



THE RICHMOND BAR

Volume 32, Number 06

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

Virginia Supreme Court Justice Cleo E. Powell to Speak at Law Day Luncheon



Justice Cleo E. Powell has served on the Supreme Court of Virginia since 2011. She received her undergraduate degree, with distinction, from the University of Virginia and her J.D. from the University of Virginia School of Law.

Prior to her appointment to the Supreme Court of Virginia, Justice Powell was a labor and employment law associate at Hunton & Williams from 1982-1986. She served as Senior Assistant Attorney General for the Equal Employment Opportunity and Personnel Section from 1986-1989 in the Office of the Virginia Attorney General. Justice Powell was Corporate Counsel for Virginia Power and Director of their Employee Services.

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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 a member 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 March 1, 2024 and should be e-mailed to Annie M. Holland at aholland@richmondbar.org.

RBA Committee meets with judges on Bankruptcy and Richmond Courts

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 the Honorable Judges for the U.S. Bankruptcy Court for the Eastern District of Virginia, Richmond Division and Honorable Judges for the Courts of the City of Richmond. As in years past, the Judges were gracious with their time and spoke with candor to Committee members regarding technology, case filings, dockets, video depositions, professional conduct, new judges and changes in procedures in the clerk's office, among other topics.

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PRESIDENT'S COLUMN: Remarks from RBA President

Julie M. Cillo

Happy New Year! It was wonderful to see so many of you at the holiday party in December. I hope you enjoyed it as much as I did.

As we look at a new calendar year, and consider that we are halfway through our bar year, I wanted to reflect on my remarks from Law Day 2023 and the theme of GRIT which is made up of perseverance, passion for long term goals, challenging but achievable work, teams who desire to work hard to improve, and teams who have a sense of priority and purpose for work that is meaningful and helps others.[1]

We already have carried that theme through so much of what we have done. We achieved many of the goals set out for the 2023-24 bar year: retaining and growing membership, increasing participating, promoting collegiality between the bench and bar.

In January and March, we will accomplish yet another goal of providing opportunities for wellness for our colleagues.



-Julie M. Cillo

We have created and are in the process of creating new sections to invigorate our members to engage and new members to join. Our periodic involvement surveys are helping us identify where you want to become active in the RBA. Thank you for completing them!

Our Young Lawyers Section and our Membership Committee have engaged law students at the University of Richmond with our Association and have started to forge relationships with future members of our profession. As a result, we are seeing more law students at events and we love it!

The rest of this bar year will fly by and there is so much more ahead including Section events, wellness programs, the Spring Cocktail Party, Law Day. I am excited to start 2024 with all of you and to make the second part of this bar year as successful as the first. Cheers!

[1] "Leveraging Grit and Growth Mindset to Drive Team Success," A Report from the ABA Commission on Women in the Profession (2023), p. 6, 13, 15, 21



APRIL 17, 2024

Spring Cocktail Party

Willow Oaks Country Club

6:00 - 8:00 PM



MAY 1, 2024

Law Day Luncheon

Lewis Ginter Botanical Garden

12:30 - 2:00 PM

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.

THE BAR ASSOCIATION OF THE CITY OF RICHMOND

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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 RBA BANKRUPTCY SECTION'S FEBRUARY LUNCHEON & CLE

"THORNY ISSUES IN SECTION 363 SALES"

SPEAKERS

MICHAEL MUELLER
WILLIAMS MULLEN

BRITTANY FALABELLA
HIRSCHLER

HANNAH HUTMAN
HOOVER PENROD

DATE **FEBRUARY 13**
must register by feb. 1st

TIME **12:30-2:00 P.M.**

LOCATION
**HILTON RICHMOND
DOWNTOWN**
501 E BROAD STREET

COST **GOV'T/SECTION MEMBERS - \$40
SECTION NONMEMBERS - \$55**

The McCammon Group

is pleased to announce:



Michael E. Harman is now available full-time.

