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ANNOUNCEMENTS

It is with great sadness that we must announce the passing of the Hon. Daniel Fairfax O'Flaherty. Judge O'Flaherty was appointed to the General District Court in Alexandria in 1956 and retired as the Chief Judge in 1998, which made him the longest sitting judge in Virginia. Please stay tuned for a more detailed tribute to Judge O'Flaherty which will most likely be included in our June Oyez.

PRESIDENT'S LETTER



Dear Colleagues,

At long last, the winter weather finally seems to be giving way to spring! But the winter would not be complete without the Gridiron in February. As usual, Doug and his crew did a fantastic job, and I'd like to thank all of our generous sponsors. As you know, we had a new location this year, the U.S. Patent and Trademark Office. Despite the threat of poor weather – and terrible weather the day before – the event was a rousing success. Many thanks to Peggy and Marguerite for making it all happen (to include ensuring that a rehearsal took place despite the building's closure that day, and braving frigid temps for loading and unloading/general event preparation). I, personally, was generally pleased with the new caterer as well; we would be glad to hear feedback on this year's changes.

Big thanks also to Seth Guggenheim, who presented an hour of ethics CLE at our March 19 dinner meeting. We are all wiser for the ethics information on leaving or dissolving firms. Seth's ethics presentations are always entertaining and engaging, on what can sometimes be a dry topic!

Looking forward we have Jazz4Justice on April 7, and Beat the Odds on April 16, both are not to be missed.

Finally, as I'm sure you are now aware, the Law Library Board voted to close the library, at least temporarily, in the wake of the City's proposed budget, which once again proposes to cut 100% of the City's funding to the library. A town hall style meeting will take place on April 9th to provide an opportunity for anyone who is interested to offer suggestions, and discuss potential resolutions of this hot-button issue. Please keep an eye on the week in brief and probably a dedicated email addressing this upcoming meeting.

Now get outside and enjoy some of the long-awaited spring weather!

Sarah McElveen
President



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CITY OF ALEXANDRIA CIRCUIT COURT ANNOUNCEMENT:

Beginning on May 7, 2015, the Circuit Court will be using a new schedule for Commonwealth Days. The second, third and fourth (and fifth, if there is one) Thursdays of the month will be regular Commonwealth Days in that there will generally be three judges hearing a variety of criminal cases. The first Thursday of the month, only one judge will hear Commonwealth cases. This docket will be for the purpose of hearing time-sensitive matters and set dates only. Time sensitive matters include: bond motions, furlough motions, motions to set aside the verdict, motions to reconsider (if the Court approves docketing the motion and if the defendant can be transported), last minute pleas before the trial date, motions in limine (if it is the last Thursday before the trial date), motions for expert funds or for a competency evaluation, and setting dates/jury elections as set by the General District Court. A judge will be assigned in advance to that one courtroom; however, other judges may hear cases in that courtroom as well if the time-sensitive matter needs to be heard by them and they are available. Any reviews or hearings currently scheduled on the first Thursday of any given month will proceed as scheduled unless the parties agree to reschedule the matters. Questions about scheduling matters for Commonwealth Day may be directed to Deputy Commonwealth's Attorney Molly Sullivan at (703) 746-4100.


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SAME SEX FAMILIES – A SERIES *Article No. 1: Children of Same Sex Couples*

By: *Eva N. Juncker and Cody Perkins, Zavos Juncker Law Group, PLLC¹ and Katelin Moomau, Rich Rosenthal Brincefield, Manitta Dzubin & Kroeger, LLP²*

Now that the Commonwealth is recognizing and performing same sex marriages, many practitioners will begin meeting with clients and will be presented with issues surrounding same sex couples and families for the first time. This article series will seek to generally educate attorneys in the Commonwealth about the issues and about common pitfalls in practice.

Introduction

According to the 2010 U.S. Census³, more than 2,500 same-sex couples in Virginia are raising children together, with an average of 1.6 children under the age of 18 per household. In many respects, these families have gained significant protections and recognitions over the last year, not the least of which relate to Virginia's recognition of same-sex marriage beginning in October 2014. However, while the advent of same-sex marriage recognition has recently conferred numerous benefits and responsibilities upon those couples who have chosen to marry, same-sex couples (both married and unmarried) who are raising children in the Commonwealth are still vulnerable to numerous inequities, particularly in matters related to the legal parentage and custody of their children. This is because only one parent is generally considered the children's "legal" parent, regardless of whether the couple is married.

