words per year, while children in families receiving public assistance hear around 3 million words per year.\* Early exposure to language is key to a child's development and future success as it influences brain development. This "word gap" has repercussions for whether a child is ready to start kindergarten, and whether that child is positioned to learn from then on.

Reading aloud is a simple way to narrow this gap. Encouraging parents to read to their children helps families bond, while exposing children to language and forming habits that help them in school and later in life. To further these goals, the *Turn the Page* program, in partnership with the Roanoke City Libraries, is distributing books to every new baby at Carilion's Roanoke Memorial Hospital. Parents of each newborn at the hospital receive a "Roanoke Baby" book, featuring scenes from around the Roanoke Valley, and another new book purchased by *Turn the Page*.



Roanoke Bar Association members Lauren Ellerman, Kristin Johnson, and Erin Ashwell joined with physician Elizabeth Martin, Hollins Professor Anna Baynum, and reading specialist Kate Ericsson to spearhead the creation of *Turn the Page* and its efforts to encourage family reading. The program's mission is to provide every child in the Roanoke Valley with his or her own library of books during the crucial early years of life. In addition to giving new parents books at the hospital, *Turn the Page* supplies books to Child Health Investment Partnership, Blue Ridge Literacy, and other nonprofit organizations serving the Valley's youth. To find out how you can volunteer your time or offer your financial support to *Turn the Page*, see the program's Facebook page or visit <http://www.turnthepageva.org/>

\* Hart, B. & Risley, T.R., *Meaningful Differences in the Everyday Experience of Young American Children* (1995).



Macel Janoschka accepts her 2017 RBA Young Lawyer Award from Kevin Holt.



## ROANOKE LAW LIBRARY NEWS AND INFORMATION

BY JOSEPH KLEIN, LAW LIBRARIAN



Summer is here, as I am sure the heat, the recent monsoons, and all the school-age children not in school have reminded us. I hope that you have wonderful vacation plans in your not-too-distant future. If you are looking for some light or heavy reading materials for your trip to the beach, stop by the Roanoke Law Library. As you may or may not know, we have a wonderful collection of popular fiction from all the most notable authors, including the latest by James Patterson, Paula Hawkins, and David Baldacci.

### Virginia CLE Collection

If you want to bone up on the latest information on your legal specialty or learn something about a topic with which you are unfamiliar, be sure to check out our Virginia Continuing Legal Education collection. Virginia CLEs are often the most authoritative and up-to-date treatises on specific legal topics, and they can be invaluable resources for attorneys trying a case in unfamiliar territory. The Roanoke Law Library circulates Virginia CLEs to all members of the Roanoke Bar Association; all you need is a Roanoke Valley Libraries card to check them out. If you are interested in finding out if we have a CLE in a topic of interest, search our online catalog at [www.rvl.info](http://www.rvl.info). Limit the search to the Law Library and search for "cle," and the topic you are looking for (example: if you were looking for the Manual for Commissioner of Accounts, you can search for "cle commissioner of accounts"). If you have trouble finding something, don't hesitate to give me a call at 853-2268.

### Summer Reading Program

It is very important for kids to read over the summer while they are not in school so that they don't regress academically before they return to school in the fall. That's why one of the most important things the Roanoke Public Libraries offers is our annual Summer Reading Program that encourages school-age kids to read over the summer and maintain all the progress they made during the school year. The Roanoke Public Library is offering hundreds of programs in June and July for all ages. The theme this summer is Reading by Design and will focus on STEAM (Science, Technology, Engineering, Arts, and Mathematics) and there will be wonderful, fun and educational programs geared toward those topics for all ages. Check out our event calendar ([www.roanokeva.gov/library](http://www.roanokeva.gov/library)) for more information.



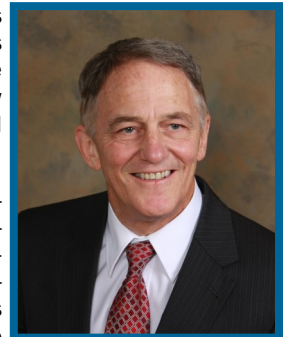
2016 Fellows; from left to right: Joe Mott, Richard Derrico, Grimes Creasy, John Fishwick, Neil Birkhoff, Michelle Derrico.

