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Dale Margolin Cecka

*University of Richmond*, [dmargoli@richmond.edu](mailto:dmargoli@richmond.edu)

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# Education & Practice

Published by the Virginia State Bar — SECTION on EDUCATION of LAWYERS — for Practitioners, Judges, and Law Teachers

## What You Do and Do Not Learn in Law School: A Family Law Associate’s Perspective By Krista N. Yancey

We are all familiar with the recurring discussions over whether law school *really* prepares its students for practice. Luckily, I have had the pleasure of working with dozens of excellent professors and mentors throughout law school, during internships, and in the beginning of practice. Every single one, it seems, has shared a story about when

they were fresh out of law school and something unexpected happens when first walking into a courtroom or client meeting. Every lawyer has a moment (or several) he or she thinks, “Law school did not prepare me for this.” From my experience, law school prepares you for practice in a number of ways, but there are other parts to practice you can only learn on-the-job. The follow-

ing are a few observations from my first year-and-a-half in practice.

In law school, you **do** learn to analyze how the law applies to a certain set of facts. You learn frameworks for the law, causes of action and legal precedent. You learn how to perform legal research so that, if you are unfamiliar with the controlling law for a given case, you can find it with some degree of efficiency.

*Krista N. Yancey is an associate attorney at Compton & Duling, L.C. in Prince William County. She is also the 31st Circuit Representative to the Virginia State Bar Young Lawyers Conference.*

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## Hiring and Supervising New Lawyers: A Family Law Partner’s Perspective By Maryse C. Allen

The adage “hire slow, fire fast” seems like sound practice. Yet I have never had either the luxury of time to do the first or the ruthlessness to do the last. When I have needed to hire a new lawyer, I typically needed to fill a position with speed. And, when a new lawyer did not appear to be thriving at our firm, I have redoubled my efforts to mentor that associate. My rejection of this management wisdom may be reason to stop reading, but for those of you

who likewise have soft hearts and a skepticism of conventional wisdom, here are a few thoughts on hiring and supervising new associates.

I have practiced family law for almost nineteen years and began hiring associates thirteen years ago. Some interviewed as a result of an ad our firm posted, others came to our firm through their law school’s career development office, and others were attorneys we knew or who were referred by our professional

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*Maryse C. Allen is an equity member of Compton & Duling, LC. She serves on the board of the Virginia Women Attorneys Association and on the Virginia State Bar Standing Committee on Professionalism.*

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# Chair's Column

**John M. Bredehoff**  
**Kaufman & Canoles, P.C.**

And even though pride may be one of the seven deadly sins, I can still say I am proud of the lawyers of the Commonwealth of Virginia.

## Our Chair Admits His Deadly Sin of Pride

I have been practicing law for over 33 years, and in that time I have appeared (by right or *pro hac vice*) in litigation in thirty or more states, as well as a slew of federal courts. And even though pride may be one of the seven deadly sins, I can still say I am proud that the lawyers of the Commonwealth of Virginia are, taken as a body, the most professional, pleasant, courteous, and effective that I have ever had the opportunity to meet. Even before I was admitted to the Virginia State Bar a quarter-century ago (I am so old that I am a member of the last cohort that actually had to take the District of Columbia Bar Exam), I was jealous of my colleagues in the Commonwealth: we were merely lawyers, but our friends in Virginia bore the professional designation of both attorneys and counselors at law. From the start, our Bar recognizes that a lawyer is more than a hired gun, that she rather is a counselor – an advisor, a facilitator, a solver of problems and remover of impediments – whose first inclination is not the resort to adversarial litigation, but to conciliation. This small thing, this minor variation in the title Virginia lawyers bear on their business cards, captures in a nutshell some of what makes the legal culture of the Old Dominion special.

This is my first column as Chair of the Section on Education of Lawyers, and I am thrilled by the year that lies before us. For the first time in years, our Section will present a Continuing Legal Education session at the Annual Meeting of the Virginia State Bar this summer in Virginia Beach. Our CLE will address a topic that did not exist in current form when I became a lawyer (or even when I started practicing in Virginia): best practices for communicating with clients and other counsel using modern technologies. So many students enter law school each year having done an enormous percentage of their interpersonal, non-oral communications over electronic media. But a lifetime of writing for tweets, Instagram, Facebook, and even e-mails is a poor precursor for the clarity of meaning and precision of tone called for in legal discourse. When I was a pup, clients would send us letters and, after reviewing books of legal precedents, we would draft a response – and re-draft, and re-redraft, and proof, and re-proof -- and only then, after vetting by those wise professionals we used to call secretaries, would our response go out, on heavy cotton-bond paper, crisply folded in thirds. Last month, on the other hand, I received three e-mails on Sunday morning asking why I had not yet answered a question e-mailed on Saturday night. Under the best of circumstances, attorneys of all ages face pressure for the

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rapid turnaround of legal correspondence, and we as lawyers must resist the temptation to allow our need for speed to undermine the imperatives of clarity and accuracy. I am looking forward to attending this CLE.

