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

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THE REFUGEE CRISIS IN UKRAINE

BY RACHEL THOMPSON, ESQ.



Over the last several weeks, many of us have been moved, saddened and outraged by the stories and footage of the current situation in Ukraine. Ukrainian nationals in the greater Roanoke area have solicited our help to try to get their loved ones here from Ukraine. The pain in their eyes and the sound of fear in their voices are heartbreaking. What are the immigration options for these loved ones? What are the options for all the refugees fleeing Ukraine? As of March 15, 2022, over 3 million people have fled Ukraine due to the Russian invasion. Most of these individuals have fled to neighboring countries, with Poland taking in the majority of Ukrainian nationals, at 1.8 million individuals. Despite the ongoing conflict and urgent circumstances, immigration opportunities for foreign nationals to enter the United States can be limited and delayed.

However, in some circumstances, Ukrainians may seek relief. The first question is whether the individual seeking relief is in the United States or abroad. Where the individual is physically located will determine what options are available.

Ukrainian immigrants who are physically in the United States: For Ukrainian immigrants here in the United States, some options are:

Temporary Protected Status (TPS): On March 3, 2022, President Biden and the Department of Homeland Security designated Ukraine for Temporary Protected Status for 18 months. TPS provides a work permit and temporary relief from deportation for foreign nationals who are in the US at the time of the designation. Only certain countries have been designated for TPS and those countries have experienced an ongoing armed conflict, environmental disaster, or extraordinary and temporary conditions. There are approximately 320,000 individuals in the US currently with TPS. It is presumed that Ukrainian nationals will add 30,000 to that number.

Asylum: Asylum is an available remedy for individuals who come to the United States seeking protection because they have suffered persecution or fear that they will suffer persecution due to their race, religion, nationality, membership in a particular social group or political opinion. The wait for asylum, if filed affirmatively with U.S. Citizenship and Immigration Services (USCIS), can be over 5 years with over 49,000 cases pending in the current backlog of the Arlington Asylum Office alone. Asylum at the Immigration Court level is also a long wait with cases taking an average of 4.5 years for completion. In a crisis like the one in Ukraine, the asylum standard may be difficult to meet as the applicant must show the specific persecution is on account of one of the enumerated grounds.

Ukrainians abroad seeking to enter the United States: For those seeking to enter the US, some options are:

Humanitarian Parole: Humanitarian Parole permits an individual, who may be inadmissible or otherwise ineligible for admission into the United States, to enter the United States for a temporary period for urgent humanitarian reasons or significant public bene-

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PRESIDENT'S CORNER

BY MACEL H. JANOSCHKA, ESQ.



As we welcome spring, and hopefully the endemic phase of COVID-19, we are looking forward to resuming our “regular scheduling” for the Roanoke Bar Association. With the exception of our January meeting, we’ve already enjoyed the return to in-person lunch meetings, and have had an outstanding lineup of speakers.

Due to concerns related to the Omicron variant, we shifted to

a virtual meeting in January. Former RBA President, Joe Mott, gave a fascinating presentation on his time in Afghanistan. To date, he is the speaker I personally have received the most feedback about, and the feedback was all extremely positive. My only regret is that he could not enjoy a well-deserved Shenandoah Club banana pudding after his presentation! At the end of his presentation Joe mentioned how he has been assisting with the resettlement of Afghan refugees in the Roanoke Valley. Commonwealth Catholic Charities has provided an article within this newsletter that discusses how you can get involved.

In February, Christopher Roberts, City of Roanoke Youth and Gang Violence Prevention Coordinator, provided an informative presentation on the work he has done over the last few months in the newly created position of Youth and Gang Violence Prevention Coordinator. We welcomed VSB President, Jay Myerson, in March and received an update on the great work done by the Virginia State Bar and its leaders.

We are excited that the Bench-Bar Conference was able to be held in person at the Higher Ed Center this year. Our CLE chair, Jonathan Puvak, planned a great event. Attendance this year provided attendees with both insights and tips from our local bench and the ever-popular ethics credits! The CLE program was “Ethical Duties Lawyers Owe to the Court” and “New and Hot Topics in Legal Ethics”, presented by Barbara Balogh Saunders, Assistant Ethics Counsel for the Virginia State Bar. Thank you to Jon for your hard work on this event and for your work on our CLE programming coming up later this spring.

Our service committee is hard at work with the Roanoke City School’s homeless coordinator in planning the school system’s first ever celebration lunch for graduating seniors. The lunch will take place on May 21, 2022. Volunteers will be needed for set-up, service during lunch, and clean-up. More details on how you can help will come in a future e-blast.

We are also soliciting donations, through the Roanoke Law Foundation, for “Welcome Home Baskets” for Roanoke City School’s formerly homeless families. These baskets are provided Roanoke City children and their families that have obtained housing after experiencing a period of homelessness. On average, 40 Welcome Baskets are needed each year. Total cost for one year of Welcome Baskets is approximately \$5,000.00, at a cost of \$125.00 per basket. Donations in any amount are welcome.