Mike Harman has been a part-time Neutral with The McCammon Group for over a decade while simultaneously serving as one of Virginia's most trusted and respected trial lawyers. He recently retired from Harman, Claytor, Corrigan & Wellman and is now committing his energies to mediation full-time. During his part-time tenure with The McCammon Group, he successfully served as a Neutral in over 100 cases. That experience, combined with decades of litigation experience, gives Mike a rich background in a wide variety of civil disputes, including personal injury, professional malpractice, product liability, trucking, and employment matters. Mike is a Fellow of the American College of Trial Lawyers and a Fellow of the Virginia Law Foundation. Known for his warm demeanor and ethical conduct, he was the 2019 recipient of the VADA-VTLA Civility and Professionalism Award. Mike now makes these talents and experience available full-time to serve the mediation needs of lawyers and litigants throughout Virginia and beyond.

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RBA Administration of Justice Committee meets with Judges on Bankruptcy and Richmond Courts

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**The Honorable Kevin R. Huennekens and the
Honorable Keith L. Phillips**
United States Bankruptcy Court

On October 25, 2023, the Administration of Justice Committee of the Richmond Bar Association met with the Honorable Kevin R. Huennekens and the Honorable Keith L. Phillips of the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division.

The Court wishes to make the bar aware of several matters. In response to a restructuring of the Clerk's Office, pursuant to which case administrators across the district may be assigned to cases in other divisions, the Court has amended and continues to review and revise the local rules in an effort to homogenize the practices and procedures within the district. Parties should review the recent changes and visit the Court's website frequently regarding additional changes, including with respect to the list of matters which may be heard on negative notice, and which list may be updated frequently as the Court continues to evaluate the same. Notwithstanding such list, the Court still has the discretion to cancel hearings even though such matters are not included on the negative notice list. Counsel should be prepared for such an occurrence. Relatedly, counsel should also be advised that parties are now expected to use the cancellation module in CM/ECF to cancel those matters for which a hearing is no longer required. Such hearings should be cancelled no later than 3:00 p.m. on the business day prior to the hearing. Instructions regarding the cancellation module can be found on the Court's website.

Parties are also encouraged to review their notices of motion and/or hearing to ensure that such notices comply with the new procedures, including the revised objection periods and applicable formatting. The revised local rules also alter how parties request and set matters for hearing on an expedited basis. Specifically, parties will need to obtain entry of an order approving the expedited hearing date prior to the hearing on the underlying motion.

Only after counsel has thoroughly reviewed the current local rules, should such party contact the applicable courtroom deputy for additional guidance.

With respect to contested and/or evidentiary matters, the Court reminds the bar that counsel should be aware of and prepared to present evidence when necessary, recognizing that not all matters can be done by affidavit or declaration, even if uncontested. Relatedly, counsel should be aware of when a client or witness is expected to be in Court or when such appearance has been excused. In some instances, clients are appearing unnecessarily in Court and counsel may or may not be present.

Although the Court has transitioned back to in-person hearings, remote appearances may be permitted by submitting the requisite form via electronic mail no later than 48 hours prior to the hearing. Untimely requests may not be reviewed prior to the hearing otherwise. The applicable email address and form are available on the Court's website. Such remote appearances will likely be conducted through Cisco going forward, although such process is subject to change. Parties should familiarize themselves with use of the Cisco product prior to hearing.

As the dockets continue to grow, hearing times may change and parties should consult the Court's website regularly regarding the same. In a similar vein, the Court encourages brevity with respect to all legal arguments so as to allow the Court to efficiently adjudicate all matters.

During this transition period, the Court wishes to convey their appreciation to the bar for its patience and flexibility as these changes are implemented on a district-wide basis. The Judges also applaud the continued professionalism and collegiality of the bar.

The Judges invite suggestions for improvements to the rules or standing orders. Comments can be given to the liaisons for the rule committee, Jennifer West (JWest@spottsfain.com) and Brittany Falabella (BFalabella@hirschlerlaw.com). The members of the Committee thank the Judges for their time and candor.



The Honorable W. Reilly Marchant

Richmond Circuit Court

Judge Marchant would like to thank the Richmond legal community for another great year of legal practice. Judge Marchant continues to be impressed by the caliber of attorneys before the Richmond Bar and encourages attorneys to keep up the excellent work. Judge Marchant appreciates this opportunity to provide feedback and recommendations for the legal community.