Historical Work-Arounds

The lack of same-sex households with two legally recognized parents results from a long history in the Commonwealth of restricting adoption based on marital status. In Virginia, only married couples or single individuals can adopt, meaning that any same-sex couple wishing to adopt could not jointly apply.⁴ Instead, one member of the couple would have to adopt as a single individual, and the other partner would thus remain a legal stranger. Same-sex "second parent" adoptions⁵, which would have allowed one partner to adopt the other partner's child without terminating the first partner's parental rights, had not occurred in Virginia prior to marriage recognition. In fact, unmarried couples in the Commonwealth are still not eligible to take advantage of "second parent" adoption. Although some couples were and are able to obtain joint custody orders, ensuring that both parties have custody rights, many courts refused (and continue to refuse) to grant⁶ or honor these orders, and they do not confer legal parental status. As a result—although many couples planned⁷ for, raised, and in every respect were both parents to their children—only one partner was generally deemed the child's legal parent.

Marital Presumption

This situation could be different for married same-sex couples in the future, since the "marital presumption" should arguably apply. The "marital presumption" means that one spouse is considered the presumptive legal parent of a child if the other spouse gives birth to or adopts the child, and the parties are married at the time of the child's birth or adoption.⁸ This should be true even if the married couple consists of two men, for example, and so one spouse is clearly not biologically related to the child. For couples who were legally married in another state before they had their children, or were legally married in Virginia (after October 6, 2014) before they had their children, the marital presumption arguably applies – meaning that both parents

1. See www.zavosjunckerlawgroup.com.

2. See www.rrbmdk.com.

3. See <http://williamsinstitute.law.ucla.edu/wp-content/uploads/VA-same-sex-couples-demo-apr-2014.pdf>.

4. Va. Code Ann. § 63.2-1225 (2014).

5. These are available in a variety of states, most significantly in Maryland and the District of Columbia. See D.C. Code § 16-312 (2014); *In re M.M.D.*, 662 A.2d 837 (D.C. 1995); Md. Estates and Trusts Code Ann. § 1-207 (2014); *In re Petition of D.L.G. & M.A.H.*, No. 95-179001/CAD, 2 MFLM Supp.21 (1997) (Cir. Ct. Balt. City, June 27, 1996).

6. The arguments against issuing these orders in the Juvenile and Domestic Relations District Courts of this Commonwealth are based upon the lack of actual case and controversy in so far as a Consent Joint Custody Order is being presented to the court for entry.

7. Standard family planning for same-sex families has historically included: (i) advanced estate planning, including reciprocal powers of attorney including those for children as well as designations of standby-guardians for children; (ii) co-parenting agreements; (iii) voluntary support agreements; and (iv) joint custody orders.

8. Va. Code Ann. § 63.2-1202(D) (also allowing the marital presumption to apply within 300 days of the termination of the marriage).

9. See Laura Kebede, *Lesbian Couple Wins Right to Have Names on Children's Birth Certificates*, RICHMOND TIMES-DISPATCH, JANUARY 25, 2015, [HTTP://WWW.RICHMOND.COM/NEWS/VIRGINIA/ARTICLE_DE7CFA92-72AA-5D19-835B-F87853B07A1A.HTML](http://www.richmond.com/news/virginia/article_de7cfa92-72aa-5d19-835b-f87853b07a1a.html).

should be named on the birth certificate.⁹ The obvious problem with both parties to a same sex marriage merely having a birth certificate to identify their status as legal parents relates to portability and the inability to have a jurisdiction recognize their status as a legal parent absent a judgment from a court of competent jurisdiction. This issue has not yet been litigated to the knowledge of the authors of this article.

Notwithstanding the foregoing, Virginia's marital presumption if applied to same sex families, only provides limited protection for same-sex couples - for one thing, the law still only mentions a husband and wife¹⁰, as does much of Virginia's Code. As a result, until the law is updated to include gender neutral terms,¹¹ couples cannot definitively rely on the marital presumption to ensure that they will both be considered legal parents to their children born during their marriage. In addition, such a reliance by same-sex couples would be dangerous and short cited given that the marital presumption will not be honored in jurisdictions which do not recognize same-sex marriage, and parents may risk losing the rights and responsibilities of parenthood simply by crossing state lines. A birth certificate is not a court order and thus not afforded full faith and credit in portability situations, such as crossing state lines. Further, marrying after having children will not automatically confer legal parenthood on both parents, so same-sex couples who already had children before marriage will still be seen as having one "legal" and one "non-legal" parent under the law of this Commonwealth even after marriage.