As we return to our normal programming, we are looking forward to our Law Day celebration on May 2, 2022 where our

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WELCOMING OUR NEW NEIGHBORS

BY LAURA MURPHY*

This story was originally published in CCC’s Fall 2021 Chronicle and has been republished with CCC’s permission. The numbers have been updated to reflect additional arrivals.

In the past several years, Catholic Commonwealth Charities (“CCC”) has welcomed over 500 Afghan refugees into our communities across Central, Eastern, and Southwestern Virginia.

As the crisis in Afghanistan continues to unfold, CCC staff remain committed to quickly and compassionately responding to the needs of our newest neighbors and providing them with a warm welcome.

“I recently had the opportunity to go with our resettlement team to help set up an apartment for a refugee family,” said Jessica Wells, CCC VP of Mission Advancement. “I walked into an empty apartment. It was clean and bright, but very bare. There was no furniture, no decorations—nothing to make it feel like a home. When I went back to visit at the end of the week, it was completely different.”

In those few days, the resettlement team had jumped into action—moving in furniture, unpacking boxes, making beds, and turning an empty space into an inviting home.

“In most cases refugees arrive with very few belongings,” said CCC CEO Jay Brown. “They have left behind everything—their homes, careers, family and friends, everything familiar.”

Providing a warm welcome is what CCC’s refugee resettlement program is all about, not only as we respond to the current Afghan refugee crisis, but every day. This welcome is especially heartfelt from our staff, many of whom are refugees and have gone through a similar process themselves.

CCC staff are there to welcome and guide refugee families from day one and beyond. They help refugees locate and set up a home, learn English and local culture, enroll children in school, prepare for employment, obtain a driver’s license, sign up for insurance, and so much more.

“On behalf of the CCC team and refugee families we serve, I send my sincere thanks to our community of supporters—for every phone call made, item donated, e-mail sent, and check written. However, as we continue to respond to the Afghan refugee crisis, we know that the real work is just beginning. We have already begun to prepare for the arrival of more families over the coming months,” said Brown. “We know that their road will be difficult, but we are ready and waiting to welcome them home.”

Get Involved

Humanitarian parole is a temporary legal immigration status assigned to refugees. All individuals with this status will have to take action to secure permanent legal residency. CCC is currently looking to onboard any attorneys interested in helping these families file their asylum applications. Please reach out to Laura Murphy, laura.murphy@cccofva.org, if interested. To learn more about CCC’s resettlement efforts and how you can help, visit www.ccofva.org.

**Laura Murphy is the Director of Refugee & Immigration Services at Commonwealth Catholic Charities.*

KEEPING IT CLEAN PROJECT: UPDATE FROM RCPS

BY SARAH MCMINN*

Clean clothes are now more accessible than ever for Roanoke students and their families thanks to the Roanoke Bar Association's Keeping it Clean initiative.

In 2020, Roanoke Bar Association members set a goal to raise enough money to purchase 21 washer and dryer sets for Roanoke City Public Schools. Thanks to their fundraising efforts and a grant from the Junior League of the Roanoke Valley, every school that wanted a set now has one.

Studies have consistently shown that students are more likely to miss school if they don't have clean clothes. Students also have more trouble concentrating and are more likely to feel embarrassed. Now, school staff wash students' clothes on a daily basis, and families can even schedule a time to use the washers and dryers.

Hurt Park Elementary School social worker La'Shay Foreman says the Keeping it Clean initiative has made a true impact on the school community. She estimates they've washed more than 100 loads of clothes since their set was installed in October 2020.

"We use them to keep student's items clean and make them feel good about themselves," Foreman said. "You'd be surprised how many students ask us to wash their clothes and coats! This has been helpful in more ways than you know."

*Sarah McMinn is the Marketing & Events Specialist for Roanoke City Public Schools.



Deliveries of Washers, Dryers and Laundry Supplies to Roanoke City Schools



THE NEW APPELLATE LANDSCAPE IN VIRGINIA

BY MONICA T. MONDAY, ESQ.

On March 31, 2021, Governor Northam signed legislation that expands the jurisdiction of the Court of Appeals of Virginia and dramatically changes the way that appeals are handled in Virginia.¹ This historic legislation, which took effect on January 1, 2022, sets the stage for the most significant changes to Virginia's legal system since the Court of Appeals was created in 1985.



For the first time in modern Virginia history, virtually every litigant will have an appeal as a matter of right. This sea change brings Virginia's legal system in line with every other state in the nation, where appeals of right have already been the norm. More fundamentally, appeals of right will increase access to justice by ensuring that litigants have their cases decided on the merits.

