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Inserts

- ◆ "A Christmas Carol to Beat the Odds" flyer
- ◆ Arthur W. Sinclair Professionalism Award nomination form.
- ◆ PWCBF Silent Auction donation form
- ◆ 2004 Circuit Court Closing Calendar, amended
- ◆ J&DR District Court Closing Calendar, amended
- ◆ GDC Closing Calendar, amended

Hear Ye! Hear Ye!

News from the Prince William County Bar Association

Volume VIII Issue XI

December 2003

Presidents Message

By Gail Prentiss

Happy Holidays! Its that time of year again when neighborhoods are frosted in glittering lights and music and anticipation fills the air. Families gather, people make cookies, deck the halls, and plan nice surprises for each other. There seems to be a palpable change in mood as more people reach out to one another in the spirit of brotherhood and good will. During this magical season, many people make a concerted effort to share their gifts with others, especially the less fortunate.

In November, the PWCBA honored a particular group of people who share their gifts with others all year – our *pro bono* attorneys and supporting staff. The November membership luncheon was dedicated to recognizing the contributions of those individuals, and we were particularly pleased that several members of the Virginia Association of Legal Professionals (who graciously donated their time to the Uncontested Divorce Project) were also able to join us. In addition, Frances Hedrick and Joan Hughes presented a special recognition award to Russ Wells for his 15 years of volunteer service to the J&DR Court. We were further fortunate to have Circuit Court Judge Rossie Alston as our keynote speaker on the subject of *pro bono* service. Judge Alston's message was simple and direct: All of us benefit daily from living and/or working in this community. We are the community. It is therefore incumbent on each of us find ways to use our individual talents to give something back. The truth and universal applicability of this principle struck me during Judge Alston's remarks. Giving back not only helps the direct recipient, it also contributes to the personal growth of the donor and ultimately transforms the community. The changed atmosphere that takes place during the holidays is simply indicative of the positive effects that flow from a giving mentality.

The ways to give back are as numerous and diverse as our individual talents. But as I have learned first hand this year, the PWCBA provides a wealth of opportunities for attorneys. Some of the possibilities I encourage you to consider are as follows:

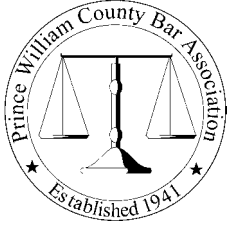
Apply for a Bar Leadership Position

The PWCBA is currently seeking applications for the following positions:

- President –Elect (three year term as Pres.-Elect, President, and Immed. Past President)
- Secretary (one year)
- Treasurer (one year)
- Board of Directors (one four-year term)
- Judicial Screening Committee (one five-year term)
- Bar Council Representative (one three-year term)

This is an excellent time to get involved! Many of your current leaders have been volunteering for years and the PWCBA welcomes new faces and talents. I can vouch for the fact that it is also tremendously rewarding. Elections will be held at the January 2004 luncheon meeting and applications should be returned to Amy Ashworth by December 10, 2003.

Continued, page 3



Prince William County
Bar Association, Inc.
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Offices in Judicial Center
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Manassas, Virginia 20110

TEL (703) 393-2306
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President
(703) 369-4738

Kathleen Latham Farrell
Immediate Past President
(703) 335-9390

D. Scott Bailey
President Elect
(703) 792-6050

John V. Notarianni
Secretary
(703) 792-6050

Robert P. Coleman
Treasurer
(703) 361-8246

Angela Lemmon Horan
Director 1999-04
(703) 792-6620

Elaine Trautwein
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Robert M. Cooper, Jr.
Director 2002-06
(703) 361-8246

Daniel J. Morissette
Director 2003-07
(703) 369-1987

Craig D. Johnston
Bar Council Rep. 2001-04
(703) 368-9196

Res Gestae

By Gail R. Prentiss

President

Russell N. Wells-for his 15 years of service to the J & DR court through the establishment and management of the court appointed rotation calendar.

