

## MESSAGE FROM THE PRESIDENT:

M. GRAY STYERS, JR.



### A CALL TO PUBLIC SERVICE

WHEN WE DECIDED TO BECOME LAWYERS, the primary motivation for many of us was the desire to “make a difference” in our community, in our state, or in our country. As we grew up, we saw, first hand in our home towns, attorneys who were respected leaders of our communities. We learned in history classes about lawyers who had provided leadership at critical times. (Perhaps no other President had as much experience as a practicing trial lawyer than Abraham Lincoln.) The legal skills

of analysis, problem solving and advocacy, coupled with the professional values of integrity, civility, and loyalty translate well to leadership opportunities in the public sphere.

Perhaps because our county seat also serves as our state capital, perhaps because of examples and traditions handed down from generation to generation, or perhaps simply because of good fortune, many Wake County attorneys, throughout history, have heeded the call of public service and have dedicated their careers to making a difference in ways that benefit us all. A complete list would fill volumes and still be incomplete, but a few examples make the point:

Those enjoying barbeque at our May meeting, or visiting Mordecai Historic Park at other times, may have wandered into the Badger-Iredell law offices. James Iredell, Jr. served as Governor in 1827-28 and U.S. Senator in 1828-31, and, as an attorney thereafter in Raleigh, was a commissioner to revise the state’s laws, was a Reporter for the NC Supreme Court, and published an authoritative digest of court cases in the state from 1778 to 1845. Another lawyer who practiced in that office, George Edmund Badger, served as US Secretary of Navy in 1841 and as a US Senator from 1848 to 1855.

Walter Clark practiced law in Raleigh for over a dozen years in the 1870s and ‘80s. After serving on the Superior Court bench, he was appointed to the North Carolina Supreme Court in 1889, and served as Chief Justice for over twenty

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### RANDOM AUDITS BY STATE BAR - BE PREPARED

EACH QUARTER, TWO JUDICIAL DISTRICTS in the state are chosen randomly by computer as districts from which individual lawyers are selected for audits by the State Bar during that quarter. A proportional number of lawyers will be randomly selected in each district relative to the sizes of the lawyer population in the districts chosen. For this quarter, the Tenth District Bar and the Thirteenth District Bar have been selected. Information describing the audit program can be found in the Lawyer’s Trust Account Handbook available at the State Bar website ([www.ncbar.gov](http://www.ncbar.gov)). **WBF**

## Upcoming Events

### WCBA LUNCHEON • June 3

Join us at the Woman’s Club as we welcome NC State Chancellor Randy Woodson. Lunch is served at 12:15 p.m.

### SUMMER CLERK ORIENTATION • June 5

This tradition of summer will run from 1-5 p.m. at the North Carolina State Bar Office. Followed by the YLD Social at Tyler’s Taproom at 6 p.m. – Summer Clerks are welcome at this event. See page 13 for more details.

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# WAKE BAR FLYER

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## Message from the President, continued

years, from 1902 to 1924. He also had a long career as an author, publishing volumes on North Carolina history, handbooks on the law, and an annotated code of state court civil procedure. He was a noted advocate of reforms on many controversial issues of his day, including popular election of U.S. Senators, banking and railroad regulations, and women's suffrage.

Many Wake Forest alumni remember Carroll W. Weathers as the Dean of the Law School from 1950 to 1970, shepherding the move of the law school to Winston-Salem in 1956-57, and exemplifying the high standard of ethics and professionalism he sought to instill in young lawyers. Unless you read the article in the last edition of *The Bar Flyer*, you probably didn't know that Dean Weathers also practiced law in Raleigh for seventeen years and was President of the Wake County Bar Association in 1943.

This historic tradition of public service continues today. If you look at almost every church, synagogue, other religious group, environmental group, or service organization anywhere in Wake County, you will find lawyers in leadership positions.

At our March lunch meeting earlier this year, we heard from two of our respected state legislators, Sen. Josh Stein and Rep. Paul Stam. Other colleagues who serve or have recently served in the General Assembly include Dan Blue, Deborah Ross, Darren Jackson, Duane Hall, Tamara Barringer, Grier Martin, Jennifer Weiss, Chris Heagarty, Richard Stevens, Don Munford, and Tom Murry, and in previous sessions, legislative giants such as Sam Johnson, Bob Farmer, and Wade Smith served our county and our state extraordinarily well. On the national level, John Edwards served as US Senator and was the 2004 Democratic candidate for Vice-President, Brad Miller and Martin Lancaster served in the US House of Representatives, and currently George Holding serves in the US House. James P. Cain served as US Ambassador to Denmark from 2004 to 2008. Kirk Warner, David Watters, Doug Heron, and many others have balanced their law practice with distinguished military service. All these leaders practiced law here in Wake County.

In bar leadership, current North Carolina Bar Association president-elect Catherine Arrowood follows the proud tradition of Martin Brinkley, Judge Allyson Duncan, John Jernigan, and John Q. Beard. Recent State Bar presidents include Keith Kapp, Bonnie Weyher, Jim Dorsett, and Cressie Thigpen. The only two North Carolina presidents of the American Bar Association – Willis Smith and A.P. Carlton – both hailed from Wake County. Tom Norris, Henry Mitchell, W.W. "T" Taylor, and John Q. Beard were among the founding directors of NC Lawyers Mutual Insurance Co. Again, any list is inevitably incomplete (and my apologies to those whose names were left on the proverbial cutting-room-floor solely for the sake of space constraints), but these men and women, among so many others, are part of our rich heritage and exemplify the public service that characterizes our local bar.

