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of the

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*Founded 1886*

**The Communiqué**  
The Official Newsletter of The West Virginia Bar Association

Volume X No. 3

December 2004

## President's Corner

John F. McCuskey

*Past-President*



It has been a privilege to serve as the 119<sup>th</sup> President of The West Virginia Bar Association during this past year. I thank my predecessor, Jay West, for laying a solid foundation through his leadership and I extend my best

wishes to President-elect Charlie Love, whose commitment and vision will bring further growth and achievement to our Association.

This past year's success in planning and implementing programs to meet the needs of our membership has been, in large measure, a result of the hard work of an excellent Board – Phil Hill, Andy Miller, Rick Pill, Rhonda Harvey, Mark Adkins, Lisa Rose, and Bob Steptoe – all of whom gave generously of their time and talent. A special thanks is due to Phil Hill, chair of our Senior Lawyer Division, Mark Adkins, Chair of the Young Lawyers Division, and Andy Miller, chair of the Real Estate Lawyers Division, each of whom served for several years in these capacities before retiring from Board service this year.

Finally, my heartfelt thank you to Pryce Haynes, now in his fourth year as our Executive Director, who has brought continuity and stability to The Association and more importantly, has dramatically expanded the breadth and quality of our programs and activities. In addition to the numerous bench

and bar mixes and social events which we sponsored throughout West Virginia this past year, The West Virginia Bar Association took an active role in educating the public on the important West Virginia Supreme Court election by co-sponsoring two candidate debates with local bar associations – one in Charleston and one in Bridgeport.

Those debates, and the general election campaign that followed, highlighted – as no abstract forum or panel discussion could – the crying need to reform West Virginia's method for judicial selection. The spectacle of November's Supreme Court election campaign caused even the most hardened political cynics to wince at a process that has, in my opinion, undermined the public's confidence in the integrity of our judicial system. President Elect, Charlie Love, has put the issue of judicial election reform at the top of his list of priorities for The West Virginia Bar Association. I hope all of us will join him – the Plaintiffs' Trial Bar as well as the Defense Bar, democrats and republicans, labor and business leaders – to make 2005 the year that brings West Virginia into the mainstream of America on this vital issue. The time is right for action. ■

**The West Virginia**  
**Bar Association**  
*Founded 1886*

**Charles M. Love, III**  
President

**Pryce M. Haynes II**  
Executive Director

1111 6th Avenue  
Post Office Box 2162  
Huntington, WV 25722

PH: 800.944.9822  
FX: 304.522.2795

Email:  
[director@wvbarassociation.com](mailto:director@wvbarassociation.com)

## 118<sup>th</sup> Annual Meeting a Huge Success

Our 118<sup>th</sup> Annual Meeting at The Homestead in September was another success. The seminars received rave reviews and the social events provided great opportunities to visit old acquaintances and make new friends.

The highlight of the meeting was the presentation of our Award of Merit to the Hon. Robert E. Maxwell, Senior District Judge of the US District Court's Northern District. Judge Maxwell was joined by his wife, Ann, and daughter, Ellen Maxwell Hoffman, at Friday evening's presentation where Joe Wallace gave a fine introduction and accompanied John McCuskey in making the presentation of this prestigious award.

Past recipients of the Award of Merit include Edward I. Eiland, John O. Kinzer, Charles R. McElwee, Charles F. Bagley, Jr., Hon. Thomas B. Miller, John L. McClaugherty and Robert M. Steptoe, Sr.

Among the program features were those arranged by our newest Section, the Legal Nurse Consultants. They organized three outstanding CLE seminars, presented an attractive and informative exhibit booth, and hosted a very nice luncheon seminar on Saturday for their attendees. Karen Huff and Linda Wiater outdid themselves, as usual!