Civil Appeals

Long gone are the days when the Court of Appeals' civil jurisdiction was limited to a narrow category of cases.² Now the Court of Appeals will hear almost all civil appeals as a matter of right. The Supreme Court will consider civil appeals from the Court of Appeals in its discretion through the familiar petition process existing today.³

Criminal Appeals

In criminal cases, defendants will no longer petition for an appeal with the Court of Appeals. Their appeals will instead proceed as a matter of right.⁴ The Commonwealth, on the other hand, will still need to file a petition for appeal.⁵ For its part, the Supreme Court will continue to review decisions of the Court of Appeals in criminal cases by petition.⁶

Under the new procedures, responsibility to defend criminal appeals shifts to the Office of the Attorney General ("OAG"). Previously, local Commonwealth Attorneys were responsible for defending the Commonwealth's interests at the petition stage of the appeal. Now, with the elimination of the petition process, the OAG will handle all criminal appeals filed in the Court of Appeals from the outset of the appeal.⁷ As a result, under the new law, a copy of the notice of appeal in criminal cases must be mailed or delivered to the OAG.⁸

More Judges

To manage the anticipated increase in the Court of Appeals' caseload, the legislature increased the Court's bench-strength from 11⁹ to 17¹⁰ judges. Among the newest members of the Court of Appeals is the Hon. Frank K. Friedman, a member of the RBA and the only judge on the Court in the southwest region of the Commonwealth.

Many Procedural Changes

Appeals of right are just one of the sweeping changes to appellate practice in Virginia. The new law also brings fresh changes to other aspects of the appellate process.

For example, parties will get oral argument in the Court of Appeals unless: (1) "the appeal is wholly without merit" or (2) "the dispositive issue or issues have been authoritatively decided, and the appellant has not argued that the case law should be overturned, extended, modified, or reversed."¹¹ This change was intended to create more opportunity for oral argument.¹² And, in a change that will reduce costs in many appeals, parties

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UPDATE ON VIRGINIA STATE BAR ACTIVITIES

BY DANIEL FRANKL, ESQ. AND
BRETT MARSTON, ESQ.



As your 23rd Judicial Circuit representatives to the Virginia State Bar Council, we appreciate the chance to represent you and to provide you with this update on some of the activities, events, and announcements related to the VSB.



The Bar Council, which is the legislative body of the VSB, met in person on February 26, 2022 at the Omni Hotel in Richmond. The next meeting will occur on Thursday June 16, 2022 as part of the VSB's Annual Meeting in Virginia Beach. If you have any issues or ideas you want to have addressed, please let us know.

There have been several key legislative items in the Virginia General Assembly that affected the VSB.

- One was Senate Bill (SB) 561 which was a proposal to change the way attorney disciplinary system would work. That bill was defeated in Senate
- The second bill, House Bill (HB) 1285, passed both the Senate and House and by the time this is published should have been signed by the Governor. This bill reauthorized the VSB Clients Protection Fund and removed the sunset provisions from the law, thus making it a perpetual program within the purviews of the VSB.
- There was also a Joint Resolution (HJR 59) filed in the House requesting the Office of the Executive Secretary of the Supreme Court of Virginia to study the feasibility of the creation and implementation of a state-wide uniform E-Filing system for Virginia courts. This is an important issue to keep an eye on over the next year or so.

There have been several changes to the ethical rules, guidance, etc. that comes from and through the VSB. There are also some pending items for attention. If you want to provide comments or review any of these items, they are available on the VSB website or contact one of us. The substantive ones are as follows:

- The Supreme Court of Virginia has approved Unauthorized Practice of Law (UPL) Opinion 218, which clarifies the very limited rights of a Power of Attorney (POA) to appear in Court on behalf of the person for whom the POA is held.
- The Supreme Court of Virginia has approved updates to Rule 1.2 of the Rules of Professional Conduct. These updates provide greater ability of Virginia attorneys to provide advice on cannabis/marijuana activities and business, although the Virginia and federal laws differ on the legality of cannabis/marijuana.

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ROANOKE LAW LIBRARY: NEWS AND INFORMATION

BY JOSEPH KLEIN, LAW LIBRARIAN

Growth is the word of the season here in the Roanoke valley as spring brings warmer weather and plants bloom and flower (not to mention the unfortunate pollen that accompanies that growth). I am also growing in my ability to better assist the Roanoke Valley's legal research needs. Yet every new season brings a new lesson about how to better provide legal information to a changing set of consumers. Quite a few of you have visited the Roanoke Law Library's new location, and business has definitely been picking up. It has been great seeing old faces and meeting new people. Lately a lot of you have needed access to the historical Code of Virginia volumes. Many of you have been taking advantage of our collection virtually, and while I miss meeting with you in person, often that is the most effective and efficient way for me to provide assistance. So never hesitate to contact me by phone at 540-852-2268 or email (joseph.klein@roanokeva.gov) to request materials or assistance. I am always open to any idea or suggestion for ways that the Roanoke Law Library can better serve you or the Roanoke legal community.