Sometimes "public service" doesn't necessarily mean being in the spotlight yourself, but rather helping to train and equip others to serve and to lead. An example of this type of public service can be seen in the person of George Wythe – a name familiar to students of American History and frequent visitors to Colonial Williamsburg, but who would otherwise not necessarily be on the "A list" of our Founding Father. When one considers, however, his service as mentor and teacher to Thomas Jefferson, to Chief Justice John Marshall, and later to Henry Clay, and Wythe's early and outspoken opposition to slavery, his contribution to

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**NEXT BAR FLYER DEADLINE: JUNE 15, 2014**

# DIALING IN THE SCOPE

## PROFESSIONALISM AND ETHICAL CONSIDERATIONS IN DEFINING SCOPES OF REPRESENTATION

BY HOWARD A. MARSILIO | LA MANTIA, MARSILIO & VERNA, PLLC

**HOW MUCH THOUGHT** do you give your Scope of Representation section when entering into your attorney-client relationships? After all, whether express or implied, the attorney-client relationship is basically a contractual relationship. Perhaps the question should be, “how well are your contracts defined?”

Although North Carolina *does not require* all representation agreements be in writing, the North Carolina State Bar wisely seems to express a preference for written fee agreements. See North Carolina Rule of Professional Conduct Rule 1.5; and *see generally* North Carolina State Bar, Client Rights and Responsibilities (<http://www.ncbar.gov/public/clientrights.asp>).

It is now more important than ever to have a written representation agreement because clients are often seeking more creative and cost conscious arrangements to limit the representation. For example, in “unbundled legal services” arrangements, an attorney may be requested to perform only certain tasks while the client is taking the responsibility for work which is not handled by an attorney.

In certain practice areas, there may be a scope of representation that may only include representation up to a logical breaking point in a case. Examples limiting representation include: a demand letter and pre-filing attempts to negotiate a settlement in a civil matter; misdemeanor criminal representation without representation in an appeal to Superior Court; or small claims court representation without representation in an appeal to District Court.

Perhaps the most important aspect of any written representation agreement is the “Scope of Representation.” This part of the agreement is often overlooked. A scope of representation statement limits the attorney-client relationship. North Carolina Rule of Professional Conduct 1.2(c) states: “A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances.” While the phrase “reasonable under the circumstances” is not specifically defined in the North Carolina Rules, a sensibly and carefully drawn scope of representation can limit representation to complete discrete tasks or a specific combination of tasks.

Limiting the scope of representation may be attractive to a client who desires more control over the process and costs of legal representation. The more complex the limitation or allocation of responsibilities becomes, however, the more care and independent attorney judgment should be exercised. This section should not only clearly outline what you as an attorney are willing to do, but equally important it should make clear what you are not being engaged to do.

Whatever the circumstances, and there are many, limiting the scope of representation does present some risks. A carefully drafted scope of representation section in your representation agreement is a great way to try to minimize those risks. It can clarify your client’s and your expectations and obligations moving forward through the course of representation to avoid any confusion and potential disputes.

### EXAMPLE QUESTIONS AND CONSIDERATIONS FOR DEVELOPING A SCOPE OF REPRESENTATION

How exactly do you draft, or even conceptualize a scope of representation, when you may not know how deep the proverbial rabbit hole goes? There is seemingly no one right or wrong form.

When I began my practice, I had little idea how much work and time would be actually required to represent a client charged with Speeding. Now I have the experience to better anticipate what may be required based on a limited set of possible client facts and circumstances. Therefore, my scope of representation has accordingly evolved over time. I regularly revisit and re-evaluate my scope of representation even for the simplest of matters to determine whether changes are appropriate. More complex representation will require more thought, and I have personally found that engaging in an internal Q & A exercise helps to determine whether limiting representation is appropriate, and how the scope should take form. These are only example questions I ask myself and are not the only questions you could or should ask yourself.

- *In non-criminal matters, will this client initially be a plaintiff or defendant, and what is the chance that counter- or cross-claims will be involved?*

- *Is the representation one suitable for discrete task characterization, or is there a logical breaking point? (Transactional or “simpler” litigation work may lend itself better to this type of limitation and even possibly flat-fee consideration, whereas more complex litigation will more typically and traditionally require a “start to finish” approach due to the difficulty, or possible prejudice to the client, of changing or substituting counsel during the course of litigation.)*

- *Am I competent in the areas of law that may be directly or tangentially related to this client’s circumstances or my particular scope of representation?*

- *What is the client really asking for? (Although the “whatever it takes” attitude is common at the initial stages of representation, that may fade with time and accruing legal fees. Limiting the scope of representation may be an attorney’s safety net, if the client’s attitude begins to change over the course of representation.)*

- *How well do I understand what is required to undertake the matter?*

- *In a more limited or an “unbundled legal services arrangement,” is the client competent enough to perform some of the tasks?*

- *In my local jurisdiction, what are the specific rules related to limited appearances, limited scopes of representations, limited assistance for pro se*

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## DIALING IN THE SCOPE, CONT. FROM PG. 3

*litigants, attorney assistance in drafting pleadings or attorney assistance disclosures for pro-se litigants, etc.?* (I pose this question only because it may be a consideration for some attorneys who more regularly practice in multiple counties or in different practice areas. For example, Mecklenburg County's 26th Judicial District Family Court Division Local Rules of Domestic Court Rule 23 specifically addresses "Unbundled Services," whereas the Tenth Judicial District does not seem to have a comparable local rule.)

