



THE RICHMOND BAR

Volume 32, Number 05

A newsletter for members of The Bar Association of the City of Richmond

Administration of Justice Committee receives comments from U.S. District Court and Magistrate Judges

In its continued effort to promote the administration of justice in the Richmond area and to facilitate cooperation between the bench and the bar, the Administration of Justice Committee recently concluded its annual interviews with several of the Honorable Judges for the Eastern District of Virginia, Richmond Division.

As in years past, the Judges were gracious with their time and spoke with candor to Committee members regarding pandemic challenges, jury trials, settlement conferences and professionalism.

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The Richmond Bar solicits names of qualified persons to be considered for endorsement as candidates for a judicial vacancy in Richmond Circuit Court

Occasioned by the retirement of The Honorable W. Reilly Marchant, the RBA has begun its process towards judicial interviews. A joint judicial interview process involving several local bar associations will be utilized with the Richmond Bar Association coordinating all administrative aspects. Suggestions of candidates must be in writing and should be mailed to Annie Holland, c/o Richmond Bar Association, P.O. Box 1213, Richmond, Virginia 23218 or hand-delivered to her at the Bar office located at 919 E. Main Street, Suite 1401, Richmond, VA 23219.

Nominations may also be e-mailed to Ms. Holland at aholland@richmondbar.org. Nominations must be received by **12:00 noon on Tuesday, January 16, 2024** in order to be considered. Please include contact information for the individual(s) whom you nominate.

COMING UP



The 2023 Holiday Cocktail Party

December 13

6:00-8:00pm

Science Museum of Virginia

**note the new location!*

PRESIDENT'S COLUMN: Remarks from RBA President

Julie M. Cillo

Happy Holidays. I love this time of year because it gives us time to be thankful for so many things in our professional and personal lives, to reflect on the successes of the past year, and to plan for the year to come.

Many thanks to our Board for their ongoing time, energy, and dedication. Our Board has been working tirelessly to bring you active Sections, new programs, and opportunities for us to grow together as colleagues and practitioners. They will continue this work into the new year which is so important in making the RBA a vibrant association.



You, our members, have been engaged and enthusiastic. Thanks for your participation and your ongoing support as well as feedback so that we can serve you and your needs.

Thank you as well for inviting your friends and coworkers to become members. So far this year, we have increased our membership, have had a record attendance at our Annual Awards lunch, and are preparing to launch new initiatives in 2024. It is an exciting time to be part of the RBA because of you.

As we share gratitude and joy of the season, I hope to celebrate with many of you at our Annual Holiday Party and raise a glass to 2023 and to what lies ahead in 2024.

-Julie M. Cillo

COMING
IN 2024

NEW SECTIONS

Family Law Section

Senior Lawyers Section

more information coming soon

TO GET INVOLVED IN EITHER SECTION,
PLEASE EMAIL ANNIE HOLLAND AT
AHOLLAND@RICHMONDBAR.ORG

RBA SPOTLIGHT



JEREMY S. WILLIAMS

KUTAK ROCK

Favorite Book

The Bankruptcy Code and then Collier on Bankruptcy. Is there anything else?



Biggest Mentor

My father. There are few people I know that are as hardworking as he is.

Advice for Law Students

Take advantage of networking opportunities, whether through the RBA or having a lunch. Practicing attorneys you meet and connect with will often be a great referral source. In many instances, that attorney will also be willing to make a call or send an email to promote you for a job opening. Those intangibles can go a long way.

Share the News

If you've recently landed a new job or promotion, share the good news with the Richmond Bar. Include your full name, your company's name and location, your new title and your areas of concentration in your letter, press release, fax or e-mail. Announcements can be e-mailed to **aholland@richmondbar.org** or mailed to Annie Holland, at P.O. Box 1213, Richmond, VA 23218

Wiley J. Latham, IV and Kelly B. Martin are excited to announce the formation of **Latham & Martin**. With an office in downtown Richmond, Latham & Martin will continue to represent personal injury victims throughout Virginia. Their practice focuses on catastrophic injuries, motor vehicle accidents, premise liability, and trucking accidents.