If you do want to visit in person, just a reminder that the Roanoke Law Library is in the Virginia Room on the second floor of the Main Library located at 706 South Jefferson Street. The collection is not as browsable as it was previously so if you plan to visit it is always advisable (but not necessary) to contact me ahead of time. If you do, I can have the information you need ready when you arrive or make suggestions for how best to tackle your search and perhaps save you a trip. Our physical collection is smaller than before. But we have committed considerable resources to providing Westlaw and Lexis so we actually have access to more legal information than ever before.

Even though our Westlaw and Lexis subscriptions are used quite a bit, I would love for them to be used even more. Westlaw and Lexis each provide access to state (particularly Virginia) and federal primary and secondary legal resources. They also provide access to databases that are not available elsewhere such as *Michie's Jurisprudence*, *Virginia Forms* on Lexis, all *American Jurisprudence* materials, the *Virginia Practice* set, and *Federal Practice and Procedure* by Wright and Miller on Westlaw. Access is free, and all are welcome to use Westlaw and Lexis whenever the library is open. Whether you have decades of experience using computer assisted legal research databases or have never searched them before they can be powerful tools to jump start your legal research game. I can provide research assistance and training or if you would like I can set up a time for you to receive training from a Westlaw or Lexis representative.



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SUPREME COURT SWITCH-UP

BY ALICHA M. GRUBB, ESQ.



This spring will usher in a little more than April showers and May flowers when it comes to the Supreme Court of Virginia. Last year, Chief Justice Lemons announced he was stepping down as chief and then shortly thereafter announced his retirement, effective February 1, 2022. Justice Mims also announced that he would not seek reappointment and would retire, effective March 31, 2022.

The General Assembly has the ability to elect both a justice to replace Justice Mims and a justice to finish out Justice Lemons' term. As I'm sure we are all aware, the legislature is divided, with the Democrats controlling the Senate and Republicans controlling the House, so the appointment of two justices may be harder than it seems. Session ended on March 12, and the General Assembly did not make any appointments to the Supreme Court of Virginia. It is possible that they could come back in a special session to appoint the justices, but if no appointments are made, the Governor will have the opportunity to do so. His appointee will have to face election by the General Assembly next session.

If the General Assembly returns for a special session, one aspect they should consider is geographic diversity. Only two justices on the Court of Appeals and one on the Supreme Court come from west of Richmond. Of course, the population is higher in Northern Virginia and on the east coast, but geographic diversity allows the Court to have a variety of perspectives and create regional buy-in.

There are 18 candidates for the Supreme Court, four of whom are from west of Richmond. The Virginia State Bar has interviewed the candidates, and most of their qualifications have been released, as indicated below.

Fairfax Circuit Judge David Bernhard
Highly qualified

Washington D.C. attorney Tillman J. Breckenridge
Highly qualified

Richmond attorney and former VSB president Brian L. Buniva
Roanoke Circuit Judge David B. Carson
Highly qualified

Salem Circuit Judge J. Christopher Clemens
Highly qualified

Charlottesville attorney Gregory S. Duncan
Loudoun County Circuit Judge Douglas L. Fleming Jr.
Highly qualified

College of William & Mary law professor Jennifer R. Franklin
Qualified

Virginia Court of Appeals Judge Frank K. Friedman (Roanoke)
Highly qualified

Virginia Court of Appeals Judge Glen A. Huff (Hampton Roads)
Qualified

Norfolk Circuit Judge David W. Lannetti
Highly qualified

Richmond attorney Robert W. Loftin
Qualified

Supreme Court Chief Staff Attorney K. Lorraine Lord
(Richmond)
Highly qualified

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MY SUPERLATIVE CASE

BY LINDSEY A. COLEY, ESQ.

I received a call from a colleague asking if I would be willing to talk to a gentleman ("Bob") about a potential guardianship case. My colleague explained that he had spoken with Bob at length, and his situation was unusual (and frankly, a red flag), but that Bob seemed genuinely sincere.



Bob lived in North Carolina and his best friend ("John") lived at Smith Mountain Lake. They were both pilots and had been best friends for many years. In fact, Bob had recently purchased John's airplane. Bob was concerned about John because he had been in a very serious motorcycle accident. At the time of the call, John had been hospitalized for several weeks, was ventilator-dependent and paralyzed. John was not married, did not have any children and had been estranged from his extended family for over 30 years.

According to Bob, a few months prior to the accident, John ordered an online Will, Power of Attorney and Advance Medical Directive and told Bob that he wanted to leave all of his assets to Bob (and his wife), except for his hangar because Bob already owned a hangar. John told Bob that he wanted to leave his hangar to another mutual friend, who owned the airport where the hangar was located. At that time, Bob agreed to handle John's affairs and carry out John's wishes.

After John's motorcycle accident, Bob discovered that John never signed his Will, Power of Attorney or Advance Medical Directive. These documents were still in the original envelope on John's desk at his house. Not only were they unsigned, but there were still blanks to be filled in on these documents.