We also are looking forward to a host of other Section activities this year. The immensely successful intensive, limited-enrollment, advanced legal writing workshop premiered by the Section last April will be reprised this spring for a fortunate thirty-five or so attendees. Our consideration of the nominees for the William R. Rakes award for Leadership in Education, presented last summer to Chief Justice Lemons, reminds us all of the many outstanding attorneys, judges, and academics with which the Commonwealth is blessed.

But the one program developed and maintained by our Section over the years which is nearest and dearest to my heart remains the Law School Professionalism program. I have been lucky enough to be involved in this initiative almost since the beginning. Each year, the program sends a distinguished cohort of ambassadors from the VSB to speak to every single first-year law student in the Commonwealth on the precepts of professionalism and civility that make the practice of law in Virginia distinctive. From these faculty volunteers I hear repeatedly that exposure to these students revitalizes their own views on law and its role in this larger community we call Virginia. From the student attendees we hear and see enthusiasm for the profession we all love. It is a wonderful program, and I am proud – that deadly sin again! – to be part of the Section that sponsors it.

The coming year is full of promise!



## What You Do and Do Not Learn in Law School

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The curiosity and love of learning cultivated in law school is essential to maintain as a new lawyer because there is much more to learn. Once you find your practice area, your knowledge must extend past the law to be a truly effective attorney and counselor. By the time you graduate from law school, you probably **do not** know much about the non-legal aspects of your practice area, yet this knowledge is essential. As a domestic relations practitioner, I need to be conversant in retirement accounts, investments, insurance plans, the real estate market, education, psychology, public benefits and community resources. Real estate attorneys also need to be familiar with local government. Likewise, corporate attorneys not only need to be familiar with the structure, culture and goals of their clients, but also industry trends. No matter what your practice area, it is important to not only know the law but also how non-legal aspects affect your client's work.

Because of ABA and school curriculum requirements and tested bar exam topics, you **do** receive legal education about a broad variety of subject matters. We can all explain personal jurisdiction, recognize proximate causes, identify consideration and define mens rea even if we work in specialized practice areas. Prior to practice, these concepts existed in the realm of their respective course subjects: we analyze whether there is personal jurisdiction over the defendant in Civil Procedure, a proximate cause in Torts, consideration in Contracts and mens rea in Criminal Law. This degree of mental organization is helpful, even necessary, to remember all of the information necessary to ace an exam or pass the bar.

Law practice, on the other hand, is interdisciplinary. In law school, you **may not** see how course subjects intersect. You may be retained to represent a client in a specific transaction or legal dispute, but your advice may have consequences outside of the direct realm of your representation. A host of factors, including tax implications, the ability to seek future remedies, bankruptcy protections, an eventual divorce or dissolution of a business and the rights of creditors may influence how you prepare your pleadings or draft a contract.

You **do** learn how to argue in law school. You are trained to pick a side and defend it, passionately arguing your point. Clearly, the ability to persuade others is important to your success as an attorney. That is, more or less, what we are hired to do for our clients. As attorneys, we have an ethical obligation to diligently represent our client's interests.

At the same time, respect for others and the court is just as important as your dedication to your client's cause. Law school does **not** necessarily teach you how to listen and interpret how others perceive your client's position. Diligent and successful representation also involves knowing when to concede. Your

respect for others and the court often has a direct impact on whether your client's goals will be met.

The workload of law school **does** require the organizational and time management skills necessary to succeed in practice. It promotes the self-discipline required to be a productive new attorney.

Law school, however, **does not** demand quite the level of efficiency required in law practice. Even the most organized new lawyer will likely struggle to balance quality, thorough work with the demands of billable hours and uncontrollable deadlines. While the availability of administrative support staff in practice often improves efficiency, law school does not teach you how to effectively delegate and supervise this work.

Generally speaking, your shortcomings in law school affect only yourself. Law school **does not** teach you how to manage and fulfill the expectations of clients and your supervisors. In practice, the success of others is tied to your work. Hence, the importance of effective communication with those you

work with and work for cannot be stressed enough!

