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## In Memoriam: Professor John F. Carroll, IV

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# IN MEMORIAM

## Professor John F. Carroll, IV

*Dana D. McDaniel \**

On March 8, 2012, our colleague and friend, John Carroll, was taken from us suddenly at the untimely age of forty-four. John grew up in Richmond, Virginia, attending Midlothian High School. Following high school, John attended Virginia Tech from which he earned his Bachelor of Science in Mechanical Engineering in 1989. After working for a couple of years as an engineer and teacher, John entered the University of Richmond Law School in 1992 and received his J.D., with honors, in 1995. From 1995 to 1998, John practiced law full time in Virginia Beach, Virginia, first with Payne, Gates, Farthing & Radd and then with Clark & Stant, which became part of Williams Mullen. In 1998, John entered New York University Law School from which he earned his LL.M. in 1999.

I first met John in 1999 when he joined the Intellectual Property Law Section of Williams Mullen in its Richmond, Virginia office. It was immediately clear to me and to anyone who worked with John that, even with his relatively few years of practice experience, he was an attorney of exceptional skill and talent. In 2000, after a short time with Williams Mullen, John joined Hamilton Beach Brands, Inc., where he served as Assistant General Counsel until 2009. Following John's departure from Hamilton Beach, he joined the faculty at the University of Richmond Law School serving as the first Assistant Clinical Professor of Law in the newly created Intellectual Property and Corporate Transaction Law Clinic. This faculty position seemed custom made for John, with his unique professional experience and his passion

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\* Shareholder, Spotts Fain, P.C., Richmond, Virginia; J.D., 1985, College of William & Mary, Marshall-Wythe School of Law; B.S., 1977, Virginia Tech.

and talent for teaching. He quickly established the Clinic as a cutting-edge clinical program of immense value to the students who participated and the clients they served.

Fortunately for my firm, the Assistant Clinical Professor position allowed John to continue to work in private practice on a part time basis. I immediately began an effort to recruit John to join the Intellectual Property Section of Spotts Fain, and I was thrilled when, in May 2009, John accepted our offer. I knew from working with him at Williams Mullen and our interactions during his years at Hamilton Beach that John was a gifted attorney, but I did not know how gifted he was until we began working closely together.

I quickly saw that John had an incredibly sharp mind and the ability to grasp difficult concepts quickly and analyze them thoroughly. In one case, on the eve of trial, John realized that our opponent's proposed jury instructions failed to address a material element of proof required to establish an entitlement to money damages. John worked all day and into the night on a Saturday reviewing the facts and expert reports and researching case law on this one point and, in doing so, he found a flaw in the plaintiff's damages theory. As a result, he prepared a bench brief in support of a motion for directed verdict dismissing the plaintiff's damages claim, which the Court granted.

Even though John contributed significantly to so many of our successes during the past two years, he never sought or took personal credit. He was the consummate team player and, for John, others always came first. John was quiet and unassuming, with an infectious positive attitude and a keen wit.

John was passionate about his profession and always maintained the highest standards of integrity, ethics, and professionalism. As he was for his students, John was a tremendous role model and mentor for the firm's younger attorneys. No matter how busy he was, John was always available to offer insight, guidance, or assistance to anyone who asked.

In his short life, John touched more people's lives in a positive way than most will in a much longer lifetime. I enjoyed immensely the time John and I practiced law together. He was a wonderful colleague, law partner, and friend. All of us who had the good fortune to know and work with John will miss him deeply.

## TRIBUTE TO PROFESSOR CARROLL “JOHN WAS THIRD”

*Jim Gibson \**

In any law school, there are those of us—most of us, really—who like to hear ourselves talk. We think that no conversation is complete until we have voiced our views.

But then there are those rare few who do not feel that need, who instead have a talent for picking their moments and crystallizing an issue with a single, insightful observation. That was John Carroll. At a faculty meeting, in a colloquy with a visiting scholar, and of course in the classroom, John could be counted on to say the wise thing at just the right time. His quiet voice could fill a room. It is impossible to contemplate never hearing it again.