John was incapacitated and did not have the capacity to sign a Will. We could not find any prior Wills or other estate planning documents that John had signed. Therefore, John did not have a valid Will, and no one was authorized to make medical decisions for him or act on his behalf.

After several attempts, the social worker at the hospital confirmed that she was unable to locate or even identify any next of kin for John. In fact, the only people who had even visited John in the hospital during his 4 month stay (at that point) were Bob and John and Bob's mutual friend who owned the airport, both of whom had been designated by the hospital as John's "special friends."

The hospital staff was strongly recommending that John be removed from the ventilator and placed in palliative care. If John died, all of his assets would pass to his heirs via intestacy. Bob was adamant that this was not what John would have wanted.

I filed a Petition with the Court requesting that Bob be appointed as John's guardian and conservator so Bob would be authorized to make medical decisions for John and pay his bills.

I had many discussions with the Guardian ad litem during the guardianship proceeding regarding Bob's ultimate goal of carrying out John's final wishes. We were both aware of the statute that would allow a Court to grant estate planning powers to a conservator, but neither of us had actually made such a request in prior cases.

At the guardianship hearing, the Judge was aware that we intended to make a future request that the conservator be

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MEDIATION**ARBITRATION****JONATHAN M. APGAR**

Having previously served twenty-one years as both a full time and a retired, recalled circuit court judge, Jonathan M. Apgar has successfully mediated scores of cases. He is also certified in civil mediation by the National Judicial College. He offers skilled mediation and arbitration at a modest cost.

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THE REFUGEE CRISIS IN UKRAINE

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fit. This does not give the individual permanent benefit or replace a visa process.

Refugee Status: Some individuals may be able to apply for refugee status through the United Nations High Commissioner for Refugees (UNHCR) although the case loads are currently limited. To be a refugee, an individual must prove abroad that they qualify and then they will be resettled to a country by a resettlement agency. According to the US State Department data, the US has only accepted 514 Ukrainian refugees in January and February of 2022. The US State Department is working with the United Nations to bring in more refugees in situations where they lack protection in Europe.

There are always nonimmigrant options for those in Ukraine seeking to enter on a temporary basis. Additionally, there are family-based options for Ukrainians with US citizens/lawful permanent resident family members who can petition for them. However, the process can take many years. While the options are limited for Ukrainians, many have been able to take advantage of some of the options above.

Rachel Thompson is a partner at Poarch Thompson Law, an immigration and adoption law firm in Salem.

SUPREME COURT SWITCH-UP

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Virginia Court of Appeals Judge Mary B. Malveaux (Henrico County)

Highly qualified

Fairfax County Circuit Judge Thomas P. Mann

Highly qualified

Williamsburg attorney Patricia A. Rene

Stafford County Circuit Judge Victoria A.B. Willis

Qualified

Virginia Indigent Defense Commission counsel Catherine

French Zagurskie (Richmond)

Qualified

The current makeup of the Court along with the area the justice calls home is as follows:

Chief Justice Goodwyn - Chesapeake

Justice Mims - Leesburg

Justice Powell - Chesterfield County

Justice Kelsey, MW - Suffolk

Justice McCullough - Fredericksburg

Justice Chafin - Tazewell

With Justice Mims' retirement, Justice McCullough will be the only justice from the Northern Virginia/Northern Virginia-adjacent jurisdictions. There are two justices from the southeast corner (Chesapeake and Suffolk), one justice from far southwest Virginia, and one judge from the Richmond area.

With only one justice on the court from west of Richmond, the General Assembly (or the Governor if necessary) should consider appointing one of the Highly-Qualified candidates from Roanoke and another from Northern Virginia. However, we should not be surprised if both appointees are from Northern Virginia or the surrounding area. Regardless, the next couple of months will prove to be interesting as the candidates are chosen.

Alicha M. Grubb is an associate at Gentry Locke.

SPOTLIGHT ON SERVICE

BY DANIEL P. FRANKL, ESQ.

I was recently asked why I volunteer my time on various projects throughout the Roanoke Valley and what volunteering means to me.

I believe volunteering is essential to help others and to participate in our community in an attempt to motivate positive change to make a difference in the lives of the families and children in the Roanoke Valley. When you see the impact of your efforts, it makes you feel good and fills you with a sense of pride that you have had a positive impact on the community as a whole. I have learned that even the smallest gestures can make a difference. If we all work together, each of our small gestures can add up and, ultimately, result in a large impact on the community. Additionally, I hope that by volunteering I will inspire others to get involved.

The two main projects, proceeding and during my RBA presidency, were the "Meals for Heroes", providing meals to all front line workers in any capacity dealing with the onset of Covid-19 and the "Keeping it Clean" initiative providing Washers and Dryers to the RCPS system to help provide clean clothes for homeless and underprivileged students and their families to promote attendance in a learning environment without ostracism/bullying to allow students to concentrate on their education and, hopefully, their graduation.

Daniel Frankl is a partner at Frankl, Miller, Moyer & Webb.