Harman Claytor Corrigan & Wellman welcomes Yevgeniy K. Klinovskiy to the firm's Richmond Office as an Associate.

Miles & Stockbridge welcomes Maxwell H. Wiegard, principal, to their Richmond office.

Nominations sought for 2024 Liberty Bell Award

The Committee on Awards and Honors is accepting nominations for the Liberty Bell Award. The Award is based on criteria established by the American Bar Association to recognize persons outside the legal profession who have served to promote a better understanding of our government.

The award is given to persons who:

- 1) Promote a better understanding of our form of government, especially the Bill of Rights;
- 2) Encourage a greater respect for law and the courts;
- 3) Stimulate a deeper sense of individual responsibility to the end that citizens recognize their duties as well as their rights;
- 4) Contribute to the effective functioning of our institutions of government; and
- 5) Inculcate a better understanding and appreciation of the rule of law.

Nominations for the Liberty Bell Award are due by 12:00 noon on January 23, 2024 and should be e-mailed to Annie M. Holland at **aholland@richmondbar.org**.

THE BAR ASSOCIATION OF THE CITY OF RICHMOND

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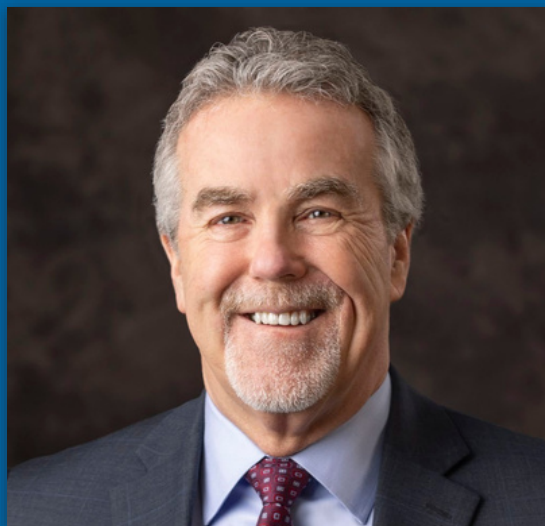
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The views expressed in The Richmond Bar do not represent the policy or carry the endorsement of the Association unless specifically noted.

The McCammon Group

is pleased to announce our newest Neutral



Hon. John W. Brown (Ret.)

Retired Chief Judge, 1st Judicial Circuit Court of Virginia, City of Chesapeake

The Honorable John Brown recently retired as Chief Judge of the 1st Judicial Circuit Court of Virginia after fourteen years of distinguished judicial service to the City of Chesapeake. Prior to his judicial service, Judge Brown enjoyed a successful private practice for twenty-eight years, serving as both plaintiff's and civil defense counsel. He also served the City of Chesapeake as Deputy Commonwealth's Attorney, Commissioner of Accounts, and Commissioner in Chancery for Divorce and Equity Matters. Among his many credentials, Judge Brown is a former President of the Chesapeake Bar Association, former Chairman of the Chesapeake Board of Directors for TowneBank, and a former member of the Board of Directors for the Virginia Sports Hall of Fame and Museum. He now brings this record of excellence and achievement to The McCammon Group to serve the mediation, arbitration, judge pro tempore, and special master needs of lawyers and litigants throughout the Commonwealth.

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Administration of Justice Committee receives comments from U.S. District Court and Magistrate Judges

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The Honorable M. Hannah Lauck

*United States District Court for the
Eastern District of Virginia*

Judge Lauck commended the bar, especially Tara Casey, on its participation in the Pro Se Mediation Project and encouraged members to volunteer, noting the benefits of participation in the Project to the court, the litigants, and the volunteers. Judge Lauck reminded the bar that the Project allows attorneys to assist pro se litigants whose matters have been referred to the U. S. Magistrate Judges for judicial settlement conferences. The volunteer attorney chooses the areas of practice and represents the client at the settlement conference without the expectation of taking on further representation should the case not resolve at mediation. (Editor's Note: participating in the Pro Se Mediation Project is an easy way to fulfill pro bono publico obligations under Rule 6.1 of the Rules of Professional Conduct.)