Court Appearances

First, Judge Marchant would like to address certain recommendations and reminders for attorneys for any Court appearance. Judge Marchant asks that each attorney introduce themselves at the onset of any Court appearance, even attorneys who appear often before Richmond Circuit Court. Although, the Richmond Judges will typically have a sheet that identifies the names of the attorneys, it is helpful for the clerks and other staff when attorneys state their names. Judge Marchant would like to stress the need for lawyers to appear in Court prepared with documents they plan on referencing. Judge Marchant particularly finds it helpful for attorneys to highlight or otherwise indicate a portion or page of the document that they want to discuss. For trial or other evidentiary hearings, the Court does not need any exhibits submitted beforehand.

Although Judge Marchant prefers that any documents counsel wishes the Court to see prior to a hearing or trial be submitted to the Court well in advance of the scheduled appearance, Judge Marchant understands that there are times where documents will be submitted days before an appearance. In these instances, Judge Marchant emphasizes that courtesy copies need to be sent or delivered to chambers. It is not a guarantee that the Clerk's office will scan and/or direct the documents to chambers prior to a certain date given the volume of documents processed by the Clerk's office.

For Motions hearings, Judge Marchant will often have certain questions he wants answered during hearings and appreciates when attorneys focus on these questions rather than following a prepared "script."

The purpose of any hearing should be to help the Judge reach a decision. If the Judge has already focused in on what he or she would need to make a ruling, Judges appreciate when attorneys are flexible and discuss what the Judge needs to know.

Trials

Second, Judge Marchant would like to discuss recommendations for attorneys to put on effective trials. Judge Marchant emphasizes that there needs to be a theme that ties the case together from opening, through presentation of evidence, to closing. Every piece of evidence should be introduced to promote this single theme. Attorneys should not ask unnecessary or repetitive questions to witnesses just to say something. Every question should have a purpose and tie into the overall theme. There is no need to ask questions on cross if all questions have already been addressed on direct.

Any attorney appearing for trial always needs to be the most prepared person in the room and know his or her cases thoroughly such that he or she can address any issue that arises in an organized manner. Along this line, Judge Marchant finds that attorneys that know their case so well that they do not need notes during opening and closing statements are often the most effective.

Judge Marchant strongly discourages submitting lengthy bench briefs during any trial or hearing, especially those not requested or ordered. Presenting briefs at a hearing leaves the Court with no time to meaningfully review the arguments or consider the applicable law at issue. Presenting bench briefs almost guarantees that the Court will need to take the issue under advisement to fully vet the issue, and otherwise provide opposing counsel time to respond.

Candor Before the Court

Third, Judge Marchant warns attorneys to not be disingenuous in the arguments made and case law cited before the Court. In particular, do not try to represent to the Court that a case makes a ruling or finding, when in reality it does not. The Court and judicial clerks will be checking the cases. The Court will certainly lose confidence and respect in a lawyer that does not accurately represent case law or other arguments to the Court.

Comments from The Honorable W. Reilly Marchant , continued

Attorneys can effectively address adverse case law by addressing the negative ruling and distinguishing it from the present case without misinterpreting the case. Judge Marchant further encourages attorneys to be courteous even while being a tough advocate on behalf of the client. This includes being courteous to everyone, including opposing counsel, the Judges, clerks, sheriffs, and other staff.

New Criminal Policy

Lastly, Judge Marchant would like to highlight a new policy for criminal cases. Co-defendants should now be assigned the same Judge even if the co-defendants are being prosecuted in separate trials. Richmond Circuit Court implemented this new policy to promote consistency as far as practicable. Given the increase in criminal cases and significant number of civil cases resolving outside of Court, Richmond Circuit Court is also adding an additional criminal day to each of the Judge's dockets. Please reach out to the judicial assistants and clerks if you have any question about scheduling. While jury trials are set through the Clerk's Office, hearings are set through each Judge's judicial assistant.

Thank you again for the Richmond Bar's hard work and the Richmond Judges look forward to another successful year.

The Honorable David M. Hicks
Richmond General District Court

Judge Hicks reports that the Richmond General District Court is operating full staff with six judges. Judge Tracy Thorne-Begland was elevated to the Circuit Court earlier this year and Judge Victoria Nathalie Pearson took his place.

The Court has implemented several changes to effectively manage the increasing civil docket. The Court uses two courtrooms in the John Marshall Court House to hear civil cases five days a week. On Mondays and Fridays, a third courtroom is used to hear civil matters.

