

Education & Practice

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Law Clinics Help Advance Virginia Law By Adam Rellick

It is nothing new to hear that law school clinics offer hands-on, immersive experience for the next generation of lawyers. While under the guidance and supervision of experienced professors, law clinics provide soon-to-be lawyers with the skills necessary to hit the ground running (or at least in a brisk walk). Just as importantly, law clinics offer services to many low-income persons who may otherwise go without legal representation. But what is often overlooked is the benefit of law clinics to the development of legal ideas. By taking the time to explore and brief legal theories for the courts, clinic students can expand the community’s understanding of what the law allows lawyers to do to help our clients.

In the fall of 2016, I was a student in the Jeanette Lipman Family Law Clinic at the University of Richmond School of Law. We represented low-income clients in custody, child support, spousal support, and other family law related issues.

We had a client whom I will call Ms. Doe. Ms. Doe had worked for many years in a local school system, but had left due to a disability. Shortly thereafter, her husband and she separated after 21 years of marriage. In 2013, a JDR judge ordered her husband to pay spousal support for two years, with the expectation that Ms. Doe would receive Social Security Disability soon. However, due to complications and appeals, Ms. Doe was still waiting for a final ruling on her SSD case when the spousal support order expired. Left without any source of income, Ms. Doe was forced to borrow money from her elderly mother and disabled son to pay for simple expenses like rent and functioning brakes for her car. Throughout this time, Ms. Doe never divorced from her husband.

The Family Law Clinic assisted Ms. Doe in filing a new petition for spousal support because she was still married to her husband and had an on-going need for support. But when her peti-

tion came before the JDR judge, the judge asked whether granting a second petition for support would violate the doctrine of res judicata. The judge graciously allowed the Family Law Clinic to brief the issue. While the judge surely recognized the pedagogical benefits for the clinic students, she was also faced with an unanswered legal question that affected Ms. Doe’s ability to pay her bills.

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Adam Rellick is a 2017 graduate, cum laude, of the University of Richmond School of Law. A former student associate of the Children’s Defense Clinic and Jeanette Lipman Family Law Clinic, Adam hopes to practice family law and criminal defense in the Richmond area.

Chair's Column

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

The art of the timely response so essential to civil and professional discourse is not limited to “getting back to the client promptly,” although it surely includes that.

I have been preaching the gospel of professionalism and civility for much of my legal career. As and when I can, I make every attempt not to be a hypocrite, and to live by these precepts as well as evangelize them. However, and particularly during those times when my practice becomes somewhat more active than I would like, I suffer from one particular failing that has afflicted me since elementary school, and certainly during the course of my legal education: procrastination. Now, this may not sound like a core issue of legal professionalism, but please bear with me.

When I went to Public School No. 71 in the Bronx in the 1960s, I was the student (out of some 1,700 enrolled) who lived closest to the front door of the school. Nevertheless, I was almost always the very last kid to arrive each morning, for some seven years. During high school, my Sunday nights were not devoted to “Kojak” or “Mannix,” but to finishing homework assignments due Monday morning. Law school only fed my addiction to deferral: if the only grade in the course is the final exam, why study during the four preceding months?

Although this worked out okay, I guess, before I became a lawyer, with my Bar admissions certificate came a new type of enforced discipline. For years, I worked on very large cases: the kind where the 90 days you had to write a brief allowed for sixteen comprehensive drafts and reviews. At my next legal job, we were a small firm trying to keep ahead of the big guys: every brief that came in was answered immediately. In the immortal words of the fellow who was turned into a newt, “It got better.”

Lately, however, I find myself slipping back into the bad habits of my youth. Perhaps it is the approaching desuetude of my second childhood; perhaps I am just lazy. Whatever it is, I have found myself often pressed for time lately in meeting commitments which (at least when I made them) sounded eminently reasonable. Things get shuffled, things get pushed, and inevitably some tasks are put off until the last possible moment (and, if no court order is involved, sometimes beyond). I may lose a day to cancelled flights (and the need for a ten-hour drive in the rain), or to unexpected computer or internet connectivity problems. What should and would have gone out Wednesday, does not.