Problem Areas

These issues surrounding legal parentage are important enough while the couple remains together: a parent's "legal" status may impact the ability to make health care or other decisions for a child in an emergency, the child's eligibility for certain benefits (such as health insurance or Social Security), a parent or child's inheritance rights, and numerous other protections. However, these issues become magnified if a same-sex couple raising children later decides to break up or get divorced. As may be evident, if only one parent is considered the "legal" parent of the child, that parent is endowed with all of the constitutional protections of parenthood, including deciding who gets custody and/or visitation with that child; the other parent has no such protections. This becomes incredibly important if a same-sex couple splits up; one parent could, in effect, deny the other (non-"legal") parent any access to their mutual child. Although the Commonwealth now recognizes same-sex marriage, even if the parties are married, the non-"legal" spouse will be considered a mere step-parent with no automatic rights as to custody or visitation.¹² In the same vein, the non-"legal" spouse will not be liable for child support, as the children will not be considered legally theirs to support.¹³

Third Parties and Step-Parents with Legitimate Interests

As a third party, a non-"legal" parent can still petition the court for custody or visitation; however, the standard is incredibly high and difficult to meet. In Virginia, a third party who the court determines has a "legitimate interest" may petition for court-ordered visitation and/or custody of a child under Va. Code §20-124.1 and §20-124.2.B, and the court may award such visitation and/or custody upon a showing by clear and convincing evidence that the best interest of the child would be served thereby. However, if the child's legal parent objects to non-parental visitation, a trial court will hold off on applying the "best interests" standard and will instead defer to the legal parent's preference unless and until the third party petitioner has shown that actual harm to the child will result if visitation and/or custody are not awarded.¹⁴ This actual harm must be proven by clear and convincing evidence.¹⁵

Virginia courts have generally been reluctant to find "actual harm" in these situations. In *Stadter v. Siperko*,¹⁶ two women were involved in a cohabiting lesbian relationship and agreed to have a child through artificial insemination of the biological mother. The parties shared prenatal responsibilities and expenses throughout the pregnancy, and shared parenting responsibilities after the birth of the child. The partner did not legally adopt the child, nor did the parties enter into any agreement concerning the partner's parental rights. When the parties later separated, even though both women had planned for and raised the child in question since birth, the biological mother was considered the sole legal parent of the child. Initially, the partner was awarded

⁹. Va. Code Ann. § 63.2-1202(D).

¹⁰. Numerous bills have been proposed in the Virginia State General Assembly to update gender-specific language in the Code of Virginia, in response to the state's recognition of same-sex marriage. See S.B. 1211, General Assembly, 1st Session (2015); H.J. 546, General Assembly, 1st Session (2015); H.B. 1600, General Assembly, 1st Session (2015).

¹¹. See VA Code Ann. § 20-124.1.

¹². See *Russell v. Russell*, 35 Va. App. 360 (Va. Ct. App. 2001).

¹³. See *Williams v. Williams*, 256 Va. 19, 501 S.E.2d 417 (1998); *Stadter v. Siperko*, 52 Va. App. 81, 661 S.E.2d 494 (2008).

¹⁴. See *Griffin v. Griffin*, 41 Va. App. 77, 581 S.E.2d 899, 2003 Va. App. LEXIS 337 (2003).

¹⁵. 52 Va. App. 81, 661 S.E.2d 494 (2008).

¹⁶. See *Griffin*, 41 Va. App. at 85 (citing *Williams*, 24 Va. App. at 784-85, 485 S.E.2d at 654) (emphasis added).

temporary, supervised visitation by the juvenile and domestic relations district court, but upon appeal, the circuit court found that, although the partner was “a party with a legitimate interest” in the child, she had failed to prove by clear and convincing evidence that the child would suffer actual harm if visitation were not awarded. In subsequent cases, the courts have solidified their reluctance to find “actual harm,” stating in one such case that, “[T]he evidence must establish more than the obvious observation that the child would benefit from the continuing emotional attachment with the non-parent. No doubt losing such a relationship would cause some measure of sadness and a sense of loss which, in theory, “could be” emotionally harmful. But that is not what we meant by “actual harm to the child’s health or welfare.”¹⁷

Absent a showing of such “actual harm,” third party visitation will be denied, even if the “third party” has been the child’s parent for all intents and purposes for his or her entire life. Although some jurisdictions will recognize such third parties as “de facto” parents, Virginia has declined to recognize any such a status.¹⁸ For same-sex couples raising children in Virginia, this means that the non-“legal” parent can, for all intents and purposes, lose all access to their children if the “legal” parent so determines.