Once I have determined to limit the scope of representation, I ask myself again:

- *Does what I have drafted in my scope of representation and my presentation to the client adequately communicate the benefits, risks, and consequences of a limited representation?*
- *Even though I would like to (or the client says they want to) limit the scope of representation, am I still adequately representing the client's interests and representing the client competently in their matter?*
- *How foreseeable is it that limiting representation would require withdrawal, is the client aware of the procedures and grounds for that withdrawal, and how can I avoid prejudicing the client when withdrawing consistent with North Carolina Rule of Professional Conduct 1.16(b)(1)?*

## EXERCISING BOUNDARIES AND ENFORCING THE SCOPE OF REPRESENTATION

Not infrequently, representation can exceed the scope of the original representation agreement for good and foreseeable reasons (e.g. the client wants to retain you for additional legal services) or for *other* reasons (e.g. the client picked up four more charges while on probation). Once you have taken the time to finalize a scope of representation, enforcement of the scope of representation becomes important. For example, if your initial Scope of Representation includes drafting a power of attorney and the client subsequently requests that you also draft a trust for them, you should easily be able to explain that drafting a trust exceeds the scope of the original agreement, and that additional work will require an additional, or amendment to the, representation agreement, which may or may not include revisiting fees.

Often it may be difficult to enforce boundaries with clients, either because you empathize or sympathize with their circumstances, or you would rather "take the hit" hoping for future legal work. It is important to condition a client from the beginning to understand that you enforce your scope of representation and prefer separate representation agreements or amendments for additional legal work. This will be beneficial in helping clients manage expectations and in helping them understand why you are in a position to decline or withdraw representation or require additional payment for the next step of the process. It is seemingly unfair to clients if they are caught off guard when they hear about the next step suddenly, and may be unprepared, or feel blind-sided, by potential costs or fees of moving the matter forward if they were not informed prior to agreeing to limited representation. It also helps protect you as their attorney because they are not misled to believe that you represent them generally or will simply let them slide on their obligations.

With a properly drafted scope of representation and a candid initial discussion with your client, enforcing boundaries should be an easier task as the representation relationship continues.

## FINAL THOUGHTS AND ADDITIONAL INFORMATION

There are no magic words and every Scope of Representation, to some extent, is as unique as each case. It is important to ensure the client understands prior to commencing and throughout the representation what is included in the scope of representation. This also should include reminding the client of both the benefits and risks of the limited scope of representation and discussing with the client how you as their attorney will enforce the scope of representation if the client fails to meet their obligations or your requests, or their matter exceeds the initial scope.

Limiting representation should be a deliberate, carefully considered, and well documented course of action. If you are interested in reviewing additional information regarding delivery of legal services, a potential resource is the ABA Standing Committee of Delivery of Legal Services ([http://www.americanbar.org/groups/delivery\\_legal\\_services.html](http://www.americanbar.org/groups/delivery_legal_services.html)). **WBF**

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## PRESIDENT'S MESSAGE, CONT. FROM PG. 2

the formation of American ideals and jurisprudence cannot be overstated.

We cannot all be elected officials or serve in government, bar, or military leadership positions, but we all can, and should, answer the call to public service. We can all serve as mentors, like George Wythe, both informally and through the WCBA/"Campbell Connections" mentorship program. We can all step forward and volunteer in the organizations, and for the causes, about which we care and are passionate.

Our WCBA Public Service Committee provides and promotes opportunities for us to respond to this call. A few of the many ways to serve include: providing pro bono service through the 4All Service Day, "Lawyer on the Line," and/or LANC's "Volunteer Lawyers' Program;" donating food during the Legal Feeding Frenzy or our own YLD Food Drive in December; volunteering for our Rule of Law Program or many other service projects; or just allowing a teenager to have a "Lunch with a Lawyer" this summer. Later this year, you will be hearing more about a new program through which we can volunteer in schools to help students learn to read. Look for the "Spotlight on Public Service" in our e-mail newsletters and during announcements at our lunch meetings for more information about these and other opportunities.

Whether in private practice, as corporate counsel, or in the public sector, we can use our intellect, our training, and our skills as lawyers to realize the dreams that first led us to law school – to serve not ourselves and our pecuniary gain, but to serve the public at large and to improve the communities in which we work and live. **WBF**

# PLANNING AHEAD: PROTECTING YOUR CLIENTS' INTERESTS IN THE EVENT OF DISABILITY OR DEATH | PART 1

BY CAMILLE STELL & LAURA LOYEK

**WE DO NOT LIKE TO THINK ABOUT** unexpected events that could cause us to abruptly cease practicing law. However, events such as accidents, unexpected illnesses, and untimely death unfortunately do occur. If any of these events were to happen to you, have you made adequate plans to assure that your clients' interests will be protected?