## ROANOKE LAW FOUNDATION CONTINUES ITS MISSION

BY JOSEPH W. H. MOTT, ESQ.

The Foundation continued its public-spirited mission this year as embodied in its bylaws: "to promote the diffusion of knowledge of the law and to affect such other educational and charitable purposes."

Lori Thompson has turned Santa at the Station into a well-oiled machine, now in its 11th year of providing a holiday experience to the underprivileged in our community. This year 182 attendees celebrated the Christmas season at the Transportation Museum.



The award winning You and the Law series continued this spring with a March 28 program at the Juvenile and Domestic Relations Court. The program gave 80 members of the public an overview of topics such as jurisdiction of the court, confidentiality and expungement of records, court security, internet safety and social media, pro se litigation, foster care, and a mock detention proceeding. The entire J & DR bench for the 23rd Circuit participated in the planning and presentation of the program, as did other court officials, and 13 presenters participated in the full-some presentation to attendees. The J & DR program brought full circle a public tour of the courthouse, following presentations in General District Court and Circuit Court in 2015 and 2016. The J & DR program received an Award of Merit from the Conference of Local Bar Associations at the Virginia State Bar annual meeting in Virginia Beach on June 16, 2017.

The Foundation welcomed nine new Fellows, who play a vital role in supporting the charitable goals of the Foundation, to this year's class. This year's inductees were recognized at a reception at Billy's Ritz, and are Neil Birkhoff, Grimes Creasy, Michelle Derrico, Rick Derrico, John Fishwick, Dan Frankl, William Gust, Mark Loftis, and Joe Mott. Please congratulate them when you get a chance.



The Foundation adopted an investment policy at the May meeting of the trustees. The policy provides guidance to the Trustees of the Foundation and its investment advisor, and establishes boundaries, while retaining flexibility to adapt to changing conditions. The Foundation finances its charitable operations in part with income from its portfolio, and the policy adopts a Conservative Growth and Income mix of securities. The policy should provide a reasonable rate of return on investment, further facilitating the activities of the Foundation, while minimizing risk to the corpus.

At the annual meeting of the RBA in June, the Foundation awarded \$4,500 in scholarships to deserving law school and college students, as well as a \$500 grant to the Legal Aid Society. Enjoy your summer!

*Joe Mott is an assistant United States attorney for the Western District of Virginia.*

## 2017 VIRGINIA SUPREME COURT UPDATE

(Continued from page 1)

- **Court of Appeals merits filings, appendices, and petitions for rehearing:** Unless otherwise directed by court order, for briefs on the merits, file a PDF plus three printed copies with the Court, and serve only PDF copies. Rule 5A:19. For an appendix that must be filed separately (see Rule 5A:19), file a PDF and three paper copies and serve the PDF. Rule 5A:25. Except for pro se prisoner filings or with leave of Court, all petitions for rehearing must be filed electronically. Rules 5A:15, 5A:15A, 5A:33, and 5A:34.

**FONTS IN APPELLATE FILINGS.** For some years, the Supreme Court has required the use of one of three fonts (Courier, Verdana, or Arial) that many have found unsatisfactory for various reasons. The Court of Appeals has never specified acceptable fonts. Through a quietly-issued amendment to Rule 5:6, effective December 15, 2016, the Supreme Court removed its narrow font restriction and published a dramatically broadened list of acceptable fonts. This list is the last item shown under the Rules tab on the Court's website. Early reviews suggest that Times New Roman permits squeezing in the maximum number of words. Cambria and Constantia are slightly more spacious and get good marks for readability. As you choose your font, remember that the Supreme Court requires 14-point type, while the Court of Appeals requires only 12-point but may find 13-point easier to read.

**UPDATED APPEAL BOND FORMS AND CASH BOND REMINDER.** The appeal bond forms, located at the ends of sections of Parts 5 and 5A, have been dramatically modernized. No longer will the bonds proclaim, in language translating an ancient Latin formula and inherited from the earliest days of legal documents in English, "Know all men by these presents." Will "oyez, oyez" (from law-French) be next?