When the law school family first heard the horrible news of John's passing, and we were grasping for ways to comprehend and express our loss, one of my colleagues said that she wished John were here to help us through it all. She got it exactly right. John would have known how to give comfort, what to say. When not to say anything. How to listen.

Sadly, it was not until John was gone that I began to understand all the ways that his gentle, generous soul had enriched our institution. I had known John mostly as a great teacher and a peerless mentor for his students. I knew that he loved the law school. That much was obvious from the time and energy he devoted to his work.

But the number of students, staff, and faculty who could tell a story about how John's counsel had helped them through a tough time—it was amazing. And humbling. And inspiring. And of course his boundless energies were directed far beyond the

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boundaries of the university, to friends old and new, to his partners in private practice, and to his church.

I am always in awe of people who accomplish so much so modestly, making it all look simple. The academic in me wants to know how that is done, to figure out the key to living an unhurried life that is nevertheless full of achievement. I have a theory, at least with regard to John: He knew exactly who he was. Most of us spend a lot of time searching for ourselves, vaguely dissatisfied with our lot in life. Not John Carroll. He held his values with absolute certainty—faith, family, service. He embodied the Gale Sayers credo: “The Lord is first, others are second, and I am third.” Knowing who he was, what those values were, and where he stood gave John the serenity to excel as a father, husband, teacher, friend, and colleague. John put himself third, and the rest, for him, was easy.

TRIBUTE TO PROFESSOR CARROLL  
“HE WAS SO KIND AND GENEROUS”

*Meredith J. Harbach* \*

John had many gifts, and he shared them generously with his colleagues and students at the law school. As I have reflected on the gift of his life and the depth of our loss, many stories and conversations have come to mind. But none is more profound—or more appropriate, I think—than the anecdote that came to me immediately after I found out about John’s death.

I arrived at the law school on Friday, March 9, 2012 to the news that John had died suddenly the day before. I was devastated. And I could not help but be struck by the uncanny timing. Exactly a year before, on March 9, 2011, John was with my family and me at Virginia Commonwealth University Medical Center. John came to pray with us, and cry with us, as our tiny baby Rose—just two days old—fought for her life in the Neonatal Intensive Care Unit. He followed up with a generous message, offering us help and prayers, and connections to family members who were members of the VCU community. That was the kind of man John was: kind, generous.<sup>1</sup>

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\* Assistant Professor of Law, University of Richmond School of Law; J.D., 1997, Columbia University School of Law; B.A., 1993, The University of Texas.

1. With apologies to Natalie Merchant, Jim Gibson and I performed *Kind and Generous* at John’s Law School Memorial Service. I cannot think of a more fitting tribute:

*You’ve been so kind and generous.*  
I don’t know how you keep on giving  
For your kindness I’m in debt to you  
For your selflessness, my admiration  
For everything you’ve done  
You know I’m bound,  
I’m bound to thank you for it  
You’ve been so kind and generous  
I don’t know how you keep on giving  
For your kindness I’m in debt to you  
And I never could have come this far without you  
So for everything you’ve done

He was there when you needed him. And he was always clear about what was most important.

That was, of course, the most difficult challenge I have ever faced. Our prayers were answered, and Rose recovered and blossomed into the beautiful, healthy child she is today. In the intervening months, though, I struggled with how to return to my work at the law school while maintaining a focus on my family, and especially baby Rose. Ultimately, I decided to invoke the university's "Stop the Clock" policy, which permits faculty members with a new baby to essentially hit the "pause" button for a year and postpone promotion and tenure decisions. It was not an easy decision, though, and it continued to worry me. It was sometimes difficult to stay clear about what was most important.