Practical Application for Attorneys

Given the incredible importance of the status of being a “legal parent,” when meeting with same-sex couples raising children in Virginia practitioners should discuss with their clients the importance of taking any and all steps to ensure legal parentage for both parties. If the couple is married, Virginia will now grant them a step-parent adoption.¹⁹ However, if they are unmarried, precious few avenues currently exist for same-sex couples; while the couple could file for a joint custody order, there is no guarantee that a court will grant it, and custody is still not the equivalent to legal parentage.

Parental Placement Adoption for Non-Biological Children

For persons adopting a non-biological child to whom neither parent is a biological parent, or in the event one parent is a biological parent, but is not proceeding with a “Step-Parent” adoption, the court requires an adoption pursuant to Va. Code §63.2-1201.²⁰ An adoption not done through a board, licensed child placing agency or by step-parent adoption is considered a Parental Placement Adoption. An adoption under Va. Code §63.2-1201 can be filed by any natural person who had a child placed by a child-placing of the Commonwealth, who has consent by birth parents pursuant to Va. Code §63.2-1233 or who is a party to a surrogacy contract. Additionally, married or previously married persons can also adopt children through this type of petition with the consent of the biological parent.

An adoption when not done through a child-placing agency or board of the Commonwealth requires the consent of the biological parents, unless consent is unobtainable, or determined to be withheld against the best interest of the minor child.²¹ Additionally, for an adoption by a board or licensed agency there must be an investigation prior to placement by a local board or licensed agency. In the case of a parental placement adoption instead of an investigation there is a “home study”,²² unless the adopting petitioner is currently or previously married to the biological parent, in which case the court in its discretion may waive the requirement. The investigation must identify if the home and adoptive parent is appropriate for such an adoption, whether the petitioner is financially capable of caring for the child, mental and physical fitness, as well as, moral suitability.²³ There will also in most cases be an appointment of a Guardian Ad Litem for the minor child who will represent the best interest of the child in the adoption matter.²⁴

Parental Placement Adoptions for Same Sex Couples

On October 10, 2014 Governor McAuliffe issued a bulletin to all local Directors of Social Services which states that, “Any married couple is a married couple for purposes of adoptive placements in accordance with Virginia Code § 63.2-1225.”²⁵ While this is a significant step to allowing same-sex couple to legally adopt in a way that both parents are legal, adoptive parents, this bulletin

¹⁷. See Stadter, 52 Va. App. at 91.

¹⁸. Va. Code Ann. § 63.2-1202(D). Your authors have been successful in getting these step-parent adoption orders entered all over the Commonwealth.

¹⁹. See VA Code Ann. § 63.2-1201

²⁰. See VA Code Ann. § 63.2-1233

²¹. Similar to an investigation in most all aspects.

²². See VA Code Ann. § 63.2-1208

²³. See VA Code Ann. § 63.2-1237

²⁴. See Margaret Ross Schultz, *Impact of Same-Sex Court Ruling on Adoption and Foster Care*, October 10, 2014, <https://governor.virginia.gov/newsroom/newsarticle?articleId=6827>.

²⁵. See VA Code Ann. § 63.2-1225 Determination of an appropriate home for a child to be adopted.

is to be followed by state social service agencies only and does not change the above Virginia Code sections.²⁶ It is unclear what weight this bulletin carries in jurisdictions across the Commonwealth and what weight a court would give the document. Additionally, this bulletin only applies to adoptions for children who have been properly committed or entrusted to a local board or licensed placement agency.²⁷

Problem Areas

Although some of the gender language of this statute is neutral, the following language presents a problem for married same-sex couples wishing to adopt through a Parental Placement adoption, "In the case of married persons, or persons who were previously married who are permitted to adopt a child under § 63.2-1201.1, the petition shall be the joint petition of the husband and wife or former spouses but, in the event the child to be adopted is legally the child by birth or adoption of one of the petitioners, such petitioner shall unite in the petition for the purpose of indicating consent to the prayer thereof only." This language was not changed by the bulletin issued by Governor McAuliffe, as the bulletin only applies to agency and board adoptions. The authors of this article are unaware of any controlling case law on this issue.²⁸ Further, for same-sex couples previously married, Virginia Code §63.2-1201.1, which applies to previously married parents standing in loco parentis, strictly prohibits the adoption under that code section as it states a child may only have two adoptive parents, one father and one mother.