The success of this meeting is attributable in great measure to the generous support of our meeting sponsors and exhibitors: LexisNexis, First American Title Insurance Company, CSX Corporation, Pryce Haynes Associates, Romualdi, Davidson & Associates, Inc., Alexis Medical Consulting LLC, Access Document Systems, Moses Automotive Network, and Le-

gal Nurse Consultants of The WVBA. We greatly appreciate all these organizations do for us and thank them for their continued loyalty. ■

### Love Takes Reins of Bar Association

Charles M. Love III became the 120<sup>th</sup> president of The WVBA on September 18, 2004 at the conclusion of The Bar Association's 118<sup>th</sup> Annual Meeting at The Homestead. Charlie has the distinction of being the first "coincidental" president of both The WVBA and the WV State Bar. He is a partner in the Charleston office of Bowles Rice McDavid Graff & Love LLP and concentrates his defense practice in insurance, toxic tort, products liability and commercial litigation.

Charlie earned his undergraduate and law degrees from WVU and was admitted to practice in West Virginia in 1965. He and his wife Sally have two sons, one of whom is also an attorney.

The 2004-2005 year will be a very good year for The WVBA under Charlie's leadership! ■



*Lacy Rice, Phil Hill, Charlie Love*

## Real Estate Conference



*John & Susie Fisher, Paul Moore*



*Linda & Nick Johnson*



*Shelley & Bob Tebay*



*Peggy, Lucas & Jay Geary*



*Pryce Haynes, Bob Vital & Logan Hassig*



*Becky Ross, Allison & Patrick Deem, Alex Ross*

## New Chairman - Senior Lawyers Division

**Phil Hill**

*Past Chairman, Senior Lawyers Division*

Tom Battle of Charleston is the new chair of the Senior Lawyers Division of The West Virginia Bar Association. Tom (officially George Thomas Battle) is an outstanding lawyer and is a member of Spilman Thomas & Battle, PLLC. Tom has been and continues to be a community leader, and The West Virginia Bar Association is fortunate that he is willing to take on the responsibilities and challenges of the Senior Lawyers Division.

Tom is a former State Tax Commissioner and has been an active member of The West Virginia Bar Association for many years. Tom's father, Hawthorne D. Battle was president when I joined the Association in 1957. Tom and I served on the Auditing Committee many years ago, and he chaired this committee.

When he was younger, Tom and his doubles partner, Ike Smith, always won 1<sup>st</sup> or 2<sup>nd</sup> prize at our annual tennis tournament.

Although my accomplishments as chair of the Senior Lawyers Division during the past two years were slight, I am proud that I nominated Tom Battle to be Chairman-Elect of the Division two years ago. Under his leadership, the Division will thrive. I have known Tom for more years than either of us likes to admit, and he is distinguished as a person and lawyer. He also is a loyal and good friend. Good luck to Tom, the Senior Lawyers Division, and The West Virginia Bar Association. ■

## In Rememberance

**Robert J. Louderback**  
D.O.B.: 03-18-29  
D.O.D.: 05-28-04  
Charleston

**Mario J. Palumbo**  
D.O.B.: 1933  
D.O.D.: 07-04-04  
Charleston

**Everette F. Thaxton**  
D.O.B.: 1937  
D.O.D.: 09-07-04  
Charleston

**Elizabeth V. Hallinan**  
D.O.B.: 01-10-25  
D.O.D.: 06-08-04  
Charleston

**Teree Foster**  
D.O.B.:  
D.O.D.: 07-12-04  
Chicago

**DeWitt C. Gallaher IV**  
D.O.B.: 06-18-52  
D.O.D.: 09-16-04  
Fayetteville

**John R. Morris**  
D.O.B.: 05-19-12  
D.O.D.: 06-18-04  
Naples

**Gordon T. Ikner, Jr.**  
D.O.B.: 03-02-45  
D.O.D.: 08-21-04  
Lewisburg

**Hilary Gerard Kelly**  
D.O.B.: 07-07-54  
D.O.D.: 10-08-04  
Charleston

**James M. Sprouse**  
D.O.B.: 12-23-23  
D.O.D.: 07-03-04  
Charleston

**William C. Miller II**  
D.O.B.: 09-23-44  
D.O.D.: 08-24-04  
Sissonville

**Arthur T. Ciccarello**  
D.O.B.: 1930  
D.O.D.: 10-15-04  
Sissonville

## Crislip New Executive Council Member

Charleston attorney Stephen R. Crislip, member of JacksonKelly PLLC, was elected to the Executive Council at the Annual Meeting in September. Crislip is one of six Executive Council members who proceed "through the chairs" to presidency of The Bar. Having been Membership Chairman of The Bar, Steve's experience and leadership qualities will enhance the future of The WVBA.