A note to the updated forms helpfully reminds counsel that, under Code §§ 1-205 and 8.01-676.1(S), cash may be deposited with the Clerk in lieu of corporate surety. This is useful when the \$500 bond for costs on appeal is the only bond required.

**CHANGES TO ETHICS RULES GOVERNING INFORMATION ABOUT LEGAL SERVICES.** Effective July 1, 2017, Rules 7.4, governing communication of fields of practice and certification, and 7.5, governing lawyer and firm names and letterheads, have been deleted. Rule 7.2, on advertising, was deleted in 2013. The Bar's involvement is now limited to Rule 7.1, prohibiting false or misleading communications, and Rule 7.3, regulating the solicitation of clients.

**PAYMENT AGREEMENTS FOR COURT FINES AND COSTS.** New Rule 1:24, effective July 1, 2017, requires courts to offer payment agreements to defendants who owe fines and costs, including restitution obligations. The alternatives include deferred payments and installment payments. The Rule implements a stated "purpose of enabling defendants to restore their driver's licenses" while assuring payment of the fines and costs owed.

**LEGISLATIVE RESPONSES TO RECENT DECISIONS.** The 2017 legislative session overruled two troubling Supreme Court decisions. In *Thorsen v. Richmond SPCA*, 292 Va. 257 (2016), the Court relaxed the rule requiring privity between attorney and client as a prerequisite for a legal malpractice claim arising from estate planning, and also held that a contingent beneficiary under a will was a third-party beneficiary with standing to sue whose claim did not accrue until the testator's death. HB 1617, spon-

(Continued on page 7)

## YOU AND THE LAW

### A LOOK INSIDE YOUR JUVENILE AND DOMESTIC RELATIONS COURTS

BY CHRISTEN CHURCH, ESQ.

On March 28, 2017, the Roanoke Law Foundation hosted its program, *You and the Law: A Look Inside Your Juvenile and Domestic Relations Courts*. The event was held at the Roanoke City Courthouse and, with over 80 attendees, was very successful. In addition to RBA members, all five judges, the juvenile and domestic relations city clerk, members of the sheriff's department, and other children's legal advocates presented the program.



The program opened with a discussion of the role of the Juvenile and Domestic Relations Court, including how the court operates, what assistance the clerk is permitted to provide, as well as the limitations to such assistance the clerk may provide. Topics such as the importance of confidentiality of records, possible records expungement, and protective orders were included in the opening discussion. Judge Leisa K. Ciaffone and Clerk Carolyn Robbins presented this portion of the program.

Representatives of the sheriff's department, including Captain Chuck Ferguson and Lt. Jeff Jenkins, discussed court security and the sheriff department's role in ensuring the safety of court personnel and the public, along with aiding in the efficiency of legal proceedings. The officers discussed the role of the sheriff's department in community outreach and interactions with children, including a discussion of the training received by officers participating in programs like the DARE program.



Judge Hilary D. Griffith led a discussion on the critically important issue of internet safety and the rising influence of social media.

John M. McNeil, Assistant Commonwealth's Attorney, and Rachel Jackson, Assistant Public Defender, participated in a mock juvenile detention hearing. The mock presentation highlighted the approach of prosecutors and public defenders when handling J&DR cases, working toward a resolution all parties can live with.

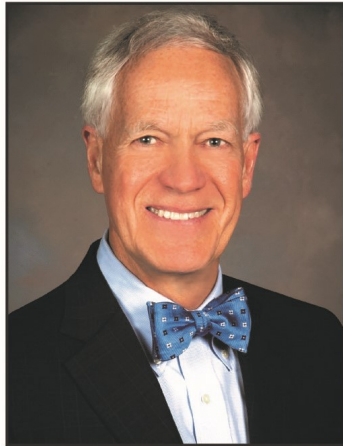


(Continued on page 9)



# The McCammon Group

is pleased to welcome our newest Neutrals



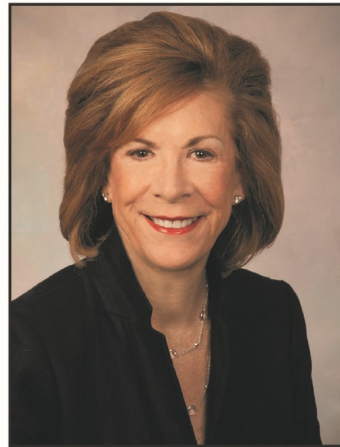
**Hon. Robert S. Brewbaker, Jr. (Ret.)**  
Retired Judge,  
5th Judicial District of Virginia