Judge Lauck noted that, regardless of whether the matter is a referral from the Project, participation in judicial settlement conferences exposes junior attorneys to the courtroom, helps clients feel they have had their day in court, and benefits the attorneys and the court.

Judge Lauck mentioned that she will serve on the Steering Committee of Just the Beginning, an organization supporting minorities and under-resourced students in developing leadership skills and introducing them to law careers. Just the Beginning supports program participants as early as elementary school through the beginning of a legal career or budding interest in judicial service.

Finally, Judge Lauck spoke eloquently of the history and tradition of the Eastern District of Virginia and the high expectations of its judges. She praised the camaraderie and civility of the bar, noting that attorneys who practice successfully in the EDVA can practice successfully anywhere in the country.

The Honorable David J. Novak

*United States District Court for the
Eastern District of Virginia*

Judge Novak is very appreciative of the local bar and its members for their impressive work over the past year. Judge Novak believes that Richmond, Virginia is a wonderful place to practice law and values the professionalism and competence of its local attorneys.

Judge Novak is happy to report that the Court has worked through its backlog of cases that were postponed due to COVID-19. Judge Novak is generally setting trials seven months from the date of a scheduling conference, with limited exceptions depending on the circumstances of each case. As we move into the colder months, the Court will continue to monitor any increase in COVID-19 cases and is ready to implement protocols if need be.

As to jury selection, Judge Novak continues to utilize the death penalty jury selection procedures adopted during the onset of the pandemic, which he believes is effective for both civil and criminal trials alike.

During this selection process, Judge Novak first asks general questions to a group of 16 jurors at a time, then brings each potential juror up to the stand to question each individually. This enables the Court and attorneys to focus on the individual and obtain a better sense if there would be any potential issues with each prospective juror. The Court conducts jury selection on the first day of the scheduled trial, then commences the trial the following day with no back striking permitted.

Judge Novak does not use Local Rule 7(E) and typically will rule on any motion based upon the papers. Judge Novak very rarely permits hearings on any motions unless there is a particularly unusual circumstances requiring a hearing. Judge Novak no longer uses video conferencing to conduct hearings.



Comments from The Honorable David J. Novak, continued

Judge Novak emphasizes the importance of the in-person setting for observing the parties and witnesses during court proceedings. However, Judge Novak will utilize telephone conferences for certain matters such as scheduling conferences. Most civil matters continue to be referred to a magistrate judge for settlement conference, where the vast majority of cases generally settle.

Judge Novak encourages young attorneys to participate in the pro bono program whereby attorneys are assigned to represent pro se individuals during a settlement conference. In the event the matter does not settle, the attorney then has the option to continue representing the individual or opting out of representation. Judge Novak believes the pro bono program is a very effective program, equaling the playing field for those who may not be able to effectively participate in a settlement conference while affording young attorneys real hands-on experience. Judge Novak thanks Tara Casey from the University of Richmond Law School and Robert Angle from Troutman Pepper for their dedicated work in running this program.

Addressing the use of technology in the courtroom, Judge Novak requires attorneys to meet with the clerks before trial to make sure that each attorney understands how to use the Court's technological equipment prior to trial. Unless otherwise ordered, the parties can schedule this meeting by reaching out directly to chambers.

While Judge Novak appreciates the local bar and its overall diligence in practice, Judge Novak cautions attorneys to be more engaged on cases where he or she is serving as local counsel. Judge Novak will not permit local counsel to sit on the sidelines of litigation. He requires that local counsel be knowledgeable of the matter and work together with any out of state counsel to instruct them on local procedure and overall atmosphere of professionalism.

Judge Novak thanks the Richmond Bar for its great work and looks forward to another successful year.