Steve graduated Phi Beta Kappa from WVU in 1970 and earned his law degree from WVU College of Law in 1973. His practice focuses primarily in litigation with emphasis on the defense of cases involving professional responsibility, general, construction and business litigation. ■

## Elmore Heads Real Estate Division

O. Gay Elmore, Jr., real estate lawyer from Charleston, superseded Andy Miller of Huntington as chairman of the Real Estate Lawyers Division this past September. Gay received his undergraduate degree from VMI in 1987, where he was a standout varsity basketball player. In 1990 he received his law degree from Washington & Lee University. He and his wife, Beth, practice together at Elmore & Elmore concentrating in real estate, banking, insurance and mineral law, trusts and estates and commercial and civil litigation.

Gay brings with him a strong concern regarding the unlawful practice of law. With this interest and his vast experience in real estate law, Gay will prove to be a valuable asset in leading the Real Estate Lawyers Division. ■

## Real Estate Conference Big Hit

This year marked the second annual Real Estate Conference hosted by our Real Estate Lawyers Division. Stonewall Resort provided a most conducive venue for real estate lawyers from around the state who attended this informative and successful conference. Several interesting topics of real estate law were presented.

Gay Elmore, Chairman of the Real Estate Lawyers Division, following Rob Tebay's eloquent delivery of issues concerning the unlawful practice of law, rallied the attendees in support of efforts to stem the tide of lay people participating in various areas of real estate law. Other presenters were Jim StClair, Marc Slotnick, Dean John Fisher and Paul Trefz with First American Title Insurance Company.

First American Title Insurance Company was the conference sponsor, whose generous support made the conference all it could be. First American has been a loyal partner with the Real Estate Lawyers Division over the years and their continued allegiance is tremendously appreciated. ■



*Julie Haynes, Marc Slotnick, Andy and Sherry Miller attended the Real Estate Conference in October.*

**See page 15 for more pictures from the Real Estate Conference!**

## LNC Section News

**Karen J. Huff, BSN RN LNCC**  
LNC Section President

In September, LNC Section members attended the 118<sup>th</sup> Annual Meeting of The West Virginia Bar Association. Members from several states were present, including West Virginia, Virginia, Delaware, and New York. During the opening address John McCuskey, WVBA President, publicly thanked the LNC Section for our contributions to the organization. It was wonderful to be recognized so prominently!

Continuing with the process initiated last year, the Education Committee recruited speakers for special medical-legal lectures. Sessions were approved for continuing education credit for attorneys and LNCs. We received many compliments regarding the speakers and topics chosen. Included were:

- “Pain Management in Today’s Legal Arena” by Dr. Lilly, anesthesiologist and pain management specialist from Charleston, WV
- “Trends in Nursing Home Litigation” by Jason Stevens, Esq., from Steptoe & Johnson in Charleston, WV
- “Orthopedics for the Litigator” by Sue Seif, medical illustrator from Seif & Associates in Glen Allen, Virginia

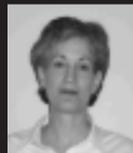
This year marked the first time we had an exhibit booth for the LNC Section. Linda Wiater volunteered to coordinate plans for the booth. She created a professional looking display featuring the AALNC exhibit booth, along with pamphlets and other materials designed to educate attorneys about legal nurse consulting. Also included were items specific to our Section, such as our Strategic Plan and our new LNC Section marketing brochure. Pattie Patterson made a beautiful table runner for

the booth using her digital embroidery machine. The color scheme and style of the runner matched the banner logo on the LNC Section website.

While the majority of time was spent attending educational and social events with other WVBA members, we designed a few activities just for LNCs. During a special luncheon meeting we reviewed last year’s accomplishments and discussed goals for the year ahead. Pryce Haynes, WVBA Executive Director, gave an inspirational speech about the value our group has brought to the organization. The meeting concluded with a special presentation by Lynda Kopishke on Forensics, a new frontier for LNCs.