**Hon. James C. Hawks (Ret.)**  
Retired Judge,  
3rd Judicial Circuit of Virginia



**Hon. Burke F. McCahill (Ret.)**  
Retired Judge,  
20th Judicial Circuit of Virginia



**Hon. Winship C. Tower (Ret.)**  
Retired Judge, Virginia Beach  
Juvenile & Domestic Relations Court

THE  
MCCAMMON  
GROUP

*Dispute Resolution and Prevention*

For a complete list of our services and Neutrals throughout VA, DC, and MD,  
call (888) 343-0922 or visit [www.McCammonGroup.com](http://www.McCammonGroup.com)

## 2017 VIRGINIA SUPREME COURT UPDATE

*(Continued from page 5)*

sored by Del. Greg Habeeb, and SB 1140 led to the enactment of Code § 64.2-520.1, which establishes the accrual date for a legal malpractice claim for estate planning as the date of completion of the representation. This statute also provides that a person not a party to the representation has standing to sue *only* if a written agreement between the attorney and the individual whose estate is being planned expressly grants standing to that third party by specific reference to this new statute. 2017 Acts chs. 43, 93. Thank you, Greg.

In *Evans v. Evans*, 290 Va. 176 (2015), the Court ruled that a tenancy by the entirety could be severed by the unilateral act of one tenant. H.B 2050 added language to Code § 55-20.2 specifying that “except as otherwise provided by statute, no interest in real property held as tenants by the entireties shall be severed by written instrument unless the instrument is a deed signed by both spouses as grantors.” 2017 Acts ch. 38.

*John D. Eure is a partner at Johnson, Ayers & Matthews, PLC.*

## PRO BONO ATTORNEYS IN TRAINING

Here's the theory: attorneys may be reluctant to volunteer pro bono services because it takes them outside the comfort zone of their regular practice areas. The 2016-2017 RBA Board of Directors decided to put this theory to the test for a good cause. The goal was (and is) to identify ways to improve the referral system between the RBA and Blue Ridge Legal Services and Legal Aid by encouraging attorneys to increase the pro bono hours they donate to these important organizations. Part of this effort has involved offering free information sessions for attorneys on specific legal topics that often arise in cases referred to RBA members for pro bono representation.

On April 27, Ross Hart led the first of these RBA-sponsored, information and training programs, hosted at Spilman Thomas & Battle, PLLC. Drawing on his years of personal experience, Hart provided information, tips, and cautionary tales for lawyers who may become involved in guardianship proceedings or be appointed as guardians for temporarily or permanently incapacitated adults. Thirteen attorneys attended this session.

Patrick Kenney led the second training on May 31 at the Roanoke Higher Ed Center. He focused on issues arising

*(Continued on page 9)*

# SWVM

## SOUTHWEST VIRGINIA MEDIATIONS

Hon. Jonathan M. Apgar (Ret.)

Twenty-third Circuit Court Judge for 16 years  
National Judicial College Certification in Civil Mediation

All types of Civil Mediation and Arbitration  
Case Evaluation      Judge Pro Tempore

[www.swvmediations.com](http://www.swvmediations.com)

540-556-4296

## CLAUDE D. CARTER: 2017 FRANK W. "BO" ROGERS, JR., LIFETIME ACHIEVEMENT AWARD WINNER

(Continued from page 5)



based on his grandson Joshua when he was just a wee lad. Apparently, they were in line together at McDonald's and they were standing behind a rather large woman when the beeper for the fries timer went off. Having obviously already spent some time around heavy machinery in his young life, Joshua grabbed his grandpa's hand, pulled him back and said "Watch out, Grandpa! She's backing up!"