Even if the statute were interpreted to include same-sex parents, there is also the issue that same-sex parents could face discrimination by third parties involved in the proceeding or completing the investigation in the case of placement by a board or licensed agency. Religious agencies placing children can decline placements based on a conscience clause, enacted in 2012.²⁹ Even if the couple is not using a religious agency for the adoption the investigation must determine among other things if a parent is "morally suitable" to adopt a child. This gives discretion to the investigating parties as to what they consider "morally suitable." And the same language is included in the requirements for a home study for a parental placement adoption, again giving third parties discretion in the results of a home study. There has been no controlling case law to your authors knowledge explicitly stating that same-sex couples cannot be defined as not "morally suitable" to adopt a child solely based on their marital or gender status. This gives the court wide discretion in terms of approving or disapproving an adoption based on the results of a home study or investigation. If the investigation is done by a local department of social services it should take into consideration the aforementioned bulletin stating that they should not specifically object on that basis;¹ however, there is no controlling law regarding the issue.

Practical Application for Attorneys

When meeting with same-sex couples raising children in Virginia practitioners should discuss with their clients the different types of adoption methods and the current law on each type of adoption. If the couple is adopting through a local Department of Social Services they should be able to successfully adopt a child with both spouses being considered "legal" parents. However, if they are using a child placement agency, foreign agency or using the parental placement method, there is no guarantee that a court will grant it the adoption.

Conclusion

Legal parentage is one of the most important rights for same-sex couples to ensure their children get the legal and financial benefits of those conveyed to children of same-sex couples, and that both parents have legal rights of custody, visitation and child support. There is still significant confusion since October 2014 over the rights of same-sex couples regarding legal custody and adoption of children. The state of the current wording of legislation on the issue and question as the legal meaning of the bulletin issued by Governor McAuliffe is ripe for change either by the legislature or judiciary. Many local jurisdictions in the absence of action by the legislature to date have interpreted the meaning of the current laws in various ways making this a difficult area for practitioners to advise their clients. It is important for attorneys representing same-sex clients to continually check for updated laws and case law updates and to follow the best practices to try to ensure legal parentage to both parties, if possible during marriage.

²⁶. See VA Code Ann. § 63.2-1221

²⁷. Your authors are currently litigating issues of whether a minor child can have two adoptive parents of the same sex in jurisdictions in Northern Virginia.

²⁸. See VA Code Ann. § 63.2-1709.3

²⁹. See Margaret Ross Schultz, *Impact of Same-Sex Court Ruling on Adoption and Foster Care*, October 10, 2014, <https://governor.virginia.gov/newsroom/newsarticle?articleId=6827>.

GRIDIRON—UNBROKEN & UNBOWED—by Doug Steinberg



In the Seventh grade I had an English teacher called Mr. Lewis who scared the hell of me. Why did someone who clearly didn't like kids takes a job, when he was surrounded by kids - all day, is beyond me, unless Mr. Lewis was flat out looking for revenge against all kid-kind.

Anyhow, Mr. Lewis, when he wasn't snarling at us or biting the head off of a live chicken, taught me about the major themes of novelization (or narrative conflict); man vs. man, man vs. society, man vs. nature, and man vs. himself. We had all four of these classic conflicts in the Gridiron.

man vs. nature. It was actually the audience versus the cold. Oh my, was it cold that night. I mean I don't want over exaggerate, but it was so cold:

- That the Taun Taun I rode in for the pre-show rehearsal froze to death in the parking lot. (& I though that smelled bad(ly) on the outside.)
- It was so cold I saw several politicians had their hands in their OWN pockets!
- It was so cold that when I turned on the shower (the morning of the show) - I got hail!

