On Wednesday, November 1, over 150 guests gathered at the Fairfax Marriott at Fair Oaks to honor and toast Hon. Gerald Bruce Lee. Judge Lee is a former United States District Judge of the United States District Court for the Eastern District of Virginia. He was appointed by President Bill Clinton and served from October 1, 1998 to September 30, 2017. Prior to his nomination, he was a trial judge in the 19th Judicial Circuit, Fairfax, VA for six and one-half years.

The evening commenced with a reception where guests mixed, mingled, networked, and shared stories of their time working with (or presenting a case in front of!) Judge Lee. It was apparent that he was a true friend and/or mentor to all present. The excitement and love in the room was palpable. Every attendee lit up when speaking of Judge Lee; faces were beaming and spirits were high.

Following an hour of cocktails, appetizers, and excellent conversation, guests moved from the Atrium to the Potomac Ballroom where they gathered for dinner and speeches. Speakers included Hon. Rossie D. Alston, Jr., Court of Appeals of Virginia; Hon. Dennis J. Smith, Retired Chief Judge, Fairfax County Circuit Court; Vernida R. Chaney, Esq.; and Peter D. Greenspun, Esq. All speakers delivered touching, heartfelt messages that left the audience either doubled over in laughter or wiping away tears. The admiration, inspiration, and respect each presenter felt for Judge Lee, thanks to their thoughtful words and delivery, was in turn felt by the audience.

(Please see Convention article on page 4)
"To whom much is given, of him much is required."

Whether tracing the derivation of the foregoing to Christianity’s New Testament (Luke 12:48) or no further than Spiderman’s tough-learned lesson with the loss of his Uncle Ben, on November 1, those of us attending the FBA’s 2017 Jurisprudence Award Dinner honoring our latest recipient, The Honorable Gerald Bruce Lee, (Ret.), learned from those who have known him well for many years, how Judge Lee has embraced and lived his life by these words. Of course, we also learned that retirement is apparently suiting Judge Lee well as he professed to be very not busy not doing any of the items on his list of "I might get around to these" or his other ever-lengthening list of "I’ll get to these whenever I darn well feel like it" items. In all seriousness, Judge Lee has been a hero in his own right for more than two decades, having introduced countless, at-risk young boys to the legal system through the “Street Law” Program in DC, and for nearly that long as a recognized leader in expanding diversity in the legal profession and playing an integral role in developing the “Just the Beginning” judicial internship program, and assisting in the placement of minority, underrepresented, and economically disadvantaged law graduates in judicial clerkships. It was a both a pleasure and an honor to participate in recognizing one of the FBA’s own so deserving, and so self-deprecatingly appreciative of the rarely given award.

In a completely different way, it was both humbling and immensely gratifying to see the hard work and planning that went into this year’s annual Convention come to fruition in what was, from all accounts, a universally well-liked, mid-October weekend event at the Nemacolin Woodlands Resort in Southwest Pennsylvania. Of course, Courtnie and her staff once again outdid themselves in assuring the four-day event came off without a hitch, but the success of the event would not have been possible without the countless hours of the volunteer Convention Committee members, planners, presenters, event organizers, and panel hosts, as well as the financial backing and participation of our numerous sponsors. “Thank you” to all those who joined us in record numbers (some “first-timers” and some “not-in-a-very-long-timers” among you!) to experience some or all of what “Convention” had to offer, and a special “thank you” as well to our chief judges and the many individual judges from our several courts for the various levels of both direct, and indirect, support and active participation which helped make this year’s Convention weekend such a great success.

This holiday season brings with it a “bumper crop” of potential candidates for Judicial Screening for one or more available J&DR judicial vacancies, and—sooner than I could have believed—our annual Bench Bar Dinner Dance will signal the homestretch of my FBA Presidency. Struggling to slow the frenetic pace and earnitly trying to invent new ways to be in two or more places at once to keep up, one has to try hard not to appreciate how much we are given as members of this great organization. Let the challenge be both in seeking out previously unknown opportunities, defining, and then not only meeting but exceeding all expectations as to what may be “required” of each us along the way. I find that the corollary is often true as well that of whom much is expected, much is forthcoming. Expect great things in 2018, FBA!
The McCammon Group

is pleased to announce our newest Neutral

Hon. Eric T. Washington (Ret.)
Retired Chief Judge, D.C. Court of Appeals

The Honorable Eric T. Washington recently retired after completing his third consecutive term as Chief Judge of the D.C. Court of Appeals, throughout which time he also served as Chair of the Joint Committee on Judicial Administration for the District of Columbia. Prior to his designation as Chief Judge, he was an Associate Judge of the D.C. Court of Appeals, and before that, he served as Trial Judge on the D.C. Superior Court. A nationally recognized leader, Chief Judge Washington is past President of the Conference of Chief Justices of the United States and also formerly served as Chair of the National Center for State Courts. He has been active in many professional, civil, and charitable organizations, including several committees of the D.C. Bar, the D.C. Courts’ Standing Committee on Fairness and Access, and the D.C. Access to Justice Commission. Chief Judge Washington now brings this exceptional record of leadership and service to The McCammon Group to serve the mediation, arbitration, and special master needs of lawyers and litigants throughout Virginia, D.C., and beyond.

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Our Annual Convention was held October 19-22 at the luxurious and picturesque Nemacolin Woodlands Resort and Spa in Farmington, PA. A huge thank you to all of our attendees—our dedicated members, special guest speakers, and our incredibly generous sponsors! We quite literally could not have pulled off the weekend without you. Please note that although we just completed the 2017 Annual Convention, the Bar staff and Board of Directors are already planning the 2018 Annual Convention, which will take place in the birthplace of country music—Nashville, TN. More details to follow, but please keep that on your radar!