Claude started in general practice working with Carl Langhammer, initially doing insurance defense, traffic, and personal injury work. After a year he went out on his own, setting up offices in Roanoke and in New Castle, and broadened his practice to include general trial work, business law, real estate and wills, and also serving as Bail Commissioner for the City of Roanoke. In 1964, Claude joined the law firm of Martin, Hopkins and Lemon, which later became Martin, Hopkins, Lemon & Carter after Claude became a partner. I should note here that two of Claude's former partners, Bill Hopkins, Sr. and Bill Lemon, are also recipients of this award, and I feel very fortunate to have had the opportunity to have practiced with the three of them. Claude became managing partner of Martin Hopkins until that firm split up in 1990. He and I have practiced together as partners with one or more other partners since then until we came to Woods Rogers together in 2009. As some of you may know, Claude sent out notice of his intent to retire in May of 2015 to the Firm and most of his clients, but he continues to come into the office regularly and cannot resist helping clients who ask for his help. I have occasionally reminded him that he will never actually retire as long as he keeps opening up new files, but I think retirement may be the only thing that Claude has not done successfully in his law career!

In the year 2000 at the age of 67 Claude embarked on the fulfillment a second lifelong passion which led to his second career being a minister. For six and a half years Claude formally studied religion, first in Richmond and Wake Forest with the Southeastern Baptist Theological Seminary, and then in Lynchburg at Liberty University, all while continuing to work nearly full-time. In the course of those studies he successfully completed two terms of Greek and two terms of Hebrew. He earned two degrees Cum Laude, a Master of Arts in Religion degree and a Master of Divinity degree, from Liberty University in December of 2006, and was ordained as a Baptist minister in March of 2007. Since becoming an ordained minister, Claude has served as a supply pastor for several churches, conducts a regular bible study, and has performed numerous weddings and funerals throughout the area. For a time before we closed down our practice on Franklin Road we considered converting the conference room upstairs that we called the Martin Room (named after Bill Martin) to a wedding chapel and charging a fee for the services Claude performed there!

Like Bo Rogers, throughout his long career Claude has distinguished himself both in his professional practice and in his contributions to his community and to those organizations that he has served. Claude has represented a number of small businesses and real estate developers in the area, providing valued legal advice and guiding them through the transitions of succession in both life and business. He represented and served on the board of the Virginia Baptist Children's Home (now Hopetree Family Services) for many years. He had one case, Couch v. United

States, go to the Supreme Court of the United States and has handled a number of cases at all levels of Virginia courts. He served as a Hearing Officer appointed by the Virginia Supreme Court for a number of years, hearing and adjudicating many cases involving employee disputes, administrative disputes, and other matters involving schools and government agencies.

For a number of years Claude served as pro bono legal counsel for the Rescue Mission Legal Aid Clinic where he and his secretary, Ilona Sholes, would go down twice a month and set up office for a few hours to assist indigent clients that could not afford an attorney. He was recognized for this service as the Outstanding Volunteer of the Year in 2004. Claude is a Mason and a Shriner, having served as Grand Master of the Masons in Virginia in 1994 and as Master of the Melrose Lodge in 1996. He participated in the Klown Unit of the Shriner's for nearly ten years, performing locally and travelling to perform at benefits in cities like Atlantic City, Myrtle Beach and Pittsburgh. He was a member of the Baptist General Board of Virginia in Richmond for several years and was involved with the Mission Support Ministry that works to establish new and support existing Baptist churches in the Roanoke Valley. Like Bill Hopkins and John Edwards



Claude Carter accepts the 2017 Frank W. "Bo" Rogers, Jr., Lifetime Achievement Award from Kevin Holt.

with whom he practiced for a number of years, Claude was interested and involved in local politics, and he was elected and served a term on the Board of Supervisors of Botetourt County in the mid-1980s. I should also note that he has been a faithful member of this Association for his almost sixty-year legal career.

Also like Bo Rogers, Claude is the type of person who inspires trust and confidence in everyone he encounters. Claude is the consummate general practitioner who has never met a client with a problem that he cannot help or a legal issue he will not take on. He cares for those who are less fortunate and no client or legal matter is too small or too difficult to deserve his efforts as an attorney. We live in a time when the demands of practice management and development and the complexity of the law have led most attorneys to focus their practice on one or more specific areas of law. Claude Carter throughout his career has represented the best in what a general practitioner should be, and in doing so his lifetime of achievements as a person and as an attorney have reflected well on the legal profession in the Roanoke Valley and beyond. Claude has always put the needs of others first, living the golden rule every day in his life and in his practice. For a lifetime of exemplary service to this community through his legal practice and through the exercise of his personal faith, please join me in recognizing Claude Daniel Carter as the 2017 recipient of the Frank W. "Bo" Rogers, Jr. Lifetime Achievement Award.