Thanks to all who helped make this year’s meeting a success! ■

### Bridgeman Receives LNCC Credential



Congratulations to Elizabeth S. Bridgeman, BSN RN LNCC, who recently passed the Legal Nurse Consultant Certified exam in Chicago. The LNCC credential is achieved by candidates who must first meet eligibility and experience requirements, and then pass a rigorous exam. The LNCC program is the certification recognized by the American Association of Legal Nurse Consultants, and is accredited by the American Board of Nursing Specialties. Ms. Bridgeman has 15 years experience as an LNC and is a member of the LNC Section. She is currently employed by Bailey & Wyant in Charleston, WV.

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For more information contact Tomi Lynn Herold, Coordinating Attorney, at 412-441-1153 or [tomiherald@cs.com](mailto:tomiherald@cs.com)

## The Havoc of Fibromyalgia Syndrome

Charlotte Rogers, RN  
Legal Nurse Consultant / Life Care Planner

According to the American College of Rheumatology, fibromyalgia syndrome (FMS) affects 3 to 6 million Americans. More women are affected than men, though the condition strikes men, women and children of all ages and ethnicities. Other literature states that the actual number of people who experience FMS is unknown because most physicians lack the skills to diagnose and treat FMS effectively. Many of the symptoms mimic other disorders such as chronic fatigue syndrome, irritable bowel syndrome, and temporomandibular joint pain (TMJ).



FMS is a chronic disorder characterized by generalized pain, fatigue, disturbed sleep and numerous unexplained somatic complaints such as headaches, numbness, tingling, itching, fluid retention, abdominal pain, poor concentration and memory. For many years FMS was not understood and was thought to be psychological. However, in 1987 the American Medical Association recognized FMS as a true illness and major cause of disability equivalent to the effects of rheumatoid arthritis.

FMS has no known cause and there are no definitive diagnostic tests. Treatment of FMS requires a physician who believes FMS is real, and is able to coordinate comprehensive treatment to achieve relief by utilizing exercise, medication, physical therapy, and relaxation.

In summary, the "havoc" of FMS is that:

- It was once believed to be a psychological condition;
- It has no known cause with no definitive ways to diagnose it;
- It is a chronic disorder resulting in disability; and
- It requires a comprehensive approach utilizing medical and non-medical management to treat it.

More helpful information on fibromyalgia can be found on one of the websites listed below. ■

### Helpful Websites on Fibromyalgia

[www.fmpartnership.org](http://www.fmpartnership.org)  
Fibromyalgia Partnership

[www.fmaware.org](http://www.fmaware.org)  
National Fibromyalgia Association

[www.arthritis.org](http://www.arthritis.org)  
Arthritis Foundation

[www.rheumatology.org](http://www.rheumatology.org)  
American College of Rheumatology

[www.mayoclinic.com](http://www.mayoclinic.com)  
Mayo Clinic

118th Annual Meeting



Ralph Baxter, John & Mitzie Hankins



Joe Wallace and Robert Steptoe, Jr.



Mary VanMeter, Myla Bowman, John VanMeter



Charlotte Lane, Greg & Becky McNeer



Thomas Boggs, Chad Lovejoy, David Duffield



John McCuskey and E. Ted Ellet



Ann & John McCuskey



Lola & Bruce Toney, Sherry Miller



Deborah & Logan Hassig



Mary Peterson & Judge Elliott Maynard, Jeanne & Howard Persinger, Deborah & Logan Hassig

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## 118th Annual Meeting



*Steve & Barbara Hopta, Carolyn Morhous, Julie Haynes, Bruce & Lola Toney, Lisa Rose, Pryce Haynes*



*Bob & Mary Pat Steptoe, Myla Bowman*



*Breck Arrington, Jr., Lisa Rose, Larry Morhous, Anna Arrington, Robert Lathrop*



*Rick Pill*



*Tim & Karen Huff*



*Back Row: Lynda Kopishke, Janet Pennington, Sally Montano, Michelle Winters, Karen Huff, Linda Wiater, Becky Miller, Christopher K. Smith  
 Front Row: Anissa Dougherty, Pattie Patterson, Trina Randolph*