The weekend began early, on a Thursday afternoon, for those of us who were able to sneak away from the area. We arrived to gorgeous fall weather (hello, 65 degrees and sunny!) and a resort that was befitting of a postcard. Nemacolin staff welcomed the Fairfax Bar Association with open arms and were eager to make our every wish and request come true. After a brief check-in period, the Annual Convention officially began with a cocktail reception in one of Nemacolin’s many (yes, many) stunningly beautiful ballrooms. Attorneys, judges, sponsors, and staff mixed and mingled while munching on yummy appetizers and imbibing in a cocktail or two.

The first official full day of the Convention began bright and early at 7:00 AM with a breakfast buffet and vendor expo. The first CLE of the weekend took place promptly at 8:30 AM—it was a great kick-off “introductory” event to the weekend: FBA Jeopardy! Over the course of the next few hours, Bar members had their choice of various CLEs, all led by distinguished and captivating guest speakers and moderators. Seminars included Attorney's Fees in Court CLE (presented by Hon. Glenn L. Clayton, II, Fairfax County J&DR District Court; Hon. Mitchell I. Mutnick, Fairfax County General District Court; Hon. Robert J. Smith, Fairfax County Circuit Court; and Nicholas V. Cumings, Esq., Walsh, Colucci, Lubeley & Walsh, P.C.) and Employment Issues Every Law Firm Needs to Know CLE (presented by Hon. Daniel E. Ortiz, Fairfax County Circuit Court; Jane L. Rasmussen, Esq., The Law Firm of Jane Lemley Rasmussen; and J. Thomas Spiggle, Esq., The Spiggle Law Firm).

After wrapping up the day’s portion of CLEs, it was time for the event so many of our members traveled for: the golf tournament! As it was the previous day, the weather truly could not have been better. Golfers enjoyed a gorgeous day filled with friendly competition on Nemacolin’s brand new golf course, Shepherd’s Rock. Congrats to our winners: Bob Letnick and Jeremy Letnick (though, in the spirit of honesty, they did lose to Sherry Letnick at mini golf the very next day!) and Dickson Young and his wife, Brigette Perry.

For those who chose not to partake in the tournament, many other activities were available: mini golfing (a fun, family-filled FBA event), hiking around the grounds, a trip to the spa, a dip in the (indoor) pool, an afternoon spent on the ropes course…the options were (essentially) endless! Following an afternoon of activities, attendees reconvened for an Oktoberfest celebration, complete with brats and Bavarian pretzels! Members were invited to dance away the beer and cheese calories with DJ Kingfish following the Oktoberfest cocktail hour.

Saturday morning came bright and early following a night of (if we may say so ourselves) excellent dance moves, but, alas, there was work to be done. CLEs began at 9:00 AM and lasted until 3:45 PM. Seminars included: Evidentiary Issues in Substance Abuse & Mental Health CLE (presented by Hon. Penney S. Azcarate, Fairfax County Circuit Court; Hon. Thomas P. Sotelo, Fairfax County J&DR District Court; K. Leigh Taylor, Esq., The Susan Hicks Group, PC; and Cyndi Turner, LCWW, LSATP, MAC; Insight Into Action Therapy) and Docket Update and Mediation in Fairfax Juvenile & Domestic Relations District Court CLE (presented by Hon. Glenn L. Clayton, II, Hon. Kimberly J. Daniel, and Hon. Thomas P. Sotelo, Fairfax County J&DR District Court; and Robert B. Walker, Esq., Law Office of Robert B. Walker). Following a brief break (which, let’s be honest, probably included a nap for roughly 90 percent of attendees), members reconvened for an evening of wine and cheese followed by yummy s’mores.

By Sunday, tired eyes were among us, but everyone was still in great spirits. Another great breakfast was held, followed by a mid-morning ethics CLE (presented by Hon. Manuel A. Capsalis, Fairfax County General District Court). And, that was it—that was a wrap. After three jampacked days spent together at Nemacolin, it was time to go home. A wonderful time was had by all. From networking to making new friends to (finally!) getting all of those CLE credits in, it was an exhausting weekend, but truly one for the books.

continued on page 10
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senseient.com/about-vader
After four incredible speeches, Fairfax Bar Association President Tom Repczynski took the stage and delivered a few kind words (and some laughter-inducing anecdotes about his times presenting cases in front of Judge Lee), and then delivered the well-deserved award to Judge Gerald Bruce Lee. The Jurisprudence Award is the highest award given by the FBA to recognize exceptional contributions to our justice system. A singular honor, it is not presented annually, but has been awarded over the years to attorneys and judges who have distinguished themselves and honored our profession in a variety of meaningful ways. Judge Gerald Bruce Lee was selected as the recipient of the award due to his substantial contributions as a judge in the Fairfax Circuit Court and on the United States District Court for the Eastern District of Virginia, as well as his longstanding efforts to promote diversity in the legal profession and to inspire young people to overcome challenging circumstances. Judge Lee joins the ranks of a select group of just seven prior winners:

Hon. William G. Plummer, 19th Judicial Circuit (Ret.)
Justice Barbara M. Keenan, Supreme Court of Virginia (Ret.)
Oliver M. Hill, Esq., Richmond Civil Rights Attorney (1996)
Senator Joseph V. Gartlan, Jr. (2001), Virginia Senate (Dec.)
Chief Justice Harry L. Carrico (2002), Supreme Court of Virginia (Dec.)
Hon. Rosemarie Annunziata (2005), Court of Appeals of Virginia
Hon. Johanna L. Fitzpatrick (2006), Court of Appeals of Virginia (Ret.)

With humility and grace, Judge Lee accepted the Fairfax Bar Association’s Jurisprudence Award. He warmly thanked his friends and colleagues for their support and friendship, and took special care to call attention to his wife, Edna Ruth Vincent, and their son, Max, who were both in attendance.