This two-part article will focus on the steps necessary to protect your clients' interest in the event of your disability or death.

## STEP 1: DESIGNATE AN ASSISTING ATTORNEY AND AUTHORIZED SIGNER

The first step in the planning process is to find an attorney to manage or close your practice in the event of your disability, incapacity, retirement or death. Your arrangement with the Assisting Attorney can be established through a limited power of attorney, a comprehensive agreement with detailed powers, or a short form authorization and consent form to close or manage a law practice.

Not only do you need to have at least one Assisting Attorney, you also need to recruit an Authorized Signer who can sign on your trust account under these circumstances. This should be someone other than the Assisting Attorney to provide for checks and balances, since two people will have access to your records and information. It also avoids the potential for any conflicting fiduciary duties that could arise if the trust account does not balance.

## STEP 2: PREPARE THE NECESSARY AUTHORIZATIONS AND INSTRUCTIONS

The arrangements you make for closure of your office, or the temporary takeover of your practice, should include a signed consent form authorizing the Assisting Attorney to contact your clients for instructions on transferring their files, authorization to obtain extensions of time in litigation matters when needed, and authorization to provide all relevant people with notice of closure of your practice.

The agreement should also include provisions that give the Assisting Attorney authority to:

- wind down your financial affairs;
- provide your clients with a final accounting and statement;
- collect fees on your behalf; and
- liquidate or sell your practice.

Your plans can also include instructions as to:

- disposition of closed files;
- disposition of your office furnishings and equipment;
- authorization to draw checks on your office and trust accounts;
- payment of current liabilities of the office;
- billing fees on open files;
- collecting accounts receivable;
- access to important information (e.g. account numbers, passwords, and usernames); and
- insurance matters.



**CAMILLE STELL** is the Vice President of Client Services and **LAURA LOYEK** is a claims attorney for Lawyers Mutual. Camille and Laura serve on Lawyers Mutual's HELP team, a program designed to provide quick response in a crisis situation such as medical emergency or unexpected death. To learn more about our HELP team, visit our website at [www.lawyersmutualinc.com](http://www.lawyersmutualinc.com).

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## PLANNING AHEAD, CONT. FROM PG. 5

### STEP 3: DISCUSS YOUR PLANS WITH APPROPRIATE PARTIES

It is important to inform your family, your designated Assisting Attorney, your nominated executor, and your key office staff of your plans to avoid confusion or delay in the event of your disability, incapacity, or death.

### STEP 4: CONSIDER HOW YOUR INCAPACITY WILL BE DETERMINED

If you are incapacitated, you may not be able to give consent to someone to assist you. Have you determined under what circumstances you want someone to assert the right to help you or take over your practice? Who decides that you are incapacitated and what criteria will be used? One suggested approach is to give the Assisting Attorney and/or the Authorized Signer access during a specific time period or after a specific event and to allow the Assisting Attorney and/or the Authorized Signer to determine whether the contingency has occurred.

Another approach is to have someone else (such as a spouse, trust-friend, or family member) keep the applicable documents (such as a limited power of attorney for the Assisting Attorney and/or the Authorized Signer) until he or she determines that the specific event has occurred. A third approach is to provide the Assisting Attorney and/or Authorized Signer with access to records and accounts at all times.

### STEP 5: DETERMINE THE SCOPE OF YOUR AGREEMENT WITH THE ASSISTING ATTORNEY

It is important at the outset of the planning process to nail down the scope of the Assisting Attorney's duties to you and your clients. If the Assisting Attorney is representing your interests as your attorney, he or she may be prohibited from also representing your clients on some, or possibly all, matters. Under this arrangement, the Assisting Attorney would owe his or her fiduciary obligations to you. For example, the Assisting Attorney could not inform a client of your legal malpractice or ethical violations, unless you consented in writing. However, if the Assisting Attorney is expected to represent your clients, he or she may have an ethical obligation to inform the client of your errors or omissions.

In either event, the Assisting Attorney must be aware of conflict of interest issues and must check for conflicts if he or she (1) is providing legal services to your clients or (2) must review confidential file information to assist in transferring clients' files. In the latter case, the conflicts check must occur before the file review.

### STEP 6: DETERMINE HOW THE ASSISTING ATTORNEY WILL BE COMPENSATED

Your plan should include an arrangement for payment by you or your estate to your Assisting Attorney and staff for services rendered on your behalf in closing, temporarily managing until your return, or managing your practice pending its sale. For example, the agreement with your Assisting Attorney may provide for compensation based on an hourly rate, for reimbursement of reasonably necessary expenses, and for billing on a monthly basis.

You also will need to address the funding of this compensation to your Assisting Attorney and support staff. You can direct that payment be made from your office receipts. If you are concerned that your law practice income will be insufficient to defray this expense,

you may want to consider disability insurance in an amount sufficient to cover this potential liability. Business Overhead Expense Insurance is a variation on Disability Income Insurance that specifically covers the ongoing expenses of running your office (including non-lawyer staff salaries, rent, equipment leasing, etc.), in the event of your disability.