Lee Osborne is a principal at Woods Rogers PLC.



## MACEL H. JANOSCHKA: 2017 RBA YOUNG LAWYER OF THE YEAR AWARD WINNER

(Continued from page 3)



I certainly think the judge hit the nail on the head as far as Macel is concerned—she is always kind and professional while at the same time doing an excellent job for her client.

### Lawyer #2

When I think of Macel, two character traits come to mind. She is quietly altruistic and has a great sense of humor.

When Macel was honored last year by *Virginia Lawyers Weekly* as an Up & Coming Lawyer, I remember her telling me prior to receiving this award, that she was asked to submit answers to some questions that would be published statewide. One question asked was if Macel was still in law school, what advice would she give

herself. Her answer was, as a dark-headed brunette, she would tell herself to just forget it—blond highlights, no matter how much in style, would just not work for her and there is no reason to even try. That is Macel. She does not take herself too seriously, even in the face of an important state-wide award.

This lawyer went on to relate another story, which illustrates Macel's altruistic side:

Macel and I meet occasionally for lunch downtown and have done so for a number of years. On several occasions, we noticed the same woman standing on the sidewalk who appeared to be homeless and shoeless. Sometime later, I noticed the woman was wearing shoes. Macel won't admit it, but I am convinced Macel gave her the shoes because I saw a spare pair of shoes in her car which remarkably resembled the shoes the woman was wearing and I witnessed Macel pay for her lunch one time. Over the years, I have frequently seen Macel give to those with less, even when it meant she would go with less herself. But if you do not see it for yourself, you might not know how generous she really is because Macel does not seek or expect credit for her good deeds.

The respect accorded Macel is evidenced in many ways but certainly by the number of professional, civic and charitable organizations that continue to seek her wise counsel and steady judgment. She is a person of her word who has a wonderful sense of humor and does not take herself too seriously. While building a successful practice, she has been a committed wife and mother, serving the needs of her family as well as those of her friends, partners and other professional colleagues. She is a role model for us all.

Congratulations to Macel for this well-deserved award as this year's Roanoke Bar Association Young Lawyer of the Year.



Linda D. Frith, Esq. is a partner at Frith, Anderson and Peake, PC.

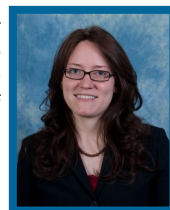
## YOU AND THE LAW: A LOOK INSIDE YOUR JUVENILE AND DOMESTIC RELATIONS COURTS

(Continued from page 5)

Judge Onzlee Ware and Judge John Weber III led a discussion on *pro se* litigants and the reality of unrepresented parties in court. The judges addressed options available to parties not represented by counsel, describing petitions and motions that may be filed without an attorney and the court process for unrepresented litigants.

The program concluded with a discussion of foster care, a panel discussion moderated by Judge Frank W. Rogers III with Heather Ferguson, Esq., from the Office of the City Attorney, Rachel Lower, Esq., Counsel for the Department of Social Services, Judi Jacobson, a Court Appointed Special Advocate, and James Cargill, Esq., Guardian ad litem, participating on the panel.

*You and the Law: A Look Inside Your Juvenile and Domestic Relations Courts* was the most successful court-related program offered by the Roanoke Law Foundation to date. Participants and attendees were complimentary of the topics the program offered and the quality of the presenters.



Christen C. Church is a partner at Gentry Locke.

## PRO BONO ATTORNEYS IN TRAINING

(Continued from page 7)

in proceedings to seek driver's license restoration or expungement of criminal charges. Eleven members attended to learn about this timely topic.

In the fall of 2017, the RBA, in partnership with Gentry Locke, will provide a training session in representing individuals in uncontested divorce proceedings. The presenters, date, and time for this training will be announced soon.