The Honorable Roderick C. Young *United States District Court for the Eastern District of Virginia*

Following the COVID-19 pandemic, Judge Young shared that, things are back to normal for the most part. Generally, civil cases are set for trial six (6) to nine (9) months from the initial pre-trial conference. Although the Court has returned to in-person hearings and oral arguments, he does still conduct some initial pretrial conferences and status conferences via Zoom. However, Judge Young conducts all final pre-trial conferences in-person. Additionally, he continues the social distancing practice of utilizing headsets during jury selection for personal or sensitive questions and for bench conferences.

Judge Young is highly complementary of the local bar. He is specifically complementary of the professional courtesy and preparedness of the bar and noted that "mastering these small things" is what helps to develop a good reputation as an attorney. The "small things" include being timely, knowledgeable of the rules, demonstrating a knowledge of the legal issues, affirmatively addressing any contrary authority to your position, and being courteous to all court personnel and opposing counsel.

Like other judges in the district court, Judge Young requires joint filings on discovery disputes. In his experience, he finds that having this procedure in place encourages resolution of discovery disputes without court intervention. Even in instances when counsel are unable to fully resolve the dispute, this procedure significantly narrows the issues that the Court ultimately addresses. This not only promotes professional courtesy but also judicial efficiency.

Judge Young conducts oral arguments on an as needed basis and may order supplemental briefing where he has questions not sufficiently addressed by the papers. One specific practice pointer that Judge Young highlighted for both civil and criminal cases is that if a party is going to play and introduce a video into evidence, he requires a transcript and/or close captioning.



Comments from The Honorable Roderick C. Young, continued

For younger attorneys or attorneys desiring to have more federal experience, Judge Young encourages them to participate in the Pro Se Pro Bono Mediation Project. This Project was founded by Judge Young and Judge Novak and gives attorneys an opportunity to develop and refine their negotiation and advocacy skills. Anyone interested in this program is encouraged to contact the Federal Bar Association.



The Honorable Robert E. Payne *United States District Court for the Eastern District of Virginia*

Judge Payne praised the local Bar for its zealous advocacy, competence, professionalism, and collegiality.

Similar to other Judges in the Richmond Division of the Eastern District of Virginia, Judge Payne has observed a decrease in trials. According to Judge Payne, trials have been few and far between, especially in civil cases. Some of the trials that have taken place recently in the Richmond Division originated in the Norfolk or Newport News Divisions.

Judge Payne observed that much of the civil docket in the Richmond Division consists of cases involving consumer protection, intellectual property/trade secrets, civil rights, employment, and contract disputes. Judge Payne noted that amount of patent litigation the Division has died down from past years.

Judge Payne is scheduling roughly four-to-eight initial pretrial conferences in civil cases each month. Attorneys who appear for an initial pretrial conference should be well prepared and able to discuss the facts and legal issues presented. Judge Payne uses the initial pretrial conference as an opportunity learn about the case, not simply to discuss scheduling, and therefore expects attorneys to know the case. Local counsel should impress this expectation upon out-of-town lead counsel who appear for such conferences.

Judge Payne explained that the local Bar does a good job of resolving most discovery disputes without Court intervention. Judge Payne recommends that parties memorialize discovery agreements in the form of Consent Orders to avoid misunderstandings. Judge Payne addresses most discovery disputes by conference call. Issues of attorney-client privilege may require motions practice.

If requested by the parties, Judge Payne will grant a hearing on a contested motion in most instances. Judge Payne is seeing fewer motions to dismiss, but motions for summary judgment are filed in most civil cases.

Judge Payne noted that the Magistrate Judges in the Division continue to have a high degree of success resolving cases during settlement conferences.



The Honorable Henry E. Hudson *United States District Court for the Eastern District of Virginia*

Judge Hudson praised the local Bar as “excellent” and reflected that the caliber of advocacy in Richmond continues to make his job as a judge enjoyable. Judge Hudson did not have specific feedback or improvements to offer, but he offered a number of observations regarding the current state of the docket in the Richmond Division.