In the case of death, since your estate will be responsible for payment to the Assisting Attorney, your executor or other personal representative should be notified in advance of any arrangements you may have made with regard to this issue. You may want to consider purchasing an insurance policy naming the estate as beneficiary and specify in your will that the proceeds from the policy be used for this purpose.

### STEP 7: CLIENT NOTIFICATION

Once you have made arrangements with an Assisting Attorney and/or Authorized Signer, the next step is to provide your clients with information about your plan. The easiest way to do this is to include the information in your retainer agreements and engagement letters. This provides clients with information about your arrangements and gives them an opportunity to object. Your client's signature on a retainer agreement provides written authorization for the Assisting Attorney to proceed on the client's behalf, if necessary.

### START NOW

Lawyers Mutual has put together a handbook with forms and checklists (located on our website) to assist in the process of planning ahead. This is something you can do now, at little or no expense, to plan for your future and protect your assets and your clients. Don't put it off, start the process today. **WBF**

## 2014 WCBA LUNCHEONS

JUNE 3 - WOMAN'S CLUB

JULY 8 - NORTH RALEIGH HILTON

AUGUST - NO MEETING

SEPTEMBER - NO MEETING

OCTOBER 7 - NORTH RALEIGH HILTON

NOVEMBER 4 - WOMAN'S CLUB

DECEMBER 2 - NORTH RALEIGH HILTON



# COMMUNITY

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**(noun/plural):** (a) a group of people living in the same place or having a **particular characteristic in common;**  
(b) **common ownership.**



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# WE THE PEOPLE: THE CONSTITUTIONALLY FOCUSED EDUCATIONAL CURRICULUM UNDER PRESSURE

BY ROBERT CROUSE WITH ALEXANDER KARSTEN

**SEVENTEEN YEARS, 30 MILLION STUDENTS**, 90,000 educators, and counting. Those are the numbers that tell part of the story of We the People, a curriculum that promotes civic competence and responsibility among this nation's upper elementary and secondary students. The program transcends the classroom to become a tool that gives students the fundamental underpinnings, confidence, and practical guidance needed to understand and influence the legal issues that affect our society.

Specifically, the curriculum, developed by the Center for Civic Education, exposes students to the history and principles of the U.S. Constitution, with an emphasis on engaging with controversial issues spanning all levels and branches of government. Students debate and discuss modern and historical issues in the context of the US Constitution, and the program culminates with a competitive mock congressional hearing.

It's a story all the more worth hearing as evidenced by the experience of students like Alex Karsten, a student at the University of North Carolina:

In 2010, I was a high school senior, and member of the Raleigh Charter High School National Finalist team in Washington, DC. As we prepared for the competition, we learned that a constitutionally controversial immigration bill had become the law in Arizona. As we discussed the constitutional issues presented by the law, that moment came home to each student in a very real way: that we weren't dwelling on mere academics. These problems represented real challenges in actual people's lives; problems that would likely extend far into the future, and that could be transformed using the very ideas that formed the framework of what we had studied. I think that singular moment crystallized in me the earnest belief that every student of We the People had the opportunity to be a more active and engaged citizen. That experience sums up, for me, what is so important about We the People.

The future story of We the People is, however, in some jeopardy. Federal funding for the program has been completely eliminated, which has raised the question as to whether a future winning North Carolina team could actually afford to attend the national competition.

As both a long-time volunteer Judge for the We the People mock hearings and a North Carolina lawyer, it would sadden me greatly if the program were to cease. I encourage each of you to learn more about this vital resource for the future of our state and our country. I urge you to become actively engaged in our efforts to ensure that We the People continues to thrive.

In particular, We the People benefits greatly from volunteer involvement of lawyers to serve as judges, organizers, and coaches for the teachers and students as they prepare for the competition. Moreover, the costs to attend the national competition is approximately \$1,100 per student. Given cuts in education spending and the elimination of earmarks, finding resources to help pay for these costs will be daunting.

For more information about the program and how to help, please visit <http://new.civiced.org/wtp-community/volunteers>.

To support the North Carolina team that wins the opportunity to attend the National competition, please send donations to:

"We the People" Fund  
North Carolina Bar Association Foundation, Inc.  
8000 Weston Parkway  
Cary, NC 27513 **WBF**

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Rent is \$850 firm. Month-to-month, with option for one-year term. Interested attorneys should email or call W. Thomas McCuiston at [wtm@mccuistonlaw.com](mailto:wtm@mccuistonlaw.com) or 919-467-4100.

# BEYOND THE J.D. LARRY MAITIN...MAGICIAN

BY CARA WILLIAMS AND NATALIE MALEK

LARRY MAITIN IS A SUCCESSFUL real estate attorney, a loving husband, a proud father, and as if this weren't enough, a professional magician! Maitin came to our office for his interview and performed some of his favorite "effects". We were amazed at not only the illusions themselves, but also the showmanship that he has perfected. Maitin is a master of his art and we are fortunate that he agreed to give us some insight into his "magical" life:



## GETTING STARTED

At 7 years old, Maitin received his first magic set as a present. By 13, he was performing his first show for a child's birthday party where he only charged \$15 for the whole party. He never worked a typical job in high school and college and instead worked as a magician....even his wife's engagement ring was purchased with money he made on magic shows.