For RBA members who wish to donate to organizations for Ukraine relief. Here is a non-exclusive list of organizations identified by news source:

CARE – care.org

Convoy of Hope – convoyofhope.org

CORE – corereponse.org

Doctors Without Borders

International Committee of the Red Cross

International Medical Corps

Project Hope – projecthope.org

Ukrainian Red Cross

UNICEF

United Way Worldwide

United Help Ukraine

Voices of Children

PRESIDENT’S CORNER

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local legislators will provide us with a legislative update. Thank you to our legislative chair, Nancy Reynolds, for planning the May programming.

In June, we will honor our Young Lawyer of the Year and the recipient of Frank W. Bo Rogers, Jr. Lifetime Achievement Award. Thank you to Gene Elliott for continuing to serve as our awards committee chair. We appreciate the hard work that you and your committee do each year!

Finally, thanks to our membership for your support of the Roanoke Bar Association. We appreciate your participation, donations, and suggestions. As always, please do not hesitate to contact me or any of the other RBA board members with your thoughts and/or ideas as we continue this bar year.

Macel H. Janoschka is a partner at Frith Anderson & Peake, PC

THE NEW APPELLATE LANDSCAPE IN VIRGINIA

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are no longer required to file an appendix when there is an electronic record.¹³ But these are just a few of the many changes to Virginia appellate procedure under the newly-amended rules for the Court of Appeals and Supreme Court.¹⁴

Ushering in a New Era in Virginia’s Courts

The new appellate landscape in Virginia opens the courthouse doors to appellate review as a matter of right and modernizes Virginia’s judicial system. These changes promote access to justice for the benefit of all litigants in the Commonwealth.

Monica Monday is a partner at Gentry Locke

¹S.B. 1261, Va. Gen. Assem. (1st Spec. Sess. 2021). The final version of the bill can be found here: <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=211&typ=bil&val=sb1261>

²Before 2022, the Court of Appeals had jurisdiction to hear civil appeals in workers’ compensation, juvenile and domestic relations, and administrative agency cases as a matter of right. Va. Code § 17.1-405 (2021); Va. Code §17.1-407(B) (2021).

³Va. Code § 8.01-670 (eff. 1/1/2022).

⁴Va. Code § 17.1-406(A) (eff. 1/1/2022); Va. Code § 17.1-407(B) (eff. 1/1/2022).

⁵Va. Code § 17.1-406(A) (eff. 1/1/2022).

⁶Va. Code § 8.01-670 (eff. 1/1/2022).

⁷Va. Code § 2.2-511(A) (eff. 1/1/2022). This code section also provides that “the attorney for the Commonwealth who prosecuted the underlying criminal case” may represent the Commonwealth in the appeal only “with the consent of the Attorney General.” *Id.*

⁸Rule 5A:6(d)(3).

⁹Va. Code § 17.1-400(A) (2021).

¹⁰Va. Code § 17.1-400(A) (eff. 7/1/2021).

¹¹Va. Code § 17.1-403 (eff. 1/1/2022); Rule 5A:27.

¹²Under prior law, the Court of Appeals could bypass oral argument through a procedure called “summary disposition” when an appeal of right lacked merit. Va. Code § 17.1-403 (2021); Rule 5A:27 (2021).

¹³Rule 5A:25(a)(1). When a paper record is filed with the Court of Appeals, Rule 5A:25(a)(2) requires the filing of an appendix.

¹⁴The amendments to Part 5A (Court of Appeals) and Part 5 (Supreme Court) can be found here: <https://www.courts.state.va.us/courts/scv/rules.html>

RCPS Welcome Baskets

The RBA, in partnership with the Roanoke City Schools homelessness coordinator, is soliciting financial contributions for “Welcome Home Baskets” for children and their families that have experienced a period of homelessness. The homelessness coordinator has determined that there is a recurring need for recently homeless students and their families, after obtaining housing, for basic household consumables not covered by existing public aid programs. The needs consist of cleaning and laundry supplies, as well as personal hygiene items. While the cost for each basket that comprehensively provides all needed items is approximately \$125.00, donations of any amounts are accepted. Checks can be made to the “Roanoke Law Foundation” with a designation of “welcome home basket” in the memo line and mailed to “RLF PO Box 18183, Roanoke, VA 24014”.