Judge Lee spoke about growing up in Southeast Washington, D.C., a place that, during his youth, was not known to be a locale that produced esteemed lawyers and judges. He oft joked that, at the time, kids from his neighborhood were very likely to appear before the Bench; no one ever thought any of them would grow up to be the one on the Bench. He credited a program he became involved with during his teens, Youth Pride, for setting him on the right track. The program, founded by Marion Barry, provided Lee with a job as a streetsweeper and granted him the opportunity to take classes as a high schooler at American University. He remains thankful for the program to this day, as he believes it is because of that experience that he went on to receive his undergraduate degree from American University, and then a law degree from AU’s Washington College of Law. It was this program and these same people he claimed, who inspired him to give back to the community, not only to reach out to but to help and guide adolescents who otherwise might have fallen through the cracks.

With the help of his Kappa Alpha Psi fraternity brothers, Judge Lee helped shape Kamp Kappa, a summer camp that seeks to provide adolescent boys with both life skills and mentors, and he presided over a mock trial each summer for the young men. But Judge Lee didn’t stop there. He worked tirelessly throughout his career so that minorities—women, people of color, members of the LGBTQ community—were given equal opportunities in the legal world. He mentored over 100 law clerks, many of who went on to be judges, and esteemed attorneys. One such former clerk, Justin Fairfax, is the Lieutenant Governor-elect of the Commonwealth of Virginia. Judge Bruce Lee didn’t simply work in justice and equality, he lived it and perpetuated it.

Although Judge Lee was incredibly humble in his address, it is worth noting that his time on the Bench was spent, unsurprisingly, making history. Per the Washington Post, at the time of his retirement in September 2017, Judge Lee had been involved with such monumental cases as “that of an al-Qaeda member who planned to kill President George W. Bush; a military intelligence officer who tried to sell classified information to foreign countries; and a former CIA officer who wrote a book about the “dysfunctional” agency without clearance.” (Weiner, Rachel. Federal judge who worked to increase diversity in legal profession set to retire. Washington Post, May 4, 2017. Digital.)

In today’s troubled times, losing a man like Judge Lee on the Bench leaves many feeling worried and vulnerable. But, if the Virginia Judicial System must be without Judge Lee’s presence, we are grateful for the fact that so much of Judge Lee’s time was spent giving back and mentoring. For we know, out there walking amongst us, are hundreds of Judge Lee’s mentees—people who were counseled, and trained, and mentored by such an incredible man. So, when the torch is passed, we know we’ll still be in good hands.
State Delegate David Albo presented David Bernhard his official commission as a Fairfax Circuit Court Judge, with Judge Patricia A. Millett of the U.S. Court of Appeals for the DC Circuit ceremonially administering the oath.

Judge Bernhard is pictured here with family and friends following the swearing in ceremony.
UPCOMING CLEs/EVENTS

FRIDAY, JANUARY 5, 2018
INVESTITURE OF DAVID A. OBLON AS JUDGE OF THE
FAIRFAX COUNTY CIRCUIT COURT
4:00 - 5:00 PM CEREMONY; 5:00 – 7:00 PM RECEPTION
Fairfax County Courthouse - Courtroom 5J
Reception to immediately follow.
RSVP to Kim Callahan at CCR-CircuitCourtRSVP@fairfaxcounty.gov or 703-246-2447.

THURSDAY, JANUARY 11, 2018
RETIREMENT PARTY FOR THE HON. HELEN F. LEINER,
FAIRFAX JUVENILE & DOMESTIC RELATIONS DISTRICT COURT

WEDNESDAY, JANUARY 24, 2018
LEGAL MALPRACTICE CLE
5:00 - 7:00 PM

SATURDAY, MARCH 3, 2018
BENCH BAR “BLACK & WHITE BALL”
6:30 PM - OPEN BAR RECEPTION
8:00 PM - DINNER FOLLOWED BY DANCING
Fairview Park Marriott, Falls Church, VA
Reservations $125 per person
$100 for FBA Young Lawyers Section Members
Sponsorships Available! Deadline is February 23, 2018

SAVE THE DATES:

WEDNESDAY, MARCH 7, 2018
BANKRUPTCY 101 CLE

WEDNESDAY, MARCH 14, 2018
VIEW FROM THE CLERK’S WINDOW CLE

THURSDAY, MARCH 15, 2018
EVIDENCE CLE: PRESENTATION OF TRIAL AUTHENTICATION

SUNDAY, APRIL 15, 2018
HEROES VS. VILLAINS 5K

TUESDAY, APRIL 17, 2018
TECHNOLOGY IN FAIRFAX: COME KICK OUR TIRES CLE

TUESDAY, MAY 1, 2018
LAW DAY WEINER ROAST

WEDNESDAY, MAY 9, 2018
GETTING GOVERNMENT RECORDS FOR YOUR STATE COURT
CASE CLE

MONDAY, MAY 14, 2018
SPRING GOLF TOURNAMENT

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CIVIL LITIGATION

Trial Counsel

Practicing in state and federal courts throughout Maryland, the District of Columbia, and Virginia, Tim Creed is an experienced trial lawyer. He represents and advises businesses in complex civil and business disputes, employees in disputes with their employers, and plaintiffs who have been seriously injured by someone else’s negligence. He will also serve as local counsel in state and federal courts throughout Maryland and in the District of Columbia for a range of civil-litigation matters.

TIMOTHY L. CREED
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We would be remiss if we didn’t say thank you again to all of our generous sponsors:

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To the Bar members who came up and spent the weekend with us—“thank you, thank you, thank you!” We hope you had a wonderful time and we look forward to receiving your feedback. We’ll see you next year in Music City.