Maitin took a break from magic through law school and it wasn't until after he was married and had children that he returned to magic when his daughter turned 5 and had a Harry Potter birthday party. He hasn't stopped performing since.

## HOW IS A TRICK CREATED?

Maitin explained that there are two methods behind his magical madness. He uses multiple learned techniques, and combines them for one fluid demonstration, or he knows his end game and creates the means by which to get there.

One secret he revealed is that a magician rarely uses his sleeves to hide cards or coins. A typical audience will surmise shirt sleeves as the most obvious culprit, so Maitin always rolls his up to gain trust from his audience. Creating tricks is an art that takes time and focus. Maitin revealed that a 30-second trick may take around 30 hours to practice. Magic is much more than the trick itself. Magic is psychological trickery and misdirection and is all choreographed for the best possible deception.

## THE MAGICAL CODE OF ETHICS

Maitin explained a magician's magical code of ethics is to never

reveal a secret. You are not breaking this rule if you are discussing secrets with another magician or someone who is genuinely interested in learning magic. Maitin believes that performing a trick you have not perfected is just as serious a violation of the magician's code of ethics as revealing a secret. When you don't execute the trick perfectly, people can see the missteps and flaws. Larry's motto is "Preserve the art, practice until perfected."

## BEST ADVICE

Maitin has taught magic at Wake Technical Community College. He said that the best advice he gives his students is to perfect their technique so that they don't have to think about what they are trying to do, they can then concentrate on the audience.

## AUDIENCES: THE GOOD, THE BAD AND THE UGLY

Maitin said that magic is different for everyone. He most enjoys people who are entertained by the illusion of impossibility. Typically, college students and the elderly population are hungry for entertainment, and they make a great audience. These segments of the population and not interested in disillusionment or analysis of the trick. They simply want someone to put on a show.

The most difficult group are analytical people who are not interested in being fooled and entertained, and only want to discover the method. There seems to be an inverse relationship whereby intelligent folks miss the simplicity of the secret, and this oftentimes makes them easier to fool. When someone discovers the magician's method, the fun disappears as well!

## THE REWARDING ASPECTS OF PERFORMING

The most rewarding part of magic is the reactions he receives from the audience. Maitin also describes magic as a "work of art," and it is not complete until performed. He enjoys the process and the fact that there will be a magical finished product. Maitin has a vision, spends hours developing the vision, practices the performance, and then completes the illusion for an audience. He loves that his family still enjoys the reactions people have when watching his shows; however, he reports that his wife would say, "he has ceased to amaze me."

CONTINUED ON PAGE 10

### MAGICIAN-ATTORNEY

Being a magician has served to make Maitin a better public speaker and advocate. It also helps with discipline, scheduling and timing. He is more prepared as an attorney and completes tasks on time because of the discipline he has had to learn through magic. His clients love that he is a magician and frequently ask him to do tricks during their closings.

### FAVORITE MAGICIANS

Maitin's favorite magicians aren't any of the famous magicians that one might see on television, but are people that he has met at conventions. However, Doug Henning is the reason he became interested in magic as a kid, and Lance Burton is someone Larry enjoys watching now. Lance actually picked Maitin for a demonstration at one of his shows, and Maitin receives holiday cards from Lance every year since.

Maitin has a real passion for people and for his craft. He believes that, "magic is so important today, more so than ever. Everything in today's world is explainable. Science can seemingly prove everything; so for me, magic is an escape from reality."

An excellent attorney and magician, Maitin performs close-up shows at weddings, bar mitzvahs, birthday parties and more. More information is available at [www.maitinlawfirm.com](http://www.maitinlawfirm.com) or [www.maitin-magic.com](http://www.maitin-magic.com) **WBF**

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# A WINDOW INTO THEIR TIMES

## HISTORICAL NOTES FOR THE WAKE COUNTY BAR

BY LUCY AUSTIN

IN FEBRUARY 1922, the entire class of the Wake Forest Law School, composed of 27 men and 2 women, was successful in passing the bar examination and becoming licensed to practice law. As "Old Gold and Black" put it, "A flood of letters and telegrams coming from every nook and corner of the country reached Wake Forest on the day of the announcement of the newly licensed attorneys, congratulating the members of the class upon their success."

One of the women admitted to practice from that class was Lottie Elizabeth Lewis (1896-1980). Less than a year after receiving her license, in November 1922, Lewis was elected treasurer of Wake County, the first woman to be elected to public office in Wake County. She went on to practice law in Raleigh, having an office in the Odd Fellows Building.

Lewis's classmate, Flossie Eleanor Marshbanks (1895-1981) of Mars Hill was admitted to the Bar in Edenton before moving to Raleigh and becoming an administrative officer and liaison with the Attorney General's office and then secretary to the state Superintendent of Public Instruction. Active in the community, Marshbanks was active in Raleigh organizations including the Raleigh Civil Council and the First Baptist Church of Raleigh. **WBF**

[Sources: *Old Gold and Black*, February 10, 1922, "All Wake Forest Applicants Licensed"; *Colin and Roundtree* (2004), *The Changing Face of Justice: A Look at the First 100 Women Attorneys in North Carolina*, North Carolina Bar Association.]