Extracurricular organizations, internships and pro bono programs offer law students an opportunity to develop a life outside the classroom. Through these opportunities and other activities, students **do** learn to become more well-rounded individuals, which make for more successful attorneys.

Law school **does not** necessarily teach you how your activities outside the office can truly benefit your professional life. The relationships you form through involvement in your community often bring business and referrals as well as information on issues affecting your clients and your practice. Professional groups help new attorneys find experienced mentors and allow us to create relationships with other professionals that extend beyond the courtroom or negotiating table. In addition, our work as attorneys is not sustainable without some balance. Successful attorneys often find that their activities outside the office complement their legal practice. ✧

## CONTRIBUTIONS

### SECTION ON THE EDUCATION OF LAWYERS

The section gratefully acknowledges the following Virginia law firms and law schools for their generous support of section activities.

Gentry Locke  
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University of Virginia  
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Washington & Lee University  
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William & Mary  
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## MEMBER RESOURCES AREA ELECTRONIC NEWSLETTERS FOR SECTION MEMBERS

<http://www.vsb.org/site/sections/education-of-lawyers/membersonly>

To receive newsletters electronically, post your email address on the VSB's website at <https://member.vsb.org/vsbportal/>. You may limit the use of your email address on this site.

Newsletters also will be posted in the Member Resources Area of the section's website.

To access:

**Username:** educationoflawyersmember  
**Password:** Jem7937

*This site is available only to Section members.*

## Section to Reprise Innovative Legal Writing CLE in Richmond Next Spring

**When:** May 23-24, 2017

**What:** This is an intensive writing course for Virginia lawyers providing hands on experience and editing, while working in small groups.

**Space is limited to 35 registrants!**

**Why:** This program was developed in direct response to observations and recommendations about how to raise the level of legal writing skills made during the 2012 Conclave on the Education of Lawyers sponsored by the section. The section partnered with Virginia CLE to create and conduct a pilot training program for lawyers last spring.

The 2017 program will be co-sponsored by the Virginia CLE, the VBA's Law Practice Management Division and the American University Washington College of Law Legal Rhetoric Program

**Stay tuned for further details from VA CLE about the program agenda and your opportunity to register.**

## Hiring and Supervising New Lawyers

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contacts. Normally two or more partners interview a job applicant. Often we schedule a second interview over lunch with someone we are seriously considering hiring. I look not only for a strong record of academic achievement but also whether the candidate has ambition to achieve in their career. Of course there are many other attributes and personality traits that come into play when deciding to hire someone, but those two are critical. Although the interview process provides a significant amount of information, until you begin working with a new attorney you will not really know whether you have made the right choice. In the end, however, few new hires are a mistake if you take the time to supervise them properly.

All of the attorneys I have had the fortune to hire have been intelligent and hardworking, yet each has needed very different types and levels of mentorship. There is no formula, paradigm or program to follow that will work with all new lawyers, but I have found the following guidelines to be helpful.

1. **Start with a Shadowing Phase.** Allow a new attorney the opportunity to shadow you or another attorney for a time. Let them sit in on initial consultations, client meetings, depositions, hearings, and trials. By observing an experienced attorney in action, the new associate will pick up practical tools to use when they are in similar situations.
2. **Embrace on the Job Training.** Start a new attorney off with the simpler cases first. Let them build up confidence by handling a few uncontested divorces, negotiating and drafting simple property settlement agreements, and conducting a client meeting of limited scope. Gradually introduce more complex assignments to them while giving them the time and permission to educate themselves on new topics. For example, before asking them to draft an agreement dividing a service member's military retirement, have them review a treatise on military divorces in general, assign them the task of calculating the coverture fraction in one of your cases, and have them research the availability of medical benefits under Tricare to a particular spouse. At some point your new associate will have to take on a task that will make them feel like they are making a quantum leap into the deep end of the pool (mixed metaphor intended). It is unavoidable. It is a good thing. And it will make them grow more than they could have imagined.
3. **Meet Regularly to Discuss Assignments.** Establish a set a time to discuss a new attorney's assignments with him or her weekly. You may not always

be able to make that standing meeting on the set day and time, but having it on the calendar makes it more likely that you will touch base every few days to monitor the attorney's progress.