If you think of other legal topics that commonly arise in the pro bono service arena, please contact Patrick Kenney. The RBA plans to continue this series of refresher courses for lawyers in hopes of expanding their comfort zones to include more hours of pro bono service to members of our community.

## 2017 ROANOKE LAW FOUNDATION AWARDS GRANTS AND SCHOLARSHIPS



Joseph W. H. Mott, Chairman of the Roanoke Law Foundation,

presented the 2017 grant and scholarship awards at the Annual Meeting of the Roanoke Bar Association.

Henry L. Woodward accepted the 2017 Roanoke Law Foundation Grant for The Legal Aid Society of Roanoke Valley.



The James N. Kincanon Scholarship was established in recognition of Mr. Kincanon's fifty years of service as Secretary/Treasurer of the Association. The 2017 recipients of the James N. Kincanon Scholarships are :

John Christian Blackwell, a 2016 graduate of Patrick Henry High School, who attends the University of Virginia.

Fredric Charles Eichelman, a 2017 graduate of Glenvar High School, who will attend Roanoke College

Ethan Mackey, a 2017 graduate of Cave Spring High School, who will attend John Hopkins University.

Joshua Scott Roberts, a 2015 graduate of Hidden Valley High School, who attends Roanoke College.

The Jane S. Glenn Scholarship was established in memory of an outstanding member of the Association who died at the early age of 50 in November 2007.

The 2017 recipient of the Jane S. Glenn Scholarship is Christina Hubbard, who attends Washington & Lee University, School of Law.

With the 2017 awards, the Roanoke Law Foundation has awarded over \$168,400 in scholarships and grants since it was established in 1997.



Christian Blackwell



Freddy Eichelman



Ethan Mackey



Joshua Roberts



## THE 92ND ANNUAL MEETING OF THE ROANOKE BAR ASSOCIATION



Hugh Wellons presents donation to RVLSA. Accepted by Monica Williams, president.



Outgoing President Hugh Wellons passes the Roanoke Bar Association gavel to new President Kevin Holt.



Kevin Holt presents Hugh with a plaque recognizing his service to the RBA.

### 2016 VOLUNTEER SERVICE AWARDS

#### President's Volunteer Service Awards

##### Gold Level 500+ Hours

Hugh B. Wellons

##### Silver Level - 250 - 499 Hours

Roy V. Creasy

##### Bronze Level - 100 - 249 Hours

David N. Cohan

Martha W. Elder

Eugene M. Elliott, Jr.

Daniel P. Frankl

Kevin Holt

Lori Thompson

Henry L. Woodward

#### RBA Certificates of Commendation

##### 50 - 99 Hours

William E. Callahan, Jr.

Joshua D. Goad

Stephen W. Lemon

Christen . Church\*

Eleanor A Lasky

Devon J. Munro

##### 25 - 49 Hours

David J. Damico\*

Charles L. Downs

Victor S. Skaff, III\*

Lauren Davis

Kenneth J. Ries\*

Ashlee A. Webster

\*Includes 25 or more hours of pro bono legal services provided through Blue Ridge Legal Services

## IN MEMORIAM

The following are the Association's losses since March 2017:

Carroll D. Rea, Esq., Lifetime Member

(October 23, 1921 - April 3, 2017)

In grateful recognition of the contributions of Mr. Rea to our profession, and his contributions to our Association, the Association laments his passing.