Judge Hudson noted that there are very few trials in Richmond—less than a handful over the last year. He attributed the low rate of civil trials, in part, to the very effective settlement program managed by the Court’s magistrate judges. He also noted that the Divisions of the U.S. Attorney’s Office assess criminal cases a little differently, and there tend to be more criminal cases that go to trial in the Norfolk and Alexandria Divisions.

Judge Hudson noted that the Court’s reputation as the Rocket Docket continues in most all cases, particularly on the civil side. Civil cases tend to move along and settle when they can be settled. Judge Hudson estimated that between 10 to 15 percent of civil cases are terminated or transferred on motions with the balance settling before trial.

Comments from The Honorable Henry E. Hudson, continued

Regarding motions practice, Judge Hudson explained that his chambers receives on average one new motion per week. Whether the Court holds a hearing depends on the nature of the motion. Parties may contact chambers to request scheduling oral argument for a motion, but the Court will ultimately hold argument only if it deems necessary in the context of the case. Judge Hudson does not hear arguments remotely, though he will occasionally allow non-local attorneys listen in to an argument taking place in-person. Those circumstances are determined on a case-by-case basis.

Regarding discovery, Judge Hudson noted that discovery issues are rare in routine cases and lawyers are generally good at resolving issues. He noted that exceptions can arise in more complicated cases, such as class actions, or in cases with out-of-town lawyers who are more accustomed to taking discovery issues through motions practice. He encouraged parties to sit down and attempt to resolve their issues before raising discovery issues with the Court. Judge Hudson sometimes refers discovery issues to magistrate judges.

Judge Hudson reiterated that he enjoys presiding over cases in Richmond and interacting with counsel during cases. He encouraged lawyers with questions to reach out to chambers.



The Honorable John A. Gibney, Jr.

*United States District Court for the
Eastern District of Virginia*

Judge Gibney observed that the lawyers who appear in the Richmond Division of the Eastern District of Virginia are generally “Stars of the Bar” who exhibit collegiality, cooperation, and dedication to their clients.

Judge Gibney explained that discovery disputes are rare. Judge Gibney addresses most discovery matters by telephone conference without the need for motions practice. Discovery motions may be requested by the Court following telephone conferences, but they are typically reserved for discrete issues and can usually be resolved without a hearing.

In cases where larger problems with discovery arise, Judge Gibney will sometimes engage a Special Master to address the issues in controversy. Special Masters are private attorneys who charge for their services. The appointment of a Special Master and the prospect of having to pay the Special Master’s fees often prompts the parties to resolve the dispute on their own.

Judge Gibney noted with disappointment that civil trials are rare and that case filings in the Richmond Division have decreased from previous years. Judge Gibney observed that lawyers should not be afraid to take cases through to trial and offered that, in his experience, the willingness to go to trial will often improve settlement outcomes.

Most cases continue to be referred to the Magistrate Judges for settlement conferences. The Magistrate Judges have an excellent record of resolving the cases referred to them.

Judge Gibney explained that he has discontinued the use of Zoom for hearings. While many motions can be decided on the papers, Judge Gibney noted that the Court will consider requests for hearings as an opportunity for newer lawyers to gain courtroom experience. In such cases, the parties should contact chambers to request a hearing.

Judge Gibney enjoys working with the local Bar. If lawyers who appear before the Court observe any procedures or practices that make their practice more difficult, they should bring them to the Court’s attention after the conclusion of the case. The Court welcomes such feedback.



The Honorable Mark R. Colombell

*U.S. Magistrate Judge for the Eastern
District of Virginia*

Judge Colombell began by commending the bar for its demeanor and professionalism, noting that attorneys appearing in federal court continue to excel in the courtroom in their knowledge of the law, their case preparation, and their civility in dealing with the court and each other.