**Testimonials:**

“As an attorney whose last Annual Meeting was many, many years ago, I urge anyone thinking about the next convention to sign up. One cannot beat the camaraderie, daily and nightly events, and time you get being with our fantastic bench and bar; it is an incomparable experience.”
—Cherise Loy, Esq., Loy Law, PLLC

“This was my first time attending an FBA Convention and I brought my family. It was a great blend of CLEs, fun for the family, and interacting with other FBA members in a setting more relaxed than we typically enjoy. I heard Convention was something you had to try only once before you want to go again and that certainly proved true for me. And based on our experience this year, I won’t be surprised if my family is eager to accompany me the next go-around.”
—Aaron J. Christoff, Esq., Law Office of Aaron Christoff, PLLC
The Legal Administrators Section, along with the NOVA ALA, were happy to help the FBA Paralegal Section in collecting school supplies this year. This was a collaborative effort in support of the Fairfax Law Foundation to help children through New Hope Housing’s Next Steps Family Program, the RISE Family Program, and the transitional Stepping Out and STRIDE programs by purchasing school supplies necessary for a successful future. To learn more, please visit the Fairfax Law Foundation website.

Please join us this holiday season in collecting toys for the Fairfax Salvation Army. Donations can be dropped off at:

**Sensei Enterprises, Inc.**
3975 University Drive, Suite 225,
Fairfax, VA 22030
Attention: Jenifer Kubal

This section promotes the exchange of non-confidential information regarding the administration and management problems distinctive to legal organizations, including private law offices, corporate legal departments, government legal and judicial organizations, and public service legal groups; enhances the professionalism of the administrative function by providing to its members avenues for professional growth including educational activities, interaction with other administrators, and opportunities for career development; educates such legal organizations regarding the value and availability of professional administrators. Membership dues for the Section is $25.00 for FBA members.

For more information on how to join the Legal Administrators Section, send an e-mail to fba@fairfaxbar.org or please contact either of our chairs:

**Chair—Jennifer Kubal**
(Sensei Enterprises, Inc.) 703.359.7000

**Vice-Chair—Robert Kotwicki**
(Cooper Ginsberg Gray) 703.934.1480
The American Bar Association (ABA) held its 2017 Annual Meeting and Expo in New York City August 8-15. At the end of the Annual Meeting and Expo, the ABA’s House of Delegates conducts its annual meeting. I was fortunate to attend this year to represent the Fairfax Bar Association (FBA) as its alternate in the House.

By way of background, due to the size of its membership, the FBA is entitled to a delegate in the ABA House of Delegates. The House of Delegates controls and administers the ABA and is responsible for establishing its policies. The House of Delegates meets twice a year, a mid-year meeting in February and an annual meeting in August.

The Annual Meeting and Expo preceding the House of Delegates meeting is billed by the ABA as the country’s largest and most diverse legal expo. Not only were many vendors present showing off their wares, but the meeting was preceded by several receptions, outstanding CLEs, and a number of ABA Committee meetings. I encourage those who have not attended an ABA Annual Meeting to consider going in the future.

We met this year in the aftermath of the unfortunate tragedy in Charlottesville. In light of that, there were a number of speeches and statements made concerning the importance of protecting the rule of law and the judiciary. Highlights from this year’s annual meeting of the House of Delegates include the following:

1. In August 2016, the ABA initiated the ABA Legal Fact Check website. This site is intended to provide definitive statements of law and to provide the ABA with a forum to respond when materially false statements are made about the law. We were assured it will be non-partisan and will maintain political neutrality. An example: If the ABA receives an inquiry whether it is true that any immigrant who burns the flag shall be deported from the United States, ABA Legal Fact Check would state that this has been considered and decided in a case from the 1980s where the Supreme Court recognized flag burning as a protected right.

2. The ABA has renewed its focus on making membership more affordable and will consider every idea concerning dues and membership benefits as part of this effort. The effort is being led by Virginia’s own Tracy Giles of Roanoke, who has long been the leader of the Virginia Delegation in the House of Delegates.

3. The ABA is highly committed to addressing the “justice gulf.” Recent studies reflect that over 1.7 million Americans seek legal services, yet over 50% receive little or no legal assistance because of the cost. We know having representation can make a material difference in the outcome of cases, and the ABA is “laser focused” on addressing this crisis for the poor, and also for those above the poverty line but who still cannot afford legal services. One step to address this problem has been ABA Free Legal Answers, which was initiated in August 2016. Since then, more than 2,600 attorneys have volunteered their services and over 6,600 civil legal questions have been answered. The Virginia State Bar has a similar program.

The ABA is also committed to continuing its efforts to protect the Legal Services Corporation (LSC). The ABA has been a leading advocate to protect and expand this vital service that provides legal representation to some of those who would not otherwise be able to afford it. This effort to preserve and expand funding for the LSC is conducted through the ABA’s Government Affairs Office, the ABA’s Standing Committee on Government Affairs, and a two-day advocacy event each April when ABA members from all over the United States come to Washington, DC to lobby Congress in support of several issues of concern to the ABA. This past year, I had the honor of chairing the Virginia Delegation on Capitol Hill. I will be serving in that capacity again this year. Please let me know if you are interested in assisting.

After the House of Delegates meeting, the ABA Government Affairs Office issued a newsletter identifying more than 30 new policies that were approved during this year’s House of Delegates Annual Meeting. What follows is the summary contained in that newsletter concerning these policies:

**CIVIL RIGHTS**

**Housing Discrimination.** Urges governments to enact legislation prohibiting discrimination in housing based on lawful sources of income, including federal vouchers, Supplemental Security Income payments, and retirement benefits.

**Student Journalists.** Urges all legislative bodies to enact statutes and school districts to adopt policies that rigorously protect the ability of student journalists at the secondary and post-secondary levels to make the independent editorial judgments necessary to meaningfully cover issues of social and political importance without fear of retaliation or reprisal. This is provided that such statutes also allow for reasonable restrictions on the time, place, and manner of student expression, and neither authorize nor protect expression by students that is defamatory or invasive of privacy, obscene or otherwise unlawful, or reasonably anticipated to incite students to act unlawfully.
COURTS/JUDICIARY

Ninth Circuit. Reaffirms opposition to restructuring the U.S. Court of Appeals for the Ninth Circuit, and supports ongoing efforts by the Ninth Circuit and other federal courts to utilize technological and procedural innovations to handle caseloads efficiently, while maintaining coherent, consistent laws in their respective jurisdictions.