There is, I admit, more than a bit of “the dog ate my homework” about these situations – or, there would be, if I had a dog. (Our cats merely nibble at the corners of homework, never fully ingesting.) But it is only recently I have begun to be sensitive to the lack of professionalism – the lack of civility – that procrastination can bring. Where no case-dispositive issue is at

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stake, it is only a matter of professional courtesy to grant an extension of time to respond to a brief, for example. Yet in making the request, I seldom think about whether I am changing a well-settled deadline internal to my opponent's schedule, about whether her act of professional courtesy to me will result in a lost afternoon with her child, or a late start to a vacation, or even something so simple as imposing an inconvenient schedule for grocery shopping. And although I may be willing to work late at night to polish off a court filing (in these days of electronic filing and "11:59:59 p.m." filing deadlines), that does not mean that my legal assistant, or my associate, or my spouse, has signed on to the inconvenience I am causing.

The art of the timely response so essential to civil and professional discourse is not limited to "getting back to the client promptly," although it surely includes that. It also means planning our work day – work week, work month, or more – with sufficient slack time to accommodate the unexpected. It means trying to ensure that an unexpected yet urgent client inquiry on the date a brief is due for another client does not mean burning the midnight oil for those around us, those who are so essential to our success. It is more than proper prioritization: it is front-loading work to the extent possible, to minimize the stress and tension that everyone involved in the law so often feels.

July 1 marks the halfway point of the calendar year. My "Half-New-Years' Resolution" is to be proactive, to make sure that I do not impose on others in order to accommodate my schedule. I will eschew procrastination just as soon as I can get around to it! ✧

Law Clinics Help Advance Virginia Law

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The judge said that this issue had never come before her in a decade on the JDR bench. This is unsurprising because of the nature of practice in the District Courts. While extremely skillful and professional, the workload of lawyers and judges in District Courts does not necessarily allow them to explore new legal theories like that needed to overcome this judge's *res judicata* concern. While the clinic could have moved to dismiss the petition and file for separate maintenance in Circuit Court, which several local practitioners suggested, we were also able to use our time and resources to explore and bolster our argument that the JDR Court could grant Ms. Doe's second support petition.

Because the JDR Court is not a court of record, and matters appealed to the Circuit Court are heard *de novo*, there was no case law on point for this specific legal question. Using a combination of statutes and case law, the Family Court successfully argued that the JDR Court could grant Ms. Doe support after its first order expired. Our argument was that only the Circuit Court may terminate a person's duty to support his spouse through a divorce decree. While Ms. Doe remained married, her husband still had a duty to support her, which the JDR Court was tasked with enforcing. If the JDR Court declined to enforce that duty by refusing to hear the petition for spousal support, it would be implicitly terminating Ms. Doe's right to support by her husband. The judge accepted the argument and granted Ms. Doe the spousal support.

This legal question may have remained unanswered without the research and argument of the students in the Family Law Clinic. While JDR Court practitioners operate in the fast-paced practice of the District Courts, students are able to use their time in law school clinics to explore new ideas for addressing unanswered questions in the law. These new arguments and conclusions enrich the courts and legal community and allow the law to better serve the needs of clients, especially low income clients like Ms. Doe. While the clinic students grow in their understanding of the law and its practice, the legal community also grows from the contributions from the next generation of lawyers. ✧

Legal Writing Workshop

The Virginia State Bar Section on the Education of Lawyers, the Virginia Bar Association Law Practice Management Division, and the American University Washington College of Law Legal Rhetoric Program are pleased to cosponsor this unique day-and-a-half workshop, designed to make you a better and more confident legal writer.