RCPS Welcome Basket which includes:

- | | |
|----------------------------------|--|
| Toilet Paper | Hand Soap |
| Paper Towels | Disinfecting/Cleaning wipes |
| Laundry Detergent | Toilet Cleaner & Toilet Brush |
| Dryer Sheets | Set of Flatware |
| Dish Soap | Set of Dishes |
| Dish Scrubbies or Sponges | Glasses |
| Dish Towels | Storage Tote or Laundry Basket |

**Upcoming CLE Seminars
Save the Dates**

**April 27th:
2 hour CLE on the topics—
Cannabis Products Liability and
Employment Law Considerations**

**May 4th:
1 hour CLE on the topic—
Premises Liability**

Details TBA

UPDATE ON VIRGINIA STATE BAR ACTIVITIES

(Continued from page 4)

- The Supreme Court of Virginia approved Legal Ethics Opinion (LEO) 1896, which clarifies the ethical rules for attorneys working remotely or at home in Virginia but licensed and working in other states.
- At the meeting on February 26, the Bar Council approved LEO 1894 related to conflicts of interest in joint representation of clients, including multiple minor children, and aggregate settlements. The approval was unanimous, and that LEO will proceed for consideration by the Supreme Court of Virginia.
- Another LEO (1893) related to waivers of conflicts of interests in the joint representation of parent and minor child is currently out for comment by VSB members, and will be further considered by the VSB Standing Committee on Legal Ethics at a meeting this Spring.
- There is another proposed LEO (1897) that is out for comment related to the ethical handling of and response to emails by means of "reply-all" and inclusion of the opposing client (s) on those emails.

The VSB Annual Meeting will return to in-person (with a virtual option for CLEs) this year. Mark the dates on your calendar and plan to attend June 15-17, 2022 at the Hilton Hotel on the oceanfront in Virginia Beach. The Better Annual Meeting Committee is working hard to make it a worthwhile and memorable event.

The VSB 2022 Techshow is set for Monday, April 25, 2022 in a virtual format. It provides lots of CLE credits and education about your technology challenges in the practice of law. Sign-up is now open on the VSB website.

The VSB is considering implementing a Practice Management Assistance (PMA) program, including the possible addition of a new VSB staff member, to provide practice training, education, and guidance to attorneys. Recently, the VBA has started a similar type of program. Discussion continues on how to keep those programs from competing with one another and, hopefully, how to work together, if the VSB proceeds with its program. If you have comments on this topic, please let us know, as it will be discussed extensively at the June 2022 meeting of Bar Council.

At the February 26 meeting, Bar Council approved a budget for Fiscal Year 2023 (July 1, 2022 to June 30, 2023). For that fiscal year, the VSB anticipates \$13.5 million in revenue and expenditures of \$15.6 million. If this progresses, it would require use of some of the VSB's Operating Reserves.

There are additional opportunities to get involved in the various committees, conferences, programs, and CLEs provided by and through the VSB. Consult the vsb.org website for more details, or let one of us know.

Brett Marston is partner at Gentry Locke and Daniel Frankl is a partner at Frankl, Miller, Moyer & Webb.

A special thank you to our speakers.



Joe Mott, January 2022 speaker



Christopher Roberts, February 2022 speaker



Jay Myerson, March 2022 speaker

MY SUPERLATIVE CASE

(Continued from page 6)

granted estate planning authority for John, but the Judge admitted that he had never been asked to grant such powers to a conservator so this would be a learning experience for all of us.

Bob was appointed as John's guardian and conservator. We were required to notify all of John's heirs prior to the hearing where the Court would determine whether to grant Bob the power to create an estate plan for John.

After several hours of research, we located John's heirs. He had an elderly sister in North Carolina and two nephews in Colorado (who were the children of his deceased brother). In addition to serving the heirs with notice of the proceeding to request estate planning powers for John, I located telephone numbers for them and called them. They admitted that they had been estranged from John for many years and initially agreed to sign whatever documents were necessary for the Court to authorize Bob to have estate planning authority over John, even if it meant that they would not inherit John's assets. I emailed them the documents to sign and did not receive any response.

Time was of the essence as the hospital staff continued to push to have John's ventilator removed. After meeting with John's healthcare providers, Bob learned that John's organs were failing and agreed to have John's ventilator removed on Friday, which was prior to the scheduled hearing date. Once John's ventilator was removed, it was likely that he would die within a few hours.

I made one final attempt to get all of the necessary parties, including each of John's heirs and the Guardian ad litem, to sign an Agreed Order, which would authorize Bob to create a Trust for John that included his desired disposition of his assets upon his death, and transfer all of John's assets to the Trust. All of this needed to occur prior to John's death.

On Monday, I called John's nephew again and explained the situation. This time, he told me that he needed to consult with his lawyer (in DC) prior to signing the Order and his lawyer was not returning his calls. I sent him the names and contact information for local lawyers who may be able to assist him more quickly. He contacted one of these local lawyers, had a consultation with her and then emailed me the signed Agreed Order on Tuesday. He indicated that his brother and aunt's signatures would be forthcoming. Wednesday came and went and I did not receive their signature pages. On Thursday, I called John's elderly sister in Charlotte, who explained that her printer was out of ink so she could not print and sign the Order. I found an Office Max near her house and emailed the Order to Office Max and gave her directions to Office Max so she could print the Order there, sign it and fax it to me. I received a signed Order via fax 30 minutes later. The Guardian ad litem also signed the Order, contingent on me obtaining the final heir's signature. I called him and called him, but I could not reach him on Thursday. I drafted the Trust, the Deed and all of the documents that would need to be signed to transfer John's assets to his Trust because I was hopeful that we would receive the final signature.