Courtroom Experience. Urges courts to implement plans that welcome opportunities for new lawyers to gain meaningful courtroom experience, and urges law firms and clients to take advantage of those plans.

Bias. Urges all courts to develop plans of action to make de-biasing training an important part of initial judicial training and continuing judicial education, and urges local and state bar associations to work with courts to offer de-biasing training to judicial officers free of cost and at the convenience of the courts.

CRIMINAL JUSTICE

Mandatory Minimums. Opposes the imposition of mandatory minimum sentences, and urges Congress and state and territorial legislatures to repeal laws requiring minimum sentences, and to refrain from enacting laws punishable by mandatory sentences.

Right to Counsel. Urges Congress to enact legislation enabling the U.S. Department of Justice to initiate and pursue civil actions to obtain equitable relief for systemic violations of the constitutional right to the effective assistance of counsel, both directly and through private litigants deputized to file such actions. Urges Congress to enact legislation recognizing the right of private litigants in their individual capacity, or as members of a class action, to obtain equitable relief in federal court for systemic violations of their right to effective assistance of counsel.

Dual Jurisdiction Youth. Adopts the ABA Criminal Justice Standards Relating to Dual Jurisdiction Youth addressing the unique situations for juveniles caught in two court systems at the same time, and providing guidance regarding best practices in these situations.


Bonds. Urges governments to adopt policies and procedures that, among other things, favor release of defendants upon their own recognizance or unsecured bonds, permit cash bonds or secured bonds only upon a determination by the court that such financial conditions and no other conditions will ensure appearance in court, and provide that pretrial detention should never occur due solely to an inability to pay. Supports permitting a court to order a defendant to be held without bail where public safety warrants pretrial detention and no conditions of pretrial release suffice; and rejects the use of “bail schedules” based only on the nature of the pending charge.

Juvenile Bail/Bond. Urges governmental entities to cease use of bail/bond in the juvenile justice system and to utilize objective criteria that do not have a discriminatory or disparate impact, and that utilize the least restrictive condition of release. 112D

Solitary Confinement. Urges legislative bodies and government agencies to enact laws and adopt policies prohibiting the use of solitary confinement against children and youth under the age of 18.

Expunging Convictions. Urges governments to enact laws allowing individuals to petition to expunge all criminal justice records pertaining to charges or arrests that did not result in a conviction.

Homelessness. Urges governments to enact laws allowing for the expungement of convictions, or other statutory ordinances or violations where a court enters a finding of guilty for life-sustaining or nuisance crimes performed in public spaces that are associated with homelessness.

DISABILITY LAW

Guardianship. Urges legislatures to amend their guardianship statutes to require that supported decision-making—in which people make their own decisions with trusted individuals they choose rather than rely on a stranger—be identified and fully considered by the courts as a less restrictive alternative before guardianship is imposed.

DISPUTE RESOLUTION

Ombuds Programs. Encourages greater use and development of ombuds programs that comply with generally recognized standards of practice as an effective means of preventing, managing, and resolving individual and systemic conflicts and disputes.

EDUCATION

Access to Education. Urges governments to adopt and implement laws, policies, and other effective measures to provide every child with equal access to elementary and secondary public schools funded at levels adequate to ensure a high-quality education.
Civics Education. Urges governments to develop and implement age-appropriate curricula designed to instill in all students a sense of the personal responsibility to cast informed votes and to teach them how to educate themselves regarding the candidates and issues in elections.

Youth at Risk. Endorses the Blueprint for Change: Education Success for Children in Foster Care (2007) and the Blueprint for Change: Education Success for Youth in the Juvenile Justice System (2016); urges attorneys, judges and bar associations to improve legal advocacy in juvenile court and education matters; and calls for legislators and policymakers to create policies and practices that ensure educational rights.

GUN VIOLENCE
Restraining Orders. Urges governments to enact statutes, rules, or regulations authorizing courts to issue gun violence restraining orders, including ex parte orders, that include certain specified provisions.

IMMIGRATION
Counsel. Supports the appointment of counsel at federal government expense to represent all indigent persons in removal proceedings before the Executive Office for Immigration Review (in immigration courts and before the Board of Immigration Appeals), and if necessary to advise such individuals of their right to appeal to the federal circuit courts of appeals.

Enforcement. Urges Congress to amend Section 287 of the Immigration and Nationality Act to expand and codify Department of Homeland Security guidelines regarding immigration enforcement actions to include courthouses as “sensitive locations” in which immigration enforcement actions may only be taken upon a showing of exigent circumstances and with prior approval of a designated supervisory official.

INTELLECTUAL PROPERTY
Trademark Infringement. Supports an interpretation of Section 35(a) of the Lanham Act that proof of willfulness is not required, but may be taken into account as among the equitable considerations, for a prevailing plaintiff to recover a defendant’s profits in actions involving trade infringement, unfair competition, or cyber-piracy under the statute.

Previously Issued Patents. Supports, in a post-issuance proceeding at the U.S. Patent and Trademark Office in which a previously issued patent is challenged by a petitioner, applying the statutory requirement that the petitioner asserting the unpatentability of a patent “shall have the burden of proving unpatentability by a preponderance of the evidence” on both the challenged claims and any amendment of the claims proposed by the patent owner during the proceeding. This is provided that the patent owner has the initial burden of production (burden of going forward) on the patentability of any proposed amended claims.

INTERNATIONAL LAW
Lead Paint. Urges national governments worldwide to adopt laws to phase out the manufacture, import, and sale of lead paint; supports efforts to promote the phase-out of lead paint by no later than 2020; and urges the legal profession and other organizations to support adoption of laws to phase out and eliminate lead paint through pro bono support, educational initiatives, and other appropriate measures.