So, I am glad to see that the audience's demand for an open-bar and low brow humor overwhelmed their desire to avoid hypothermia.

man vs. man. We had this narrative conflict as well. Where was Mike Tompkins and Todd Pilot, you might ask? Well the rumors are one hundred percent true. Both went absolutely devo (the masculine form of "diva") on me. Mike demanded his own trailer and twenty white carnations each day. Todd said that he wanted the "Kanye" treatment, I won't even go into his exorbitant demands. Needless to say, I was ready to give into their blackmail (I mean talent like that - you just got to put up with a lot of crazy), but the Alexandria Bar board, capped their demands to some dead dandelions they had picked out of the planters behind the courthouse. Hope springs eternal, that Todd & Mike well return to the fold, for next year, with a minimum of screaming.

man vs. society. Once again, the Gridiron was homeless; like the Prodigal Son, like Moses wandering the desert wilderness for forty years, like Jesus wandering the desert for a far more compact forty days - we found the promised land and it was - (blare of horns, release the doves) - THE PATENT & TRADEMARK OFFICE. OK perhaps less dramatic than the Levant, but its Alexandria - it is hard to find that much drama in a Washington suburb, but we try. Although a little nippy in the great hall, (see above), the actual space was pretty darn nice.



Photos courtesy Dipti Pidikiti-Smith



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Photos courtesy Dipti Pidikiti-Smith

Gridiron continued from page 8

man vs. himself. Clearly, anyone who had been to the show can find the zeitgeist, the internal conflict (if you will), of *Catcher in the Rye's* Holden Caulfield or the eponymous, *Hamlet*; in all of the skits this year. The pain of Don Haddock, Jr., who just wants to share his love of scooters with the world. The mad desire of crazy cat lady Carolyn Grimes who just wants to take revenge on her dead-beat daddy child support cases. The drama of a governor serving time for a crime that (clearly) is his wife's fault. The delight that Tom Carter has in just getting the world drunk, for a "fair" profit.

This year we had dancing personal injury lawyers, thank you Cary Greenberg. Boxing Senatorial candidates signing a little George Gershwin's "But Not For Me"; thank

you Brent Schultheis. We had a little light opera, (poking a little fun at the "Hardest working Commissioner of Accounts" in Virginia - Gordon Peyton) from Luke Young singing, (did you recognize it) "The Nightmare Song" from Gilbert & Sullivan's *Iolanthe*. We had another bizarre (in a great way) opening song saying goodbye to retiring Judge (& former Gridironer) Rawles Jones, to the tune of "Sweet old Transvestite" from the *Rocky Horror Picture Show*. (Yes, we actually pulled that one off.) We held a lawyer fashion show, hosted by Dale Dover (Tom Tyler) and Ilona Ely Grenadier (Cynthia McDermott). (Who knew that Right Said Fred's "I'm Too Sexy" is almost impossible to sing, sober or otherwise.) We also showed that pro se family law cases can be hilarious, presuming you show the litigants (combatants), a video first.





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So thanks to the (cra-zee) cast for all of their hard work: Caroline Costle, Drew Hutcheson, Tom Tyler, Cary Greenberg, Jessica Leischner, Katie Uston, Martin Yeager, Luke Young, Barry Diamond, Russ Hatchl, Gwena Kay Tibbits, Brent Schultheis, Cynthia McDermott, George Grey, John Rogers, Jonathan Westreich, Denise Tassi, Mary Whitaker, and Drew Carroll.

Also a special thanks to our music director, and star; Barbary Fakoury for all of her hard work with the band.

So until next year, I will leave you with my usual salute - "No one understands my art."

Calendar continued from page 16

June 2015

- June 1** Personal Injury Practice Group, 5:30 pm
Location TBD
- June 4** Networking Lunch, 12:30 pm
Columbia Firehouse, 109 S. St. Asaph St
\$15 cash at door
- June 9** Board of Directors Meeting, 4:30 pm
Location TBD
- June 17** Family Law Section Meeting, 8:00 am
Bread & Chocolate, King St
- June 17** LRS Committee Meeting, 4:30 pm
King Street Blues, 3rd Floor, N. St. Asaph St
- June 22** CLE Committee Meeting, 4:30 pm
King Street Blues, 3rd Floor, N. St. Asaph St
- June 24** T&E/Tax Section Meeting, 12 noon
Grenadier Rm, City of Alexandria Courthouse

MARCH DINNER MEETING



Seth Guggenheim presents an ethics CLE to yet another packed house!



Photos courtesy Daniel D. Mauler

PROFILE OF ATTORNEY JEANNE F. FRANKLIN — by Anne B. Robinson

During her career spanning more than forty years, Jeanne F. Franklin has practiced health law, employment law, American Indian law, served on numerous local and state bar committees, served as President of the Virginia Bar Association, received countless awards, and managed her own firm, Franklin Solutions. She is a certified mediator and focuses her practice on mediating health law disputes. I had the privilege of interviewing Franklin during our recent lunch at Bread & Chocolate.