4. **Review the Attorney's Work Product.** It will take time that you might want to devote to your own work, but force yourself to review everything that goes out of the office generated by a new attorney. Do this until that attorney has shown that their work is consistently excellent.
5. **Start their Marketing Education Right Away.** Becoming successful in private practice involves more than legal skill. New associates need to understand the importance of rainmaking to their careers. Bring them along to your events, encourage them to pursue their own contacts, help them to identify how they—even as young attorneys—can begin to bring business into the firm.
6. **Empower them to take Responsibility for their Professional Development.** Encourage them to participate in the legal profession by being active in a local or specialty bar association. Even though they are a new attorney, they have much to offer and can contribute to our community. They can also exercise leadership roles through the VSB Young Lawyers Conference or their county bar's Young Lawyers group. Give them an opportunity to earn bonus income for bringing in business. Allow them to explore training that could expand the services your firm currently offers. Talk to them about looking for continuing education courses that will help them in an upcoming case or in their practice in general.
7. **Suggest (or require) them to do some Pro Bono work.** Allow them to gain experience and to help someone by taking on a pro bono case. This will not only provide a service to someone in need, it will develop that associate's awareness of the duty we have under Rule 6.1 of the Virginia Rules of Professional Conduct to render at least two percent of our professional time annually to pro bono public legal services, or to fulfill that responsibility by direct financial support of programs delivering such services.

Most help wanted ads for a family law associate will say the firm is looking for someone with two to four years of experience as a domestic relations practitioner. This is probably because that unicorn of a candidate would have enough experience to immediately handle cases with minimal supervision and also be profitable at the outset. If you can find one of these young self-sufficient attorneys, that may be the way to go. But of the many rewards in this profession, the satisfaction of mentoring a new attorney and participating in their growth has to be one of the best. ✨

## News and Events Around the Commonwealth

### Regent

- ◆ In October, Regent Law celebrated the **25th Anniversary of the *Regent University Law Review*** and, in partnership with the Regent Law Federalist Society, hosted the **2016 Regent University Law Review Symposium**, titled “First Amendment post-*Obergefell*: The Clash of Enumerated & Unenumerated Rights.”
- ◆ Regent University’s School of Law hosted the 2016 Conference of **Religiously Affiliated Law Schools (RALS)** in September entitled “Challenges and Opportunities for Faith Based Legal Education.” The biennial symposium provided 57 law professors from 26 law schools around the nation with an opportunity to address issues of particular relevance to faith-based law schools.

### University of Richmond

- ◆ Akhil Amar, a constitutional law scholar at Yale Law School, spoke with students and faculty at the University of Richmond on Oct. 6 about the constitutional significance of the upcoming elections.
- ◆ The Merhige Center for Environmental Studies hosted a debate/forum with Hillary Clinton’s and Donald Trump’s environmental policy advisers: Trevor Houser (D) and Congressman Kevin Cramer (R-ND).
- ◆ The Richmond Law Review hosted its annual symposium on National Security in the Information Age with keynote speaker Tom Ridge, the first secretary of the U.S. Department of Homeland Security.

### University of Virginia

- ◆ The University of Virginia School of Law will host a conference on “Shaping Justice” on Feb. 3-4 to celebrate the 20th anniversary of the school’s Mortimer Caplin Public Service Center. The conference will present panels on topics such as environmental justice, criminal justice, gender and economic justice to educate attendees on the latest developments in the field.

### William & Mary

- ◆ The **29th Annual Supreme Court Preview** brought together expert panels of journalists, academics, advocates, and other distinguished speakers in September to discuss and analyze the Court’s upcoming term.
- ◆ The **William & Mary Property Rights Project** held its 13th annual conference in The Hague in October. Peruvian economist Hernando de Soto, president of the Institute for Liberty and Democracy, received the 2016 Brigham-Kanner Property Rights Prize.
- ◆ **Virginia Coastal Policy Center to Host Fourth Annual Climate Change Conference:** The conference, “Living with

the Water – Too Much, and Too Little,” will be held on Friday, December 2, at the Williamsburg Lodge. ✦

## Faculty News

### Regent

- ◆ Regent University’s School of Law welcomes **Harry G. Hutchison** as its newest distinguished professor. Professor Hutchison is the Founding Fellow of the Oxford Centre and Sr. Counsel & Director of Policy for the American Center for Law and Justice, and joins Regent from George Mason University’s Antonin Scalia Law School.
- ◆ **Caleb Griffin** has joined the faculty of Regent University School of Law. Assistant Professor Griffin came to Regent after graduating from Harvard Law School in 2014, and a stint of practicing corporate law at the firm of Vinson & Elkins, representing organizations, banks and oil companies.