Global Criminal Justice. Urges the U.S. Department of State to preserve the Office of Global Criminal Justice and role of the war crimes ambassador, including funding and staffing to continue the work of the office and the United States’ commitment to international criminal justice and the prevention and prosecution of atrocity crimes.

LEGAL EDUCATION BAR ADMISSION
Bar Admission. Supports the principle that bar admission should not be denied based solely on immigration status, and urges Congress to amend 8 U.S.C. §1621(d) to vest state courts with authorization to permit undocumented aliens to obtain professional licenses to practice law in their jurisdictions.

LEGAL ETHICS
Misappropriation of Funds. Amends the black letter for Rule 7 (Roster of Lawyers) of the ABA Model Rules for Lawyer Disciplinary Enforcement (MRLDE) to minimize instances of lawyer misappropriation of monies held in trust accounts and hold lawyers accountable when appropriate.

TORT LAW
Trap-Neuter-Vaccinate-Return. Urges legislative bodies and governmental agencies to interpret existing laws and policies and to adopt laws and policies that allow implementation and administration of trap-neuter-vaccinate-return programs for free-roaming cats (community) cats within their jurisdictions in order to promote effective, efficient, and humane management of the cats.

Attorney-Client Privilege. Supports common-interest doctrine, under which sharing of privileged communications with persons of common interest who have agreed to maintain confidentiality does not waive privilege.

continued on page 18
With the holidays approaching, you may have clients who want to make gifts to minors. In an age of easily accessible information, these clients may know of the annual exclusion gift under IRC § 2503(b) and the unlimited gift exclusion for direct tuition and medical care payments under IRC § 2503(e). Where they may need assistance, and where we as practitioners can add value, is in advising on the best vehicles to hold these gifts. The purpose of this article is three-fold: first, identifying the different vehicles; second, providing brief summaries; and lastly, offering pointers and thoughts for consideration.

TRUSTS
Historically, trusts have been the preferred vehicles to hold gifts to minors, mainly because they prevent the beneficiaries from having full and uncontrolled power over and access to the transferred property. Without the right structure, though, transfers to a trust will not qualify for the annual gift tax exclusion under IRC § 2503(b) because they will be treated as gifts of future interests and not of present interests. If a client wishes to avoid this “problem” and secure the tax savings that the annual gift tax exclusion provides, the trust should be drafted (1) in conformity with the requirements of IRC § 2503(c), (2) so as to grant a Crummey withdrawal power to the beneficiary, or (3) so that all of the income must be distributed to the beneficiary.

2503(c) Trust
If a trust meets the requirements of IRC § 2503(c), transfers to it will not be treated as gifts of future interests, and therefore, they will qualify for the annual gift tax exclusion: first, the trust property and the income therefrom may be distributed to or for the benefit of the beneficiary before he or she turns twenty-one; second, any property or income not distributed to or for the benefit of the beneficiary will pass to him or her when he or she turns twenty-one; and lastly, if the beneficiary dies before turning twenty-one, the trust property and undistributed income will be paid to his or her estate or pursuant to a general power of appointment granted under the trust.

Tax Consequences:

• Income distributed to or for the benefit of the beneficiary will be taxed to him or her and may be subject to the kiddie tax.
• Any undistributed income will be taxed to the trust.
• The trust property will be includible in the beneficiary’s gross taxable estate.
• If the beneficiary is a “skip” person for purposes of the GST tax, transfers to the trust should also qualify for the GST tax exclusion under IRC § 2642(c)(2).

Further considerations:

• To avoid having the donor deemed the owner of the trust for income tax purposes under IRC § 677(b), the trust should include language prohibiting the trustee from making distributions that satisfy the donor’s legal obligations to the beneficiary.
• To avoid having the trust property included in the donor’s gross taxable estate, the donor should not retain any powers over the property that would cause IRC § 2038 to apply, and likewise, there should also be a prohibition against distributions in satisfaction of the donor's legal obligations to the beneficiary.
• The second requirement set forth above can be met even though the trust will not terminate when the beneficiary turns twenty-one. The trust can instead grant the beneficiary, upon attaining twenty-one, either a continuing right or a right which is exercisable during a limited period of time thereafter to withdraw the trust property. This substitute structure may, however, create adverse income and gift tax consequences to the beneficiary.

Crummey Trust
Presumably, the typical client will be hesitant to use a 2503(c) Trust because of the age twenty-one distribution requirement. If that is the case, a Crummey Trust may align better with the client’s expectations. A Crummey Trust is the most technically demanding of the three trusts discussed here. Its origins lie in the decision in the 1968 case of Crummey v. Commissioner. Its fundamental feature is the granting of a sufficient withdrawal power to the beneficiary so that transfers to it qualify for the annual gift tax exclusion. Distributions of income and/or principal under a Crummey Trust can be fully discretionary, and it can either terminate upon the occurrence of a specified event or continue on for future generations. Because of the aforementioned complexity involved with a Crummey Trust, care must go into drafting it, especially when working on the provisions relating to the scope, duration, and particulars of the withdrawal power, and it is critical to understand the applicable income tax and transfer tax rules as those rules will influence or determine the actual drafting.

Income Trust
This last trust, an Income Trust, may be the easiest to draft of the three, but it may also be the least attractive. Under an Income Trust, distributions of income are mandatory and may be made, by way of example, to the beneficiary, the beneficiary’s guardian, or the custodian of the beneficiary’s UGMA or UTMA account. The value of the beneficiary’s income interest as determined under IRC § 7520 qualifies for the annual gift tax exclusion.
Tax Consequences

- The income will be taxed to the beneficiary and may be subject to the kiddie tax; provided, however, to the extent the income is used to satisfy the donor’s legal obligations to the beneficiary, such income will be taxed to the donor because of IRC § 677(b).
- Unless IRC § 2038 applies because of the donor’s retention of certain powers over the transferred property, the transferred property will not be includible in the donor’s gross taxable estate and will be treated as a completed gift.
- Unless the beneficiary is granted a general power of appointment, the trust property will not be includible in his or her gross taxable estate.