## UPCOMING WCBA CLEs | 2014

### POSITIVE OUTCOMES AFTER A CRIMINAL CONVICTION

MAY 21 | 4 – 6 P.M. | WAKE COUNTY JUSTICE CENTER  
COURTROOM 101, SAM BRIDGES

### AVOIDING TRUST ACCOUNT PITFALLS

JUNE 18 | 7:30 -8:30 A.M. | CAMPBELL LAW, JONATHAN  
KRIEPS

### FAMILY LAW UPDATE

AUGUST 27 | 1 – 4:30 P.M. | CAMPBELL LAW

TO SIGN UP FOR THESE OR ANY OF OUR PROGRAMS, PLEASE  
GO TO OUR WEBSITE, [HTTP://WWW.WAKECOUNTYBAR.ORG](http://WWW.WAKECOUNTYBAR.ORG).

# MEMBER NEWS



**Saad**

**STEVEN SAAD** joined Cranfill Sumner & Hartzog, LLP as co-chair of its Criminal Defense practice. The firm expanded its Criminal Defense practice to the Raleigh office. Saad's practice will focus on representing individuals facing a variety of criminal charges ranging from serious felonies, misdemeanors, drug charges, driving while impaired (DWI) charges, and traffic violations. A former Assistant District Attorney in Wake County, Saad has extensive trial law experience.

Phelps Dunbar LLP is pleased to announce that **NATHAN A. HUFF** has joined the firm's Raleigh, N.C. office. Mr. Huff practices in the areas of commercial litigation and insurance coverage, with a focus on complex insurance coverage matters. Additionally, as a former federal prosecutor, Mr. Huff practices in the area of white collar defense and governmental investigations, where he assists clients in preventing and responding to government enforcement actions.



**Kelly**

**THOMAS KELLY** has joined Nelson Mullins Riley & Scarborough LLP in its Raleigh office as an associate. Mr. Kelly concentrates his practice in litigation. He has experience litigating matters in administrative, state and federal court. He previously served as Assistant Attorney General with the N.C. Department of Justice where he represented the N.C. Department of Health and Human Services.



**Younger**

**CARLTON "CARL" YOUNGER III** has joined Weatherspoon & Voltz LLP. Carl will continue his real estate and business litigation practice. In addition, he will work in the areas of commercial real estate development, finance and leasing.

# WELCOME NEW MEMBERS

THE NEWEST MEMBERS APPROVED AT THE APRIL 2014 MEETING OF THE BOARD OF DIRECTORS

**CARMEN BATTLE**

**JONATHAN CROOK**

**TABATHA CRUDEN** | First American Title Insurance

**JOHN GODWIN** | Hardison & Cochran PLLC

**JENNIFER GRAY**

**ROBERT HARRELL**

**AMELIA HAYES** | Sentinel Risk Advisors

**NATHAN HUFF** | Phelps Dunbar LLP

**BRANDON HUFFMAN** | Stevens Martin Vaughn & Tadych

**EMILY IVERSON** | Burns, Day & Presnell, P.A.

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**RUTH LEVY** | Heath Law Firm PLLC

**CHADWICK MCCULLEN** | Young Moore & Henderson PA

**VICTOR MEIR** | Blue Ridge Realty

**MICHELE PENNINGTON** | Congdon Law

**RAY PHILLIPS** | Golden Corral Corporation

**LINDA ROCCHETTI**

**STEVEN SAAD** | Cranfill Sumner & Hartzog LLP

**CHRISTINE SCHEEF** | NC School Boards Association

**RUSSELL SHERRILL, III**

**R. TOBIN** | Nelson Mullins Riley & Scarborough LLP

**RICHARD TROTTIER** | Legal Aid of NC – Admin Office

# THE RULE OF LAW... ANOTHER RULING SUCCESS

BY NICOLETTE FULTON, PUBLIC SERVICE COMMITTEE

ON MARCH 6, more than 100 high school students and a dozen attorney volunteers from the Wake County Bar Association attended the WCBA Annual Rule of Law Program at Campbell Law School.

After a welcome from Dean Rich Leonard and opening remarks from President Gray Styers, Judge Linda McGee from the North Carolina Court of Appeals gave a thought provoking keynote speech on the importance of the Rule of Law. Students went to a “working lunch” teamed with volunteer attorneys to create theatrical vignettes relating to the First, Fourth, Fifth and Sixth Amendments.

The students shared their skits to the entire group (to much amusement), including the Rule of Law Panelists: Judge Margaret Eagles, Judge Craig Croom and attorney Dayatra Matthews. After the students and the volunteers were able to stop laughing from the Oscar® worthy performances, the students asked the panelists their thoughts on the Rule of Law, what it really means,

and why it is important. Their questions were to the point and thought provoking, focusing on why the law is the way it is and why it should matter to them.

This program, created by Justice Mark Martin of the N.C. Supreme Court and Orage Quarles, publisher of the Raleigh News and Observer, has taken off and become quite the success thanks to the outstanding volunteer spirit within the Wake County Bar Association.