The Court has observed an increase in the number of landlord-tenant cases.

Richmond's landlord-tenant docket is among the largest in Virginia. Retired Judge Robert Pustilnik sits during the week to help with the increase in the landlord-tenant matters.

Judge Hicks' notes that the Court's criminal docket is still lower than pre-COVID levels. The few criminal cases may correlate to the number of unfilled positions in the Richmond Police Department. The Court is utilizing two courtrooms in the John Marshall Courthouse for criminal and traffic matters. In Manchester, the Court uses one courtroom for criminal and traffic matters five days a week. On Tuesdays through Thursdays, a second courtroom in Manchester is used to hear criminal and traffic cases.

Finally, Judge Hicks commends the bar for its collegiality and professionalism. The bar's collegiality is one of the factors that makes practicing law in Richmond and central Virginia special. The Court has been impressed with the general level of preparedness and professionalism of regular practitioners.

The Honorable Mary E. Langer

Richmond Juvenile & Domestic Relations District Court

Judge Langer is nearing the end of her two-year term as Chief Judge of the Richmond Juvenile and Domestic Relations District Court. She stressed the Court's need for attorneys to represent people appearing in J&DR court, noting that a high number of litigants appear in court without the benefit of counsel. Judge Langer requested help particularly in the areas of parental rights and cases requiring Guardians Ad Litem. [Editor's Note: fees for court-appointed attorneys representing parents in termination and other parental rights cases have been capped at \$120 per case, the lowest in the nation, for more than twenty years. At its October 2023 meeting, Virginia State Bar council approved legislative activity by the VSB Committee on Access to Legal Services in support of an effort by the Office of the Children's Ombudsman to increase court-appointed fees and provide other improvements to the system.]

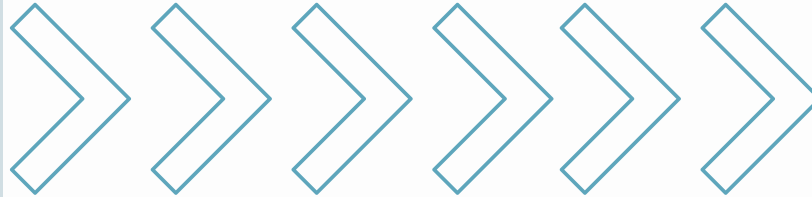
Comments from The Honorable Mary E. Langer, continued

Judge Langer noted that although the cases can be complex, parental rights matters and GAL work are a great fit for new attorneys looking to increase their courtroom experience and emeritus attorneys looking to use their unique knowledge and skills.



Looking for the most current judicial Orders and information on Court procedures? The RBA has added a special page on its website highlighting news released from the Supreme Court of Virginia, Court of Appeals of Virginia and local state courts in the Metro area. Visit:

<https://www.richmondbar.org/local-court-orders/>.



Virginia Supreme Court Justice Cleo E. Powell to Speak at Law Day Luncheon

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Justice Powell began her judicial career on the Chesterfield/Colonial Heights General District Court in 1993. She was appointed to the Chesterfield/Colonial Heights Circuit Court in 2000 and then to the Court of Appeals of Virginia in 2008.

Justice Powell is a recipient of numerous awards including, 2024 YMCA Martin Luther King, Jr. Service Award for Legacy, the Clarence Dunnville Award, William and Mary - William B. Spong, Jr., (2023), Virginia Lawyers Hall of Fame (2022); Cleo Edge Award (2018); Virginia Women in History (2013); Strong Men & Women Excellence in Leadership (2011); Virginia Women Attorneys Association 2010 Leader in Diversity; Virginia Lawyers Weekly Influential Women of Virginia (2010); Metro Richmond Women's Bar Association, Woman of the Year 2009; and the YWCA's Outstanding Women of the Year (2001).

In 2011, Justice Powell began leading the Rule of Law Day at the Capital in conjunction with the Diversity Conference and the Young Lawyers Conference of the Virginia State Bar. The purpose of the program is to educate local middle and high school students about the rule of law principles and the operations of the legislative, executive, and judicial branches of government. Held annually at the Virginia State Capital and the Virginia Supreme Court, approximately 300 students are engaged in a day of learning while discussing legal scenarios with attorneys, judges, and law enforcement officers.