*Judge Robert E. Maxwell, John McCuskey, Joe Wallace*

## Young Lawyer Section News

Ronald S. Rossi, Esquire  
*Young Lawyer Division President*



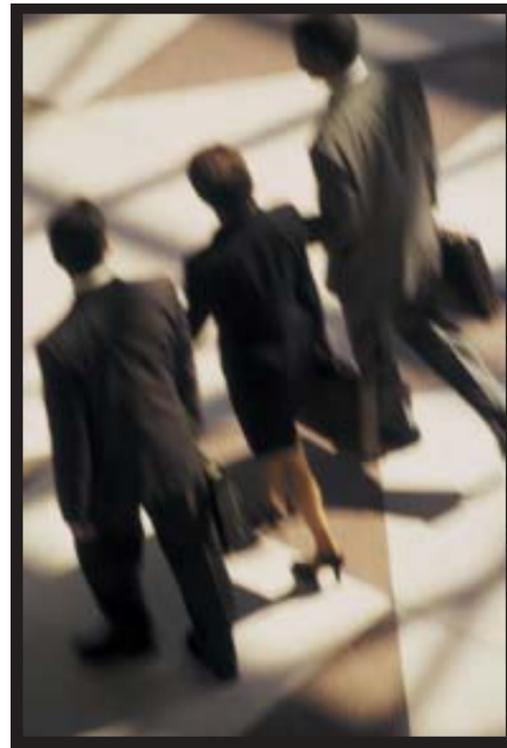
As we come to the end of 2004, the YLD Executive Council finds itself in a state of transition. As part of that transition, I have stepped into the role of President. I have been serving on the council for some time and welcome

this opportunity.

There is more to this exciting transition than merely the election of a new President. In fact, the council membership is being completely turned over. As I write this, the new membership has not yet been finalized, but we continue to progress in that direction. I feel confident that we will be able to put together a strong group of enthusiastic young lawyers to help The Bar Association grow and achieve its goals.

I would like to take this opportunity to acknowledge and thank those now former members of the council who have worked so hard and dedicated so much of their time to improve both the council and The Bar Association. In particular, I would like to express my personal appreciation to outgoing President Mark Adkins for both his past service and his agreement to help me and the council as needed in the future.

As the YLD grows and moves forward, I see a continuation of the programs and events that have been so successful in the past. We will continue to sponsor "Legal Ease" receptions throughout the state. We will continue to work with local bar associations to promote



The Bar Association. We will continue to co-sponsor the annual Bench and Bar Reception. But, we will not be content with merely continuing the successes of the past, we will work hard to build on those and find new avenues to promote The Association and its members.

I welcome any comments and suggestions you may have. The easiest way to reach me is by email at [RSRossi@martinandseibert.com](mailto:RSRossi@martinandseibert.com). Here's to a great 2005! ■

## History Project Gets the Go Ahead

The Executive Council recently approved the engagement of Kenneth R. Bailey, Ph.D., to research and write the history of The West Virginia Bar Association.

Dr. Bailey is retired Dean of the College of Business, Humanities and Sciences at West Virginia Institute of Technology in Montgomery. He earned degrees from West Virginia Institute of Technology, Marshall University and received his doctorate in history from Ohio State University in 1976. He is currently a member of the West Virginia Archives and History Commission, Kanawha County Public Library Board of Directors, West Virginia Historical Society and West Virginia Humanities Council. Dr. Bailey's vast experience and superb capability, coupled with his enthusiasm for our project, will certainly result in a finished work of which we can all be proud.

Three years ago, the Senior Lawyers Division, currently chaired by G. Thomas Battle, embarked upon this project, realizing the importance of preserving for posterity the legacy of The Bar Association. As Dr. Bailey mentioned, "Lawyers have had a great impact on the development of West Virginia, and to present a work of this type would help preserve their contribution for future generations." Other venerable bars have published their histories and the success of their efforts has been rewarding.



It is estimated the total cost for the completed and published work to be \$25,000, which will be raised through contributions and grants. The SLD has, so far, received contributions and pledges totaling \$16,400.

Dr. Bailey's work will span nearly two years and entail in-depth research, including personal interviews with selected attorneys from around the state. If you have any information, correspondence and/or pictures pertaining to The West Virginia Bar Association that you believe may be of interest, please contact The West Virginia Bar Association at 800-944-9822, or at [director@wvbarassociation.org](mailto:director@wvbarassociation.org). ■