When asked to reflect on a favorite time in her career, Franklin shares stories of crafting and using American Indian law and policy through litigation as a young lawyer. Her first job after law school at the University of Virginia took her to Michigan, where she was hired to do “back-up” class-action and appellate work for legal services. She volunteered to work on an American Indian fishing rights case, which led to the recognition of the local tribe’s treaty rights to fish in Lake Superior and apportioned the fishing rights to different users. Some forty years later, the law holds but the apportionment issues continue. Franklin moved on to New Mexico and worked for DNA Legal Services on the Navajo Reservation. After two more moves, she and her family arrived in Virginia. She worked for three years at the U.S. Department of the Interior in the Solicitor’s Office, where she primarily worked with clients in the Bureau of Indian Affairs.

Franklin began practicing in Alexandria in 1989. We can thank the late John Grad, of Grad, Logan, & Klewans, for supporting her re-entry into the workforce after taking several years off to raise her children. After initially telling Franklin there were no openings available at his firm, Grad reached out to her a short time later after the circumstances changed. This was before the dawn of cell phones, and there was not a telephone at the cottage where Franklin was vacationing with her children at the time. Luckily, a neighbor

told her that her husband was trying to reach her on the nearby pay phone. She raced to return her husband’s telephone call and was delighted to learn that Grad had left a message for her at home. A few more coins into the pay phone on the side of the road, and the rest is history.

Franklin is honest about her experience re-entering the workforce. It was hard, but she eased into it by doing piecemeal legal work for a couple of years prior to making the leap. Franklin believes that re-entry after taking time off to raise children is “still a humongous barrier” for female lawyers. Despite the challenge, Franklin never questioned her decision to have left the workforce for the time and reasons that she did. She thinks and hopes it is easier for women today to balance these decisions.

Franklin’s commitment to serving the legal profession in Virginia is evident from the highest honors she has achieved. From 2001 to 2002, she was President of the Virginia Bar Association, and she maintains an active role in the VBA. She cites her love for policy and desire to make a difference as the driving forces in her work. For her longtime leadership and service, the VBA awarded her with the William B. Spong, Jr. Professionalism Award in 2014.

Franklin enjoys bringing people with different points of view together to identify problems and figure out how to solve them. One prime example of Franklin’s drive was when she led the VBA Committee on the Needs of the Mentally Disabled and spent more than three years working to pass Virginia’s first medical records privacy law. This was pre-HIPAA. To draft the bill, the Committee examined federal legislation that had been drafted but not yet passed by the Congress. She worked tirelessly to educate the bar and convince her colleagues in Virginia that the law would work. By the time it went before the Virginia Legislature, the Virginia Trial Lawyers Association and the Virginia Association of Defense Lawyers both

defended the Committee’s bill. When HIPAA was later enacted, the Virginia law turned out to be a blessing because it filled in HIPAA’s gaps, primarily with regard to the process for issuing a subpoena duces tecum for medical records. This experience exposed Franklin to working with Virginia leadership, and she realized she enjoyed problem-solving. Turns out she is pretty good at it, too.

Franklin has also served as a leader in the field of Alternative Dispute Resolution and mediation and is the Immediate Past Chair of the Joint ADR Committee of the VBA and the Virginia State Bar. Franklin points out that Virginia is one of the leading states in ADR and ADR statutes. The Joint ADR Committee is a resource for all Virginia lawyers that conducts outreach and is now beginning to provide training for solo and small firm lawyers. The Committee also maintains past ADR training materials on its website.

Franklin loves the unique friendliness and camaraderie of the Alexandria Bar. She notes that some people enter the law as a way to make a living or as a jumping off point to something else, but that there are so many opportunities to do good with a law degree. Franklin’s hope is that more members, particularly the young lawyers, of the Alexandria Bar Association become involved with Beat the Odds.

When asked what advice she has for young lawyers, Franklin says “You are all going to be fine.” She expresses the need to maintain high standards and says, “Always do your work so that you can take pride in it.” She also recommends maintaining a sane approach to work, life, and one’s health. Franklin’s advice teems with her optimism and integrity, and the energy that has propelled her into such a long and fruitful career in the law.