# ANNOUNCEMENTS

| NEW MEMBERS  | UPCOMING EVENTS   | OFFICERS  |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
|--|---|---|------------------------------|----------|----------------------------------|----------|--|----------|-------------------------------|----------|-----------------------------------|----------|--------------------|--|--------------------|----------|--------------------|----------|----------------|----------|------------------|----------|--------------------|----------|-------------------|----------|-------------------|----------|--------------------|----------|-------------------|----------|---------------------|----------|-------------------|----------|
| <p>The Roanoke Bar Association welcomes the following new Active members:</p> <p>Effective July 1, 2017</p> <p>Susan Cook</p> <p>Woods Rogers PLC</p> <p>Katherine DeCoster</p> <p>Frith, Anderson &amp; Peake, PC</p> <p>Dirk D. Padgett</p> <p>Dirk Padgett Law PLLC</p> | <p>Roanoke Bar Association Meetings<br/>2017 - 2018</p> <p>September 12, 2017</p> <p>October 10, 2017</p> <p>November 14, 2017</p> <p>December 12, 2017</p> <p>January 9, 2018</p> <p>February 13, 2018</p> <p>March 13, 2018</p> <p>April 10, 2018</p> <p>May 1, 2018<br/>(Law Day)</p> <p>June 12, 2018<br/>(Annual Meeting)</p> <p>Go to <a href="http://www.roanokebar.com">www.roanokebar.com</a> for more information on all upcoming events.</p> | <table><tr><td>Hugh B. Wellons<br/>President</td><td>512-1809</td></tr><tr><td>Kevin W. Holt<br/>President-Elect</td><td>983-9377</td></tr><tr><td>J. Lee E. Osborne<br/>Secretary-Treasurer</td><td>983-7516</td></tr><tr><td>Joseph Mott<br/>Past President</td><td>857-2250</td></tr><tr><td>Diane Higgs<br/>Executive Director</td><td>342-4905</td></tr><tr><th colspan="2">BOARD OF DIRECTORS</th></tr><tr><td>Lori Jones Bentley</td><td>767-2041</td></tr><tr><td>Christen C. Church</td><td>983-9390</td></tr><tr><td>Robert E. Dean</td><td>585-1776</td></tr><tr><td>Daniel P. Frankl</td><td>527-3500</td></tr><tr><td>Macel H. Janoschka</td><td>725-3372</td></tr><tr><td>Patrick J. Kenney</td><td>982-7721</td></tr><tr><td>James J. O’Keeffe</td><td>983-9459</td></tr><tr><td>Diana M. Perkinson</td><td>343-2436</td></tr><tr><td>Nancy F. Reynolds</td><td>510-3037</td></tr><tr><td>Melissa W. Robinson</td><td>767-2203</td></tr><tr><td>Justin E. Simmons</td><td>983-7795</td></tr></table> | Hugh B. Wellons<br>President | 512-1809 | Kevin W. Holt<br>President-Elect | 983-9377 | J. Lee E. Osborne<br>Secretary-Treasurer | 983-7516 | Joseph Mott<br>Past President | 857-2250 | Diane Higgs<br>Executive Director | 342-4905 | BOARD OF DIRECTORS |  | Lori Jones Bentley | 767-2041 | Christen C. Church | 983-9390 | Robert E. Dean | 585-1776 | Daniel P. Frankl | 527-3500 | Macel H. Janoschka | 725-3372 | Patrick J. Kenney | 982-7721 | James J. O’Keeffe | 983-9459 | Diana M. Perkinson | 343-2436 | Nancy F. Reynolds | 510-3037 | Melissa W. Robinson | 767-2203 | Justin E. Simmons | 983-7795 |
| Hugh B. Wellons<br>President   | 512-1809  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| Kevin W. Holt<br>President-Elect   | 983-9377  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| J. Lee E. Osborne<br>Secretary-Treasurer   | 983-7516  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| Joseph Mott<br>Past President  | 857-2250  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| Diane Higgs<br>Executive Director  | 342-4905  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| BOARD OF DIRECTORS   |   |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| Lori Jones Bentley   | 767-2041  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| Christen C. Church   | 983-9390  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| Robert E. Dean   | 585-1776  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| Daniel P. Frankl   | 527-3500  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| Macel H. Janoschka   | 725-3372  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| Patrick J. Kenney  | 982-7721  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| James J. O’Keeffe  | 983-9459  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| Diana M. Perkinson   | 343-2436  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| Nancy F. Reynolds  | 510-3037  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| Melissa W. Robinson  | 767-2203  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |
| Justin E. Simmons  | 983-7795  |   |                              |          |                                  |          |  |          |                               |          |                                   |          |                    |  |                    |          |                    |          |                |          |                  |          |                    |          |                   |          |                   |          |                    |          |                   |          |                     |          |                   |          |



**DON'T FORGET TO CHANGE YOUR ADDRESS!**

Name: \_\_\_\_\_ Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**Complete and Forward to:** Roanoke Bar Association, P.O. Box 18183, Roanoke, VA 24014

Email: [rba@roanokebar.com](mailto:rba@roanokebar.com)