Claire Keena-for her organization and implementation of the Character Counts!® Essay Contest and to **Amy Ashworth, Judge Becker, Cassandra Chin, Kathy Farrell, Judge Gluchowski, Mary Henry, Tracy Hudson, Terri Ireland, Megan Kelly, Amy McCullough, Donna McIntosh, Johanne Mullarkey, Gail Prentiss, John Primeau, Debbie Tolpa and Elaine Trautwein** who served as judges.

Bill Boge, Bob Coleman, Bob Cooper, Catherine Croft, Robert Gregory, Kathy Farrell, Shelby Hadfield, Polly Knight, Ray Morley, John Primeau, Lawrie Rollison, Sharon Soloway, Greg Stambaugh, Barbara Stough, Tim Szabo, Loretta Vardy, Arthur von Keller, Mark Voss, Robert Walker, Jennifer Weiss and Rick Wheeler for their continued support of the TRO project through ACTS/Turning Points over the past year.

Tasneem Ahmed, Amy Ashworth, Joseph Brinig, Cassandra Chin, Bob Coleman, Ralph Coon, Cathy Croft, Don Coulter, Jessica Edwardson, Louis Famiglietti, Kathleen Farrell, Larry Fischer, Bob Klima, Jeff Mangeno, Jim McCoart, Allen Newcomb, Scott Newton, Naznin Saifi, Dru Scalight, Leslie Shopf, Greg Stambaugh, Maria Stewart, Barbara Stough, Beth von Keller and Rick Wheeler for their continued support of the Uncontested Divorce Project for 2004.

Marta Constable, Eileen Evans, Roberta Farrell, Marian Foster, Jo Anne Meyer and Sherry Walters from the Prince William County Association for Legal Professionals who donated their time to support the UCD project for 2003.

2004 Court Closing Calendars

All three courts have amended their 2004 court closing schedule to include Friday, January 2. Copies of all three amended court closing calendars are included as inserts in this newsletter. (Please replace last month's amended calendars with these!)

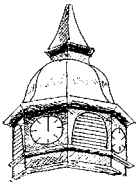
Treasurer's report

By Bob Coleman

Just a reminder that 2004 Dues Notices will be mailed the first week in January. Prompt payment of dues ensures continued funding for vital Bar Association projects and endeavors! Thank you in advance for your cooperation and payment!

Commonwealth's Attorney's Open House

Commonwealth's Attorney Paul B. Ebert cordially invites all members of the Prince William County Bar to attend his annual Christmas Open House on Thursday, December 18, 2003. This holiday gathering will be held at the Manassas Rescue Squad Building directly behind the Judicial Center in Manassas from 2:00 to 6:00 p.m.



Prince William County Bar Foundation Soliciting Donations for Silent Auction

By Amy McCullough

The Prince William County Bar Foundation is now accepting donations for its silent auction to be held in conjunction with the PWCBA's annual dinner dance. The silent auction is the Bar Foundation's major fundraiser for the year and the proceeds go to benefit the Beat the Odds® program and other community and law-related projects. Past items donated have included gift certificates, vacation weekends, golf and boating outings, sports memorabilia and tickets to concerts and sporting events. If you have an item you would like to donate, please contact Amy McCullough at 703-494-7171 or amccullough@szelaw.com.

President's Message Continued

Join and/or Lead a Committee

The various standing committees are the building blocks of the Bar Association through which members perform diverse specialized functions, from preparation of the budget and organization of the annual dinner dance, to community outreach and judicial screening. A list of the standing committees and current chairs can be obtained from the newsletter or Alissa Hudson. Committee Chairs are appointed by the President, so it will be particularly helpful if you make your interest known by advising Scott Bailey, our incoming President.