Further Considerations:

- Since only the income interest will qualify for the annual gift tax exclusion, the value of the remainder interest will be a taxable gift by the donor. Accordingly, the donor will have to file a federal gift tax return.
- How will the client react to the mandatory income distribution requirement, and in what method or in what manner will the distributions be made?

529 PLAN

If a client intends a gift to a minor to be used for the minor’s higher education, the best vehicle may be a 529 Plan. The name comes from IRC § 529. IRC § 529 was enacted into law in 1996 and enables states and other entities to offer these higher education savings programs.

Tax Consequences:

- Under a 529 Plan, distributions may be made to pay for the designated beneficiary’s “qualified higher education expenses,” as defined in IRC § 529(e)(3).
- Earnings and distributions for payment of qualified higher education expenses are exempt from income taxation.
- Contributions are treated as completed gifts and not as transfers under IRC § 2503(e), and qualify for both the annual gift tax exclusion and the GST tax exclusion.
- If contributions in a given year exceed the annual exclusion amount, but not by more than five times such amount, the donor may elect to have such contributions treated as having been made ratably over five years.

Further Considerations:

- With gift-splitting and the five-year election, a married couple can contribute up to $140,000 in 2017 to a 529 Plan.
- A client may prefer to contribute to a 529 Plan offered by the state of which he or she is a resident because the contributions may be deductible for state income tax purposes.

UGMA/UTMA ACCOUNT

A UGMA or UTMA account is the simplest and most cost-efficient vehicle for holding a gift to a minor. Nonetheless, it may be the least desirable option for a client because of the requirement that the account property has to be paid to the donee when he or she attains the age of majority.

Tax Consequences:

- The income will be taxed to the donee and may be subject to the kiddie tax; but to the extent any portion of the income is used to satisfy the donor’s legal obligations to the donee, such income will be taxed to the donor.
- A transfer to a UGMA or UTMA account is a completed gift and qualifies for both the annual gift tax exclusion and the GST tax exclusion.
- If the donor is serving as the custodian of the account upon his or her death, the account property will be includible in his or her gross taxable estate under IRC § 2038.

Further Considerations:

- If the donee dies before attaining the age of majority, how will the account property pass, and will that be consistent with the donor’s estate plan?
- Does the relevant governing law allow for custodians to transfer account property to trusts or to participate in 529 Plans? To what extent would those actions be consistent with the custodian’s fiduciary duties?

Hopefully, the foregoing has been a helpful introduction to the different holding vehicles available to a client of when making gifts to minors. Remember: when the client contacts you and mentions an interest in holiday gifting, the conversation has just begun.
Autumn/winter greetings from the Law Practice Management Committee. We have been busy this fall with our usual fun, informative events; we are planning more in the spring and summer.

**Networking Event at the Wine House:**

On September 20, the Committee hosted its annual networking happy hour at the Wine House in Fairfax. Wine and hors d'oeuvres were enjoyed by many local practitioners, members of the Law Practice Management Section, and Committee members. Who are they, you ask? Charley Rothermel and Molly Peacock are Co-Chairs; Lance Johnson is an integral member; and former chairs, Sharon Nelson and John Simek, are the backbone of our group. The Wine House event was well attended, and this year saw door prizes awarded to random attendees.

**15th Annual Law and Technology CLE:**

On October 17, the Section presented its 15th Annual Law and Technology CLE. We were honored to welcome several highly accomplished speakers who shared their expertise about a range of technological, practical, and ethics-related legal topics. Our panel included three Judges from the Fairfax Circuit Court: Hon. Penney Azcarate, Hon. Thomas Mann, and Hon. John Tran. They spoke about technology in the courtroom from a Judge’s perspective—best practices, tips, and common pitfalls to avoid. These Judges are particularly knowledgeable about using technology to the advantage of the court, juries, and clients served by it; their perspective is invaluable to practitioners.

Seth Guggenheim and Chip Molster, notable experts from the Virginia State Bar, gave a talk about the recent changes to Virginia’s rules of professional conduct with regard to marketing. Committee leaders and core members Sharon Nelson and John Simek were joined by Ed Walters, founder and CEO of Fastcase, to give a scintillating presentation about artificial intelligence (AI) in the law—or if you talk to Ed, “augmented” intelligence. A good side of AI and robots is the concept of automating certain legal work so that a lawyer is more available to serve his/her clients better with high-level thinking a robot cannot do.

**Upcoming Events:**

Stay tuned for more information about LPM Section events and educational programs, such as a possible CLE seminar aimed at those who have recently transitioned to their own practice and need to know the nuts and bolts of starting a law firm. The Law Practice Management Committee is also pleased to tell practitioners about the new Technology & E-Commerce Section, led by Jon Frieden and Jon Phillips. The two Committees Chairs met recently to brainstorm informative and useful events to co-host—keep an eye out for programs aimed to help lawyers from any sized firm maximize their effectiveness, competency, and advocacy on behalf of clients, using technology (even technology we all already have). In addition, the Technology and LPM Sections are keen to discuss and share information about business development, how lawyers can think ahead in the context of business attraction, retention, and even collaboration in the fertile, sophisticated market in which we all are privileged to practice.

**Next Meeting:**

The most recent Law Practice Management Section meeting was held November 14, 2017 at 8:30 AM at our usual location in the Sensei Enterprises conference room at 3975 University Drive, Suite 225, Fairfax, VA. The next meeting is scheduled for January 9, 2018, at 8:30 AM. For those of you who cannot attend in person, please tell Charley or Molly you’d like to call in, and we will give you a conference call bridge. Charley can be reached at charles@rothermelfirm.com; Molly at mpeacock@reesbroome.com.