**Tuesday and Wednesday,
May 23 and 24, 2017**

Williams Mullen Center
200 South 10th Street, Richmond, VA 23219

Offers 10.0 hours of MCLE credit
(including 1.0 hour of Ethics)

The workshop will focus on:

- Basic grammar and writing strategies
- Tailoring your legal writing to your recipients and purpose
- Effectively writing a discussion or argument section of a memo
- The importance of persuasive characterization and fact emphasis
- Understanding, and implementing, roadmaps and transitions
- Ethical considerations in legal writing

Detailed course instructions (including the writing assignment) will be emailed to all attendees in advance.
Limited space available - register right away!

REGISTRATION FEE

\$350 regular registration. (Fee includes the seminar, printed materials, lunch on May 23, and snacks / refreshments).
Parking will also be provided at Williams Mullen Center if needed.

TWO EASY WAYS TO REGISTER

- ONLINE at <https://www.vacle.org/product.aspx?zpid=5755&zskuid=22496>
- CALL 800-979-VCLE (979-8253)

CONTRIBUTIONS

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

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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.

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This site is available only to Section members.

2017 Annual Meeting – Virginia State Bar June 15-18, 2017 – Virginia Beach

OMG LOL – Helpful Tips and Cautionary Tales
for Attorneys Communicating in the Modern Age

Friday, June 16, 2017

10:10 a.m. – 11:40 a.m.

Sheraton Oceanfront Hotel

Sponsors: **Section on the Education of Lawyer and General Practice Section**
MCLE Credit: **1.5 Hours, .5 Ethics**

There is no question that to effectively represent and satisfy a client, communication is the key. But *how* you communicate with your client, counsel, and the court is just as important. With e-mails, texts, social media, and everything in between, attorneys need to understand effective use of modern communication tools while avoiding the pitfalls. The benefits of instantaneous communication along with cautionary tales will be presented with thought provoking and, at times, humorous, examples to highlight when to use such communication in your practice and when to put that new, shiny smartphone down.

Hon. Randall Blow - Judge, Juvenile & Domestic Relations District Court, Virginia Beach

Kimberly A. Pierro – Group Vice President, Litigation, SunTrust Bank, Richmond; Secretary, Section on the Education of Lawyers in Virginia.

Stephen W. Robinson - McGuire Woods LLP, Tysons.

Jeremy S. Williams – Kutak Rock, Richmond.

Section's Annual Business Meeting & Lunch Hilton Oceanfront Hotel

The section will hold its **Annual Business Meeting Lunch** on Friday, June 16, at the **Hilton Oceanfront Hotel**, from 11:45-1:15. This will be a great opportunity to reconnect with your colleagues and catch up on section business over a casual lunch. During lunch, there will be an informal business meeting to elect new officers and board members.

Register [online](#) for the Annual Meeting and request your lunch ticket.

News and Events Around the Commonwealth

Regent

- ◆ Regent Law co-sponsored the 2016 National Christian Legal Society Conference in Washington D.C. in October.

University of Richmond

- ◆ Students in Richmond Law's Actual Innocence Institute worked on a clemency case for a non-violent drug offender whose sentence was commuted by President Obama in January.
- ◆ Richmond Law hosted its Emroch Lecture with the Hon. Robert Wilkins, author of *Long Road to Hard Truth* in March.
- ◆ The *Richmond Journal of Law and Technology* hosted its annual symposium on cyber security in February.

University of Virginia

- ◆ The University of Virginia School of Law students will gain practical experience working on civil rights and racial justice cases through a new pro bono clinic set to launch in the fall.
- ◆ The U.S. Supreme Court will hear a University of Virginia School of Law clinic case that could have far-reaching implications for class actions, collective bargaining and an employee's right to take his employer to court.

William & Mary

- ◆ In November, the U.S. Court of Appeals for the D.C. Circuit decided *Corrigan v. District of Columbia* in favor of Appellant Matthew Corrigan, a client of the Appellate and Supreme Court Clinic.
- ◆ In March, the William & Mary Bill of Rights Journal's two-day conference, "Big Data, National Security and the Fourth Amendment," fostered timely discussion of emerging technology and the legal doctrines affecting big data and national security.
- ◆ In April, the Journal of Women and the Law hosted a symposium on "Combating Human Trafficking Through Law and Social Policy."
- ◆ The new Center for the Study of Law and Markets held its inaugural symposium in April, bringing together leading contract law theorists to examine the relationship between markets and the moral foundations of contract law. ✧

Faculty News

Regent

- ◆ Dean Michael Hernandez has been appointed to serve on the Board of Governors of the Virginia Bar Association for a three year term.