Commit to a Particular Project

If you have a talent which is well suited to a certain project, or if a program is particularly near and dear to your heart, concentrate on that. For example, the PWCBA has particularly benefited from Donna McIntosh's ability to put on a great party; Dan Hayes' budget and accounting expertise; Kathy Farrell's soft spot for "Beat the Odds"; Cathy Croft's organization of local CLEs; and Susan Grogan's dedication to the Timesaver's Projects, to name a few. There are also many one-time projects that do not require a year-long time commitment, such as judging essays in the Character Counts contest, speaking to students for "So your 18", or soliciting donations for the annual Silent Auction (if you are good at the latter, contact Amy McCullough asap!).

Buy a Ticket to "A Christmas Carol"

This is a great way to celebrate the season with friends while supporting each other, bar activities and Bar Foundation fundraising. Proceeds from these generously donated tickets will directly benefit the 2004 Beat the Odds Banquet, which in turn directly benefits at-risk youth and our community.

On behalf of the PWCBA, thank you for all of your hard work and support this year. We wish you all a safe and blessed holiday season.

2003

Standing Committee Chairs

Daniel G. Hayes
Budget and Audit
(703) 369-4738

Catherine S. Croft
CLE
(703) 335-9390

Kathleen Latham Farrell
Community Outreach
(703) 335-9390

Casey R. Stevens
Criminal Law
(703) 897-1777

Donna M. McIntosh
Entertainment
(703) 361-0776

Barbara M. Stough
Family Law
(703) 365-0090

Kevin P. Childers
Judicial Evaluation
(703) 330-6300

Gail R. Prentiss
Judicial Liaison
(703) 369-4738

D. Alden (Dan) Newland
Judicial Screening
(703) 330-0000

Angela Lemmon Horan
Legislative Affairs
(703) 792-6620

Helen E. Marmol
Library
(703) 754-7474

Kristina Keech Spittler
Membership & Mentoring
(703) 369-4738

Amy Ashworth
Nominations
(703) 330-3200

Rusty von Keller
Pro bono
(703) 361-2299

D. Scott Bailey
Professionalism
(703) 792-6050

Wendy A. Alexander
Public Relations
(703) 330-7400

Office Hours Prince William County Bar Association, Inc.

9:00 AM to 12:00 Noon
Monday through Friday
Afternoons by Appointment
Telephone (703) 393-2306
Fax (703) 331-5683

The PWCBA Office is located on the lower level of the Judicial Center in the Circuit Court Archives. Alissa N. Hudson, the Executive Director, is generally available at the Judicial Center on Friday mornings. At other times, you may contact her by telephone as noted.

Guidelines for Submissions to *Hear Ye! Hear Ye!*

Submissions can be faxed to the attention of Alissa N. Hudson, Executive Director, Prince William County Bar Association at (703) 331-5683, or may be mailed to her c/o Prince William County Bar Association, Inc., P.O. Box 31, Manassas, VA 20108. All submissions are due by 5:00 PM on the 10th of the month preceding publication. Be sure to include a contact name and phone number with all submittals in case there are questions.

“**Letters to the Editor**” may be submitted for publication by members in good standing of the PWC Bar, and must not exceed 500 words in length. “Letters” may be edited for clarity or space conformity. All submissions must have a contact name and phone number, and will include the author’s name in the newsletter.

For inquiries regarding classified or display advertising, contact the PWCBA office at (703) 393-2306, and request a copy of the most recent rate card.

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CLE Update

By Catherine S. Croft

MCLE REPORTING DEADLINE: December 15, 2003 - Failure to certify the required 12 CLE hours including 2 hours in ethics/professionalism by December 15, 2003 will result in a \$50 late filing fee. (Part 6, Section IV, paragraph 19, Rules of the Virginia Supreme Court)

The web site to check status of your CLE credits is www.vsb.org

The following CLEs are planned for early 2004, look for registration information beginning in January:

Personal Injury: January 16 3:00 p.m. - 5:00 p.m.

Bankruptcy: January 23 2:00 p.m. - 4:00 p.m.

Mediation: February 20, 2:00 p.m. - 4:00 p.m.

Lexis Nexis Training: April 16, 2003 2:00 p.m. - ?

The Bar wished to extend a special thank