Interview conducted and article written by Anne B. Robinson of Cooper Ginsberg Gray, PLLC, www.cgglawyers.com



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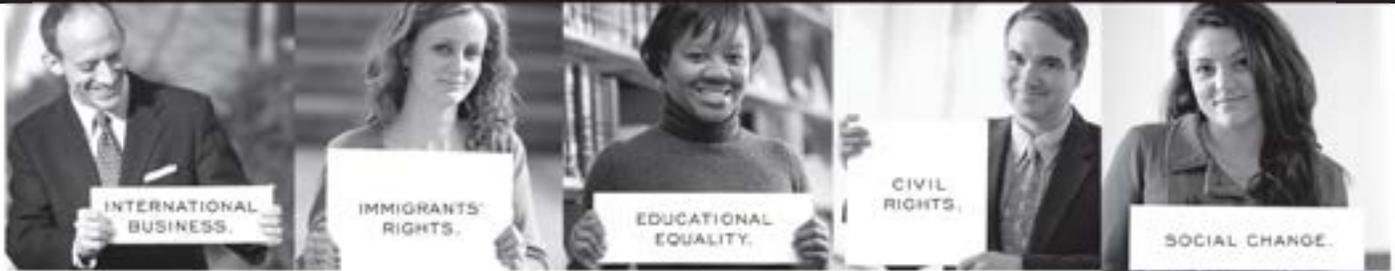
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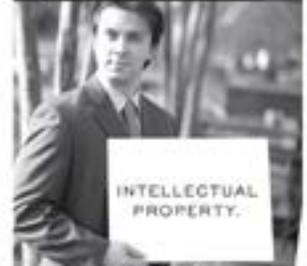
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April, May, June 2015

April

- Apr 2** Networking Lunch, 12:30 pm
Columbia Firehouse, 109 S. St. Asaph St
\$15 cash at door
- Apr 6** Personal Injury Practice Group, 5:30 pm
King Street Blues, N. St. Asaph St
- Apr 7** Jazz for Justice, 7:30 pm
*Schlesinger Concert Hall,
3001 N. Beauregard St*
- Apr 9** Town Hall Meeting, RE Library 3:00 pm
*City of Alexandria Courthouse, 4th Floor,
Courtroom #2*
- Apr 14** Board of Directors Meeting, 4:30 pm
Location TBD
- Apr 15** Family Law Section Meeting, 8:00 am
Bread & Chocolate, King St
- Apr 15** LRS Committee Meeting, 4:30 pm
King Street Blues, 3rd Floor, N. St. Asaph St
- Apr 16** Beat the Odds Awards & Dinner, 5:30 pm
City of Alexandria Courthouse, 4th Floor

- Apr 22** T&E/Tax Section Meeting, 12 noon
Grenadier Rm, City of Alexandria Courthouse
- Apr 23** CLE/Preparing and Trying Auto Tort
Cases in GDC, 2:30 pm
*City of Alexandria Courthouse, 4th Floor,
Courtroom #2*
- Apr 23** Deadline for Bar Board Applications,
4:00 pm
- Apr 27** CLE Committee Meeting, 4:30 pm
King Street Blues, 3rd Floor, N. St. Asaph St
- May**
- May 4** Personal Injury Practice Group, 5:30 pm
Location TBD
- May 7** Networking Lunch, 12:30 pm
Columbia Firehouse, 109 S. St. Asaph St
\$15 cash at door
- May 7** CLE/Martial Privilege and Separate
Counsel in Domestic Criminal Assault,
3:30 pm *City of Alexandria Courthouse, 4th
Floor, Courtroom #2*

- May 12** Board of Directors Meeting, 8:00 am
Grenadier Room, City of Alexandria Courthouse
- May 14** Annual Meeting & Dinner, 6:00 pm
American Legion Hall, 400 Cameron St
(Note this dinner is 1 week earlier than usual)
- May 18** CLE Committee Meeting, 4:30 pm
King Street Blues, 3rd Fl, N. St. Asaph St
- May 20** Family Law Section Meeting, 8:00 am
Bread & Chocolate, King St
- May 20** LRS Committee Meeting, 4:30 pm
King Street Blues, 3rd Floor, N. St. Asaph St
- May 27** T&E/Tax Section Meeting, 12 noon
Grenadier Rm, City of Alexandria Courthouse
- May 28** CLE/Crimmigration: The Immigration
Consequences of Guilty Pleas for
Non-US Citizens, Time TBD, *City of
Alexandria Courthouse, 4th Fl, Courtroom #2*
- May 29** Alexandria Bar Foundation's Annual
Picnic, 3:00 pm
LawOffice of John Zwerling, 114 N. Alfred St

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ALEXANDRIA BAR ASSOCIATION

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