University of Richmond

- ◆ Members of the American Association of Law Schools voted to appoint Dean Wendy Perdue president-elect for 2017.
- ◆ Chiara Giorgetti, professor of international law, was elected to the American Law Institute.
- ◆ Julie McConnell, director of Richmond's Children Defense Clinic, was recipient of the YWCA Outstanding Women Award in the field of education.

University of Virginia

- ◆ Professor Jonathan Cannon was named to Board of Environmental Law Institute
- ◆ Professor Kim Forde-Mazrui elected to American Law Institute
- ◆ In March, the U.S. Supreme Court heard a case being litigated by Professor John F. Duffy, *TC Heartland LLC v. Kraft Food Brands Group LLC*, which could substantially curtail so-called "forum shopping."

William & Mary

- ◆ Professor Emeritus John Levy passed away on April 2, 2017. During his 26 years at the Law School, Levy served not only as Director of Clinical Education, but also as director of the Summer Law Program Abroad and the Graduate LL.M. Program.
- ◆ Professor Kevin Haeberle, who teaches Business Organizations, Capital Markets Regulation, Securities Litigation, and Corporate Finance, will join the Law School faculty this fall.
- ◆ Professor Paul Marcus was installed in January as President of the Association of American Law Schools at the organization's annual meeting in San Francisco. ✧



Law Professor James E. Moliterno Receives the Section's William R. Rakes Leadership in Education Award

James E. Moliterno, the Vincent Bradford Professor of Law at Washington and Lee University School of Law and an international expert on legal ethics, has been named the recipient of the William R. Rakes Leadership in Education Award from the Virginia State Bar Section on the Education of Lawyers in Virginia.

Moliterno has been deeply involved with innovative legal education programs at Washington and Lee and before that at William & Mary where he was the Tazewell Taylor Professor of Law, Director of the Legal Skills Program, and Director of Clinical Programs from 1997-2000. He has received numerous awards for his work at both universities, his scholarship in books and articles is extensive and includes his 2013 book, *The American Legal Profession in Crisis: Resistance and Responses to Change* (Oxford University Press), and he is a highly sought-after speaker on ethics and professionalism.

In his letter nominating Moliterno, Washington and Lee Dean and Professor of Law Brant J. Hellwig noted that not only is Moliterno a highly respected teacher and scholar, but that "he has traveled throughout the world to help countries develop legal ethics policies while assisting in the training of lawyers and judges in jurisdictions with developing legal regimes." He has designed ethics courses in Serbia, Armenia, Georgia, Czech Republic, Japan, Indonesia, and China. "Professor Moliterno's passion for improving

the legal profession broadly and the ethical administration of law by lawyers and judges know no geographical bounds."

"I have admired and indeed have often been amazed at his unbridled passion not only for teaching students substantive law, but for doing so in a manner that will allow them to effectively and efficiently serve their clients in a professional and ethical manner," Hellwig wrote.

The awards Moliterno has received span his career. He was awarded the inaugural American Bar Association Gambrell Professionalism Award in 1991 for the best law school program for the teaching of ethics and professionalism. In 2012 he received the Rebuilding Justice Award from the Institute for the Advancement of the American Legal System.

Moliterno has been an active participant in all three VSB Conclaves on Legal Education and has delivered about 100 Continuing Legal Education programs to Virginia lawyers and judges.

The award was established in 2012 to honor former Virginia State Bar president and founder of the Section on the Education of Lawyers, William R. Rakes, a senior partner with the Roanoke firm of Gentry Locke.

The award, which is underwritten by Gentry Locke, is to be presented in June at the Virginia State Bar Annual Meeting in Virginia Beach. ✧

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