Then just a month before he died, John quietly reminded me again to cherish and hold close all that is most precious in this life. As the Dean sent out congratulations to all of the law faculty who had recently been promoted, John wrote the following to me: "I noticed a missing name that deserves to be on this list, and wanted you to know that I was thinking about you and David and Rose today. I'm sure it was a difficult decision, but I deeply respect your decision to 'stop the clock' temporarily on this process so you could devote time where it was needed most." John under-

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You know I'm bound . . .  
 I'm bound to thank you for it  
 I want to thank you  
 For so many gifts  
 You gave with love and tenderness  
 I want to thank you  
 I want to thank you  
 For your generosity  
 The love and the honesty  
 That you gave me  
 I want to thank you  
 Show my gratitude  
 My love and my respect for you  
 I want to thank you  
 I want to . . .  
 Thank you  
 Thank you  
 Thank you  
 Thank you

stood my struggle; he validated and supported my decision. And he was clear about what was most important.

The day before John's death, we celebrated Rose's first birthday and marveled at the miracle of her young life. Rose and my family, *they* are what is most important.

My favorite poem ends with this question: "Tell me, what is it you plan to do with your one wild and precious life?"<sup>2</sup> John knew the answer. He *lived* the answer. And his gift to me—and to many—was to help us remember what the answer is.

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2. Mary Oliver asks:

Who made the world?  
 Who made the swan, and the black bear?  
 Who made the grasshopper?  
 This grasshopper, I mean—  
 the one who has flung herself out of the grass,  
 the one who is eating sugar out of my hand,  
 who is moving her jaws back and forth instead of up and down—  
 who is gazing around with her enormous and complicated eyes.  
 Now she lifts her pale forearms and thoroughly washes her face.  
 Now she snaps her wings open, and floats away.  
 I don't know exactly what a prayer is.  
 I do know how to pay attention, how to fall down  
 into the grass, how to kneel down in the grass,  
 how to be idle and blessed, how to stroll through the fields,  
 which is what I have been doing all day.  
 Tell me, what else should I have done?  
 Doesn't everything die at last, and too soon?  
 Tell me, what is it you plan to do  
 with your one wild and precious life?

MARY OLIVER, *The Summer Day*, in HOUSE OF LIGHT (1990).

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## TRIBUTE TO PROFESSOR CARROLL “WITHOUT A DOUBT”

*W. Wade Berryhill* \*

Without a doubt, one of my favorite and most memorable, in fact unforgettable, teaching moments involved John while he was a 1L in my property class. The landmark constitutional takings case of *Lucas v. South Carolina Coastal Council*<sup>1</sup> had recently been handed down by the U.S. Supreme Court. The question for the Court was whether the state’s regulation that prohibited the petitioner from constructing a house on his beachfront lot amounted to an unconstitutional taking of private property without compensation. Justice Antonin Scalia had written the majority opinion and was our distinguished guest speaker in room 101. I asked Justice Scalia if he would discuss the decision with the class. He, being a former law professor himself, quickly and easily went through the key points of the opinion, finishing with the statement that the issue of the case was quite simple. As the State of South Carolina had stipulated that the petitioner had no reasonable use of his property remaining because of the regulation, Justice Scalia explained that the issue then simply became whether the petitioner’s proposed use constituted a nuisance. Justice Scalia finished and asked for questions. All students seemed enamored with Justice Scalia’s mere presence and pleased with his explanation. A hand rose from the back row of the student-filled classroom. After Justice Scalia recognized the student, John politely offered, “Justice Scalia, if the issue is as simple as you say it is, why did it take you thirty-eight pages to write the opinion?” The room hushed. Myself, I was frozen in place and my mind was flooded with alternating thoughts, “Oh #\*@%!” and “That is a really good question that I have always wanted to ask.” Equally as polite, and with professional aplomb, Justice Scalia answered John’s question.

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\* Professor of Law, Emeritus, University of Richmond School of Law; LL.M., 1976, Columbia University; J.D., 1972, University of Arkansas-Fayetteville; B.S., 1967, Arkansas State University.

1. 505 U.S. 1003 (1992).

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