### University of Richmond

- ◆ **Kimberly Robinson** is the recipient of the Steven S. Goldberg Award for Distinguished Scholarship in Education Law for her 2015 Washington University Law Review article, “Disrupting Education Freedom.”

### University of Virginia

- ◆ **Aditya Bamzai**, who has argued high-profile national security cases for the U.S. Department of Justice in the federal courts of appeals, joined the faculty as an associate professor of law. In addition to national security law, his expertise and interests include administrative law, federal courts and civil procedure.
- ◆ Property law expert and legal historian **Maureen E. “Molly” Brady** also joined the faculty as an associate professor. She is one of the first graduates of Yale University’s Ph.D. in law program.
- ◆ Legal empiricist and economist **Joshua Fischman**, whose research focuses on judicial decision-making, returned to the law school this fall as a tenured professor.
- ◆ Alumnus **Cale Jaffe ‘01** also joined the faculty, to direct the Environmental and Regulatory Law Clinic. Jaffe previously spent 12 years as an attorney with the Southern Environmental Law Center, a prominent environmental public interest law firm headquartered in Charlottesville. He most recently served as director of the center’s Virginia office.

### William & Mary

- ◆ **Professor Jay Butler**, an expert in international law, international business transactions, contracts and trade regulation, joined the W&M law faculty this summer as an Assistant Professor of Law. ✦

**CALL FOR NOMINATIONS**

**William R. Rakes Leadership in Education Award**  
 The Section on the Education of Lawyers in Virginia  
 Virginia State Bar

The Section on the Education of Lawyers in Virginia has established an award to honor William R. Rakes, of Gentry Locke, for his longstanding and dedicated efforts in the field of legal education, both in Virginia and nationally. The inaugural award was presented to Mr. Rakes in conjunction with the 20th Anniversary Conclave on the Education of Lawyers in Virginia sponsored by the Virginia State Bar's Section on the Education of Lawyers in April 2012.

- 2016 Recipient — Hon. Donald W. Lemons**
- 2015 Recipient — Hon. B. Waugh Crigler**
- 2014 Recipient — Hon. Elizabeth B. Lacy**
- 2013 Recipient — W. Taylor Reveley III**
- 2012 Inaugural Recipient — William R. Rakes**

**Criteria**

This award recognizes an individual from the bench, the practicing bar, or the academy who has:

(1) demonstrated exceptional leadership and vision in developing and implementing innovative concepts to improve and enhance the state of legal education, and in enhancing relationships and professionalism among members of the academy, the bench, and the bar within the legal profession in Virginia.

(2) made a significant contribution (a) to improving the state of legal education in Virginia, both in law school and throughout a lawyer's career; and (b) to enhancing communication, cooperation, and meaningful collaboration among the three constituencies of the legal profession.

**Nomination Process**

Nominations will be invited annually by the board of governors of the Section on the Education of Lawyers, although the award may only be made from time to time at the discretion of the selection committee appointed by the section's board of governors. The selection committee will include five members: at least three members of the Section on the Education of Lawyers, with one each from the bench, the practicing bar, and the academy, including the chair of the section; and at least one former award winner.

When a nominee is selected, the award will be presented at a special event to include a reception for the honoree and his/her family, friends and colleagues; past award recipients; and special guests. The law firm of Gentry Locke has agreed to underwrite the award and the special event to honor award recipients on an ongoing basis. Please submit the nomination form below, together with a letter describing specifically the manner in which your nominee meets the criteria established for the award. Nominations should be addressed to **John M. Bredehoff**, chair, Section on the Education of Lawyers, and submitted with your nomination letter to the Virginia State Bar: 1111 East Main Street, Suite 700, Richmond, VA 23219-0026. **Nominations must be received no later than December 9, 2016.**

For questions about the nomination process, please contact Elizabeth L. Keller, assistant executive director for bar services: [keller@vsb.org](mailto:keller@vsb.org) (804) 775-0516.

**WILLIAM R. RAKES LEADERSHIP IN EDUCATION AWARD  
 NOMINATION FORM**

Please complete this form and return it with your nomination letter to the Virginia State Bar: 1111 East Main Street, Suite 700, Richmond, VA 23219-0026. **Nominations must be received no later than December 9, 2016.**

Name of Nominee: \_\_\_\_\_

Profession: \_\_\_\_\_

Employer/Affiliation (Law Firm, Law School, Court): \_\_\_\_\_

Address of Nominee: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of Nominator: \_\_\_\_\_ Telephone: \_\_\_\_\_

Email: \_\_\_\_\_ Signature: \_\_\_\_\_

**Virginia State Bar**

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