When I left the office on Thursday, I still had not received the signed Order from the final heir. I knew John was scheduled to have the ventilator removed the next day at 11:00 a.m. When I woke up on Friday morning, I checked my email, and I had received the final signature that I needed. I went to the Court at 8:30 a.m. on Friday with the fully executed Agreed Order, which

the Judge entered. Then, Bob signed the necessary documents to create a Trust for John and transfer John's assets to the Trust. Bob then went to the hospital to be present with John when his ventilator was removed.

The next morning, I received the following email from Bob: "This morning, for the first time in months, I awoke at peace about [John]. I was able to tell [John], while he was still aware, that all of his stated wishes were settled. [John] passed gently and is no longer suffering."

I am thankful for the opportunity to work with Bob and ensure that John's wishes were honored. I only wish that I had the opportunity to know John. I am also very appreciative of colleagues who are willing to go the extra mile for people who are simply trying to do the right thing.

Lindsey Coley is the founding member of Coley Law

Interested in serving on the RBA Board of Directors for 2022-2023?

Please email your interest to rba@roanokebar.com no later than

April 15, 2022.

Board meetings are held directly prior to the luncheons on the second Tuesday of each month. Each board member will chair a committee to be assigned by the president.

The Pro Bono Committee is in need of volunteers to assist with conflict cases referred by the Legal Aid Society of Roanoke Valley.

Please email Allegra Black, Esq., Chairman, Pro Bono Committee, for more information at

ablack@vadefenders.org

(Continued above)

ANNOUNCEMENTS

NEW MEMBERS	UPCOMING EVENTS	OFFICERS																																		
<p>The Roanoke Bar Association welcomes the following new members:</p> <p>Active Members Effective March 8, 2022</p> <p>William Fussy, Esq. Frith Anderson & Peake</p> <p>Rachel Henderson, Esq. Steidle Law Firm</p> <p>William Spotswood, esq. Gentry Locke</p> <p>Matthew T. Wyatt, Esq. Frith Anderson & Frith</p>	<p>Roanoke Bar Association Meetings 2021 - 2022</p> <p>September 14, 2021</p> <p>October 12, 2021</p> <p>November 9, 2021</p> <p>December 14, 2021</p> <p>January 11, 2022</p> <p>February 8, 2022</p> <p>March 8, 2022</p> <p>April 12, 2022</p> <p>May 2, 2022 (Law Day)</p> <p>June 14, 2022</p> <p>Go to www.roanokebar.com for more information on all upcoming events.</p>	<table> <tbody> <tr> <td>Macel H. Janoschka President</td> <td>725-3372</td> </tr> <tr> <td>Lori Jones Bentley President-Elect</td> <td>767-2041</td> </tr> <tr> <td>Christen C. Church Secretary-Treasurer</td> <td>983-9390</td> </tr> <tr> <td>Daniel P. Frankl Past President</td> <td>527-3515</td> </tr> <tr> <td>Diane Higgs Executive Director</td> <td>342-4905</td> </tr> <tr> <th colspan="2" data-bbox="1065 766 1546 808">BOARD OF DIRECTORS</th> </tr> <tr> <td>Phillip V. Anderson</td> <td>725-3361</td> </tr> <tr> <td>Allegra M.C. Black</td> <td>857-7111</td> </tr> <tr> <td>Christopher S. Dadak</td> <td>387-2320</td> </tr> <tr> <td>Martha W. Elder</td> <td>983-7535</td> </tr> <tr> <td>T. Daniel "Bo" Frith, IV</td> <td>985-0098</td> </tr> <tr> <td>Amy H. Geddes</td> <td>989-0000</td> </tr> <tr> <td>Sarah C. Jessee</td> <td>283-0134</td> </tr> <tr> <td>D. Adam McKelvey</td> <td>342-2000</td> </tr> <tr> <td>Jonathan D. Puvak</td> <td>983.9399</td> </tr> <tr> <td>Nancy F. Reynolds</td> <td>983-7605</td> </tr> <tr> <td>Seth C. Weston</td> <td>342-5608</td> </tr> </tbody> </table>	Macel H. Janoschka President	725-3372	Lori Jones Bentley President-Elect	767-2041	Christen C. Church Secretary-Treasurer	983-9390	Daniel P. Frankl Past President	527-3515	Diane Higgs Executive Director	342-4905	BOARD OF DIRECTORS		Phillip V. Anderson	725-3361	Allegra M.C. Black	857-7111	Christopher S. Dadak	387-2320	Martha W. Elder	983-7535	T. Daniel "Bo" Frith, IV	985-0098	Amy H. Geddes	989-0000	Sarah C. Jessee	283-0134	D. Adam McKelvey	342-2000	Jonathan D. Puvak	983.9399	Nancy F. Reynolds	983-7605	Seth C. Weston	342-5608
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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