The Law Practice Management Section focuses on the operation and management of law practices for law firms and in-house departments of all sizes. Our scope of topics covers infrastructure, technological competence, leadership, emerging forms of competition, and business development for lawyers.
VETERANS

Discharge Status. Recommends review and improvement of the processes by which military records are corrected, discharge status petitions are considered, and the character of one’s discharge is reviewed to ensure that veterans receive the full range of benefits to which they are entitled.

OFFICE SPACE FOR LEASE/RENT

FAIRFAX CITY - JUDICIAL DRIVE
Courthouse Square, near courthouse. Seven-attorney office, 3,775 square feet, with conference room, kitchen, reception area and controlled parking. Three offices are available. One for $600. Contact Joanne 703-352-5770.

ANNOUNCEMENT

RICH ROSENTHAL BRICEFIELD MANITTA
DZUBIN & KROEGER, LLP

is very pleased to announce that Cassandra L. Kincaid has joined as a Partner, practicing Wills, Trusts & Estates and Corporate Law.

Alison R. Mullins has joined as a Partner, practicing Civil Litigation, concentrating in Construction Law.

Jennifer A. Lucey has joined as an Associate, practicing in Litigation and Wills, Trusts & Estates.

Rachael J. Baer has joined as an Associate, practicing in Wills, Trusts & Estates and Elder Law.

We are also celebrating the October 2017 opening of our new Tysons Corner location at

1420 Spring Hill Road
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At RRBMDK, we’re doing more, to better serve our clients. Visit us at www.RRBMDK.com

NEW MEMBERS

AUGUST

Pamela S. Bass
Warren Britt
Joseph A. Cerroni
Danny M. Howell
Robert A. Hurley
Ashleigh N. Iszard
Lucas Kline
Mehagen D. McRae
Faisal S. Mughal
Ajay Pathak
McGavock Reed
Daniel Schumack
Rhonda S. VanLowe
Elizabeth Vaughan
Richard Volin

SEPTEMBER

Julia K. Bizer
Thaddeus Furlong
Shiva S. Hamidinia
Russell J. Haynes
Tania Klam
Melinda Merk
Anne Nouri
Diana M. Thomas

OCTOBER

Jennifer A. Fulmer
David Mahdavi
Marianna Russo
Virginia F. Shevlin
Thomas L. Simmons
Marie Washington
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- **4015 Chain Bridge Rd.** - Windowed individual offices & small suites avail. Some furnished & unfurnished use of waiting area & conf.
  rm. LEASE - $675/mo. $1,150/mo. Full Service 1st month rent free/2 year min lease.

- **4923 Chain Bridge Road, Suites 7 & 8** - Elegant privt. offices w/legant décor & shared use of the common area. Excellent visibility in a lovely, renovated historic house. LEASE - $950 - $1,000/
m, full service, 2 - 5 yr. term. **Lease both suites together for 5% discount**.

- **4101 Chain Bridge Road** - Individual windowed private office avail. Comes w/ flexible use of the common area conf. rm. & kitchen. LEASE - $850/mo, full service, 1 - 5 yr. term.

- **4085 Chain Bridge Road, Suite 300** - 790 sf suite in elevator bldg. has admin/waiting area, privt. office & conf. rm. LL will install new carpet and paint in tenant's choice of color. LEASE - $1,500/mo. full service, 2 - 6 yr. term.

- **4101 Chain Bridge Road** - 1,250 - 2,500 SF custom space ready to be built-out, currently in warm, ll shell condition. LL will provide building office build-out w/ Tenant's choice of paint & carpet. 4 yr min. term LEASE - $225 psf. full service.

- **4103 Chain Bridge Road** - Location! Elevator office building w/ plenty parking across from Fairfax Courthouse! Office suites from 1,200 SF - 4,900 SF avail., 3-10 yr. term. New paint, carpet, and standard build-out w/ 4+ year lease. LEASE - $23 PSF, Full Service.

10621 Jones Street, Units 201 - A & B - 650 SF each/1,300 SF total 2nd flr unit w/efficient layout! Lrg. recpt/admin area, priv. office, conf. rm., w/built-in bookcases, stor. closet, eat-in kitchenette, BA & util. st. Plenty of free surface parking and a unique exterior signage avail.- bility. Paint will be touched-up and suite cleaned prior to occupancy. 2 - 5 yr. term. LEASE - $1,245/mo per unit + elec., cln, phone & internet.

3911 Old Lee Highway, Unit 43-C - Close to FFX County Courthouse. Attractive & well-maintained upper 1st, unit facing Old Lee Hwy. w/ Cathedral ceilings and great, window line. Office layout features recpt/waiting area, priv. offices, conf. rm., kit. closet & BA. LEASE - $1,600/mo + elec., cln, phone & internet. OR SALE - $225,000 ($230.43 psf).

10627 Jones Street (at Judicial Dr.) Ste 301-A - Red Maple Ct. Bright 2nd flr corner unit 1,003SF w/recpt/waiting area, 2 offices, lg. conference room, BA, w/storage & file room. LEASE - $185,000 ($185 psf).

10607 Main Street, Unit 700 - Move-in ready w/ new paint and carpet installed. Nice open layout; small fore/waiting area, windowed private office, lg. open workspace or conf. rm. 2 BA & util. rm. Handicap accessible courtyard entrance w/ large surface parking. Professional cleaning prior to occupancy. Additional builds out negot. LEASE - $1,750/mo + elec. & cln. OR SALE - $275,000 ($229.17 psf).

4122 Leonard Drive (at Judicial Drive) - 3,300SF directly across from FFX Circuit Townhouse-style offices in Lawyers Row. 8 offices, conf. rm., recpet. area, admin. areas, 2 BA, kitchen. & stor. closets. Newly painted & owner will replace carpet in tenant's choice of color w/ 2 yr. min. lease. **Under new management - Amatante Law** LEASE - $3,600/mo ($114 psf) + util. & cln. OR SALE - $775,000 ($235 psf).

Call for more details, more listings, or to schedule a showing:

**Jennifer Neal**
Questor Realty, Inc.

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