Comments from The Honorable Mark R. Colombell, continued

Magistrate judges take a collaborative approach to settlement conferences and always try to help litigants leave the courthouse feeling as though they have had their day in court. He encouraged firms looking to help young associates gain experience to utilize young lawyers more in federal court proceedings. Settlement conferences are a good way for young lawyers to gain experience in court, to hone their skills interacting with judges and clients, and to gain confidence in the courthouse. Because it is often helpful to have more than one attorney appear at a settlement conference, bringing a young lawyer along is a good option for many reasons.

Judge Colombell felt that the docket has gotten back to a normal pre-Covid load in the past 12 to 18 months though jury trials seem to be trending down. However, the judges are seeing many more out-of-state pro hac vice counsel in cases and on pleadings, and they would like to remind attorneys practicing in the EDVA that the role of local counsel is important, if not central, to the process. Local counsel are not merely figureheads who sign and file pleadings. They must appear in-person at all settlement conferences, hearings and trials and understand the law and facts of the case.

Finally, Judge Colombell encouraged more attorneys to consent to magistrate judge jurisdiction when offered. Consenting to magistrate judge jurisdiction eases the burden on the district court judges, who are incredibly busy.



The Honorable Summer L. Speight *U.S. Magistrate Judge for the Eastern District of Virginia*

As the newest United States Magistrate Judge in the Eastern District of Virginia, one of the things Judge Speight enjoys most in her new position is her interaction with more members of the bar. Unlike other divisions in the Eastern District of Virginia, magistrate judges are not assigned to all civil cases, but receive referrals from the district judges.

Most of her interaction with the bar are during settlement conferences; on average, she can have three (3) to four (4) in a week. In addition to settlement conferences for civil cases, Judge Speight's docket also includes misdemeanors and social security cases. Now that the Richmond division has two magistrate judges, she will also have a civil consent docket.

Judge Speight spoke highly of the bar indicating that attorneys balance advocacy of their clients' best interests with professionalism and courtesy very well. This extends to everyone in the courthouse. However, she recommends that local counsel educate out-of-state attorneys who may be used to more aggressive tactics about the Court's expectations related to professionalism.

Absent exceptional circumstances, Judge Speight conducts hearings, initial status conferences, and settlement conferences in-person. Regarding settlement conferences, she finds that people are more invested in getting to a resolution when in-person. One thing that Judge Speight values and appreciates in settlement conferences is an attorney's ability to be candid and message upfront their client's ultimate position while protecting client confidences and advocating for their client's best interest. She recognizes that this is a difficult balance and that it often comes with experience, but it enables her to be more effective.

Judge Speight also noted the requirement of a joint submission to resolve discovery disputes and for counsel to meet and confer in person. This procedure encourages professional courtesy, saves time, and streamlines issues for quick resolution. Although initial scheduling orders are pretty standard, Judge Speight encourages attorneys to take the time to read the order as there are differences among the judges as well as differences based on the type of case.

Judge Speight's advice to more junior attorneys wanting to know more about federal practice is to become involved in federal pro bono projects (i.e., the Pro Se Pro Bono Mediation or Pro Se Prisoner Projects). These pro bono opportunities help attorneys develop useful skills and allow them to interact with the judges.



Updates from Henrico Circuit Court Clerk, Heidi Barshinger

Alert System - Heidi Barshinger, Henrico Circuit Court Clerk, is excited to announce a new alert system which will enable county residents to sign up to receive an email notification when there is any activity taking place on their real estate in Henrico County. This optional free service will allow registrants to be notified by email when documents are recorded under the name(s) they register, so that they can confirm that such documents are valid. Residents can register at: www.henricovalandrecords.org. If a questionable document is identified, residents can visit the Clerk's Record Room to view the document or you may contact the Record Room by phone at (804)-501-4249 to purchase copies if desired. The public Record Room is open 8 a.m. to 4 p.m., Monday through Friday, excluding holidays, and is located on the second floor of the Courts Building.