That very volunteer spirit of the WCBA shone through and special thanks is deserving of: Dean Rich Leonard, President Gray Styers, Hon. Linda McGee, Hon. Margaret Eagles, Hon. Craig Croom, Dayatra Matthews, Cheryl Howell, Jane Watson, Ashleigh Parker Dunston, Brad Williams, James Bernier, Jr., Graham Shirley, Elizabeth L. Oxley, Amber Lueken Barwick, Ryan Eppenberger, Jefferson Griffin, Eric Stevens, John Szymankiewicz, Charlotte Boone, James Hash, Whitney von Haam and Colleen Glatfelter. **WBF**

## HELP FOR YOUR FORECLOSURE CLIENTS

### N.C. FORECLOSURE PREVENTION FUND CONTINUES TO HELP HOMEOWNERS

NORTH CAROLINA HAS RESOURCES to help an additional 5,000 unemployed homeowners avoid foreclosure by providing mortgage payment help while they look or retrain for jobs.

The N.C. Foreclosure Prevention Fund makes mortgage payments up to \$36,000 (for up to 36 months) to homeowners struggling because of job loss or other temporary financial hardships, such as divorce, that require them to find a new job. The effort was expanded last fall to benefit veterans transitioning back to civilian jobs.

The Fund has made mortgage payments for more than 16,000 North Carolina homeowners, including more than 1,600 in Wake County, since the end of 2010. Of those, more than 9,000 have completed the assistance period and are again making their own mortgage payments. Less than 2 percent have gone into foreclosure.

So far, the loans have saved more than \$2.2 billion in property, stabilizing property values and strengthening local economies. All 100 counties in the state have benefitted.

The North Carolina Housing Finance Agency created and manages the N.C. Foreclosure Prevention Fund with financing from the U.S. Department of the Treasury's Hardest Hit Fund®. North Carolina was chosen to receive Hardest Hit funds because of the high rate

of unemployment in the state during the recession.

The help is offered as a zero-interest, deferred loan that is forgiven if the homeowner continues to live in the home for 10 years. To qualify, homeowners must:

- Have lost a job, experienced a reduction of wages or suffered a financial hardship through no fault of their own;
- Have maintained a satisfactory mortgage payment history prior to their job loss, hardship event or deployment;
- Have no more than \$300,000 of outstanding principal remaining on all mortgages; and
- Be engaged in an active job search or approved job training program.

Homeowners can apply for assistance through more than 40 HUD-approved counseling agencies throughout the state or online at [www.NCForeclosurePrevention.gov](http://www.NCForeclosurePrevention.gov). They can also call 1-888-623-8631.

Attorneys who want brochures or more information about the N.C. Foreclosure Prevention Fund may call Robert Sherwood (919-981-2647). **WBF**

*The N.C. Housing Finance Agency, a self-supporting state agency, has financed more than 221,000 affordable homes and apartments statewide since its creation in 1973.*



# 2014 Wake County Bar Association – Young Lawyers Division

## SUMMER CLERKS PROGRAM REGISTRATION FORM

Online form also available on our website at [www.wakecountybar.org](http://www.wakecountybar.org)

**\*Please fax, mail or reply online by May 27, 2014\***

Law Firm / Agency Name: \_\_\_\_\_

Contact Name & Title: \_\_\_\_\_

Contact Email: \_\_\_\_\_ Contact Phone: \_\_\_\_\_

Clerk Name (add additional names, if necessary)	Clerk Email or Phone	June 6 Seminar ONLY	Full Summer YLD*
1.			
2.			
3.			
4.			
5.			
6.			
7.			

### SUMMER CLERK ORIENTATION PROGRAM

Thursday, June 5, 2014 | 1 p.m. – 5 pm.

North Carolina State Bar Building, 217 E. Edenton Street, Raleigh

The YLD is pleased to continue the tradition of providing Wake County's summer clerks with a true insider's view into our local legal community. Outstanding speakers from various aspects of the profession are slated to speak on topics of interest to our summer clerks! The program will begin after lunch (on your own) with registration starting at 12:45 p.m. This program is provided by YLD free of charge but courtroom attire is suggested and advance registration is required. For additional details, please contact Sam Fleder ([sfleder@smithdebnamlaw.com](mailto:sfleder@smithdebnamlaw.com)).

### FULL SUMMER YLD

The YLD offers additional opportunities for the area's summer clerks to meet their fellow clerks as well as attorneys and other members of the legal community at a nominal cost\* per clerk. This includes access to four monthly socials connecting young lawyers from all over Wake County. It is a great way to complement each firm or agency's own summer program by providing a means to meet clerks, attorneys from other firms and groups, as well as local judges.

**MONTHLY YLD SOCIALS** (business casual attire):

- June 5 | Tyler's Taproom (Seaboard Station, following the Summer Clerk program) 5:30 p.m.
- July 10 | Place TBA 6 p.m.
- August 7 | Place TBA 6 p.m.

**\*Full Summer YLD registration is \$30 per intern/clerk.** Please complete this form and enclose a check payable to **WCBA-YLD** (Memo: 2013 YLD Summer Clerk Registration) to: **Whitney von Haam, Executive Director, Wake County Bar Association | P. O. Box 3686, Cary, NC 27519-3686.**

Registration forms not requiring payment can be emailed or faxed to Whitney von Haam's attention at [whitney@wakecountybar.org](mailto:whitney@wakecountybar.org) or 919-657-1564.