Justice Powell chairs the Judicial Performance Evaluation Committee and serves on the Executive Committee of the Judicial Conference of Virginia. She has served on the Model Jury Instructions Committee, the Judicial Inquiry and Review Commission, the Ad Hoc Committee for the Study of Canons of Judicial Conduct and the Law Revisions Committee. She has also served as an adjunct faculty member at the William and Mary School of Law. Currently, she serves as a faculty member on New York University's Institute of Judicial Administration's Appellate Judges Seminar. She serves the Appalachian School of Law as the Diversity Mentor, Distinguished Visiting Professor of law, The L. Anthony Sutin Endowed Lecturer.

THE RBA HOLIDAY COCKTAIL PARTY 2023



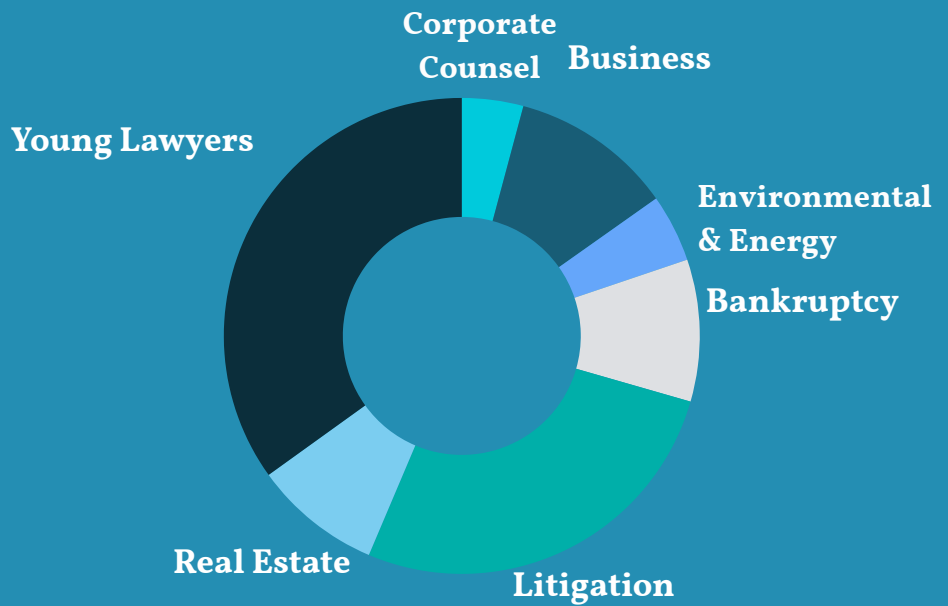
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THE RICHMOND BAR: BY THE NUMBERS*

Total Members
1,403

Law Students
25



*as of 12/31/2023

NEW MEMBERS

Allison Bennett
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Daniel Edwards

Eliza Unrein
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John Younis

Ginny Price
Ann Reardon
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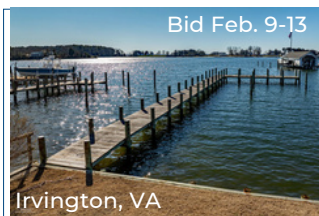
Harry Khanna
Mary Litman
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Upcoming Northern Neck Auctions

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JANUARY

23rd - Finance Committee Meeting | 12:30 | Zoom
12rd - Bankruptcy Luncheon | 12:30 | Hilton Dwtm
25th - Sponsors Committee Meeting | 12:30 | Zoom
30th - Executive Committee Meeting | 12:30 | Zoom

FEBRUARY

1st - Board Meeting | 12:30 | Hunton Andrews Kurth
1st - Membership Committee Meeting | 12:30 | Zoom
4th - Communications Committee | 12:30 | Zoom
13th - Bankruptcy Luncheon | 12:30 | Hilton Dwtm
19th - Bar office closed
25th - Nominating Committee Meeting | 12:30 | RBA

MARCH

4th - Executive Committee Meeting | 12:30 | Zoom
7th - Board Meeting | 12:30 | Hunton Andrews Kurth
12th - CLE Committee Meeting | 12:30 | Zoom

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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