Appointment Requests - Since February 2022, Henrico Circuit Court Clerk's office has offered an easy, on-line application process to schedule Probate and Guardian/Conservator appointments. To build on this, the Clerk's office recently updated its site to include a separate application for Bond Increase/Decrease appointments related to estates. This new link is located within the Probate Website <https://henrico.us/services/probate/> along with applications to schedule Probate and Guardian/Conservatorship appointments. Attorneys and the public can apply directly to meet with a Probate Clerk in person through this website.

Court Orders - We are now sending certified copies of court orders to the attorneys' offices via email resulting in quicker turnaround for law offices! To use this capability, please ensure you have your email address on the Order.



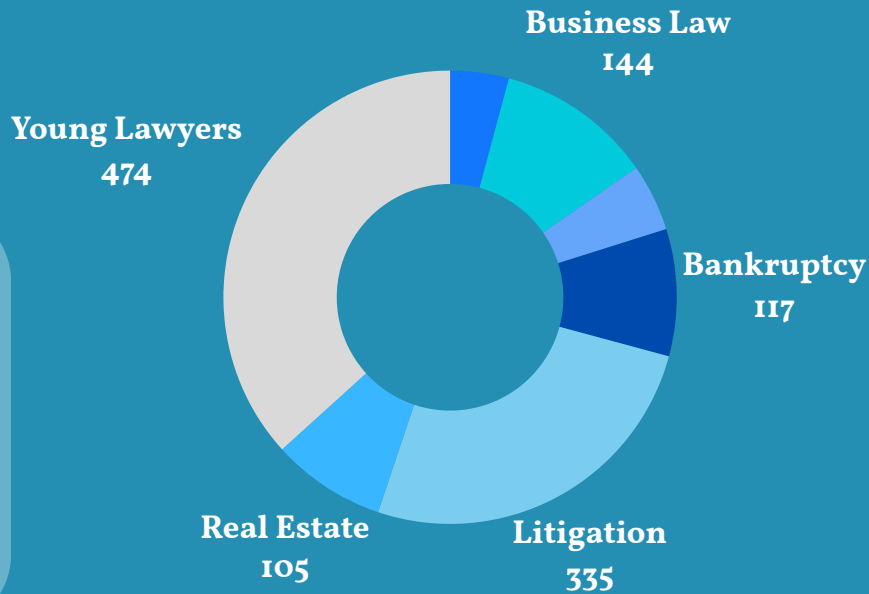
2024 RBA AWARDS LUNCHEON



THE RICHMOND BAR: BY THE NUMBERS*

Total Members
1,542

Law Students
69



*as of 12/7/2023

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Geneva Gnam
Hannah Gourdie
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Maxine Lawton
Christopher Leslie
Caroline McBride
Michael Millstein

Leanna Minix
Thomas O'Dea
Katherine Pollard
Holly Pratt
Joseph Robertson
Giselle Secada
Charles Sipe
Micah Talabiska
Laurel Wilkerson
Brittnahra Yoon

DECEMBER

13th - Holiday Cocktail Party | 6:00 | Science Museum
22nd - Bar Office Closed
25th - Bar Office Closed

**HAPPY
HOLIDAYS**

JANUARY

1st - Bar office closed
2nd - Executive Committee Meeting | 12:30 | Zoom
4th - Board Meeting | 12:30 | Hunton Andrews Kurth
8th - Pro Bono Committee Meeting | 12:30 | Zoom
24th - JLAP Wellness CLE | 4-6pm | Williams Mullen
30th - Executive Committee Meeting | 12:30 | Zoom

FEBRUARY

1st - Board Meeting | 12:30 | Hunton Andrews Kurth
19th - Bar office closed

The RBA Website is a Useful Resource



Did you know that you can renew your dues and register for events online using your Visa or MasterCard? The Bar's website, www.richmondbar.org, is also an easy way to locate information on awards, events, Sections, Committees and local court procedures and news. Manage your own membership information using the Bar's on-line Pictorial Directory. You can also use the Directory to search for members' contact information, undergraduate and law school affiliations and areas of practice listings, as well as photos if they have been provided.

For a complete list and detailed information regarding RBA events, please visit our website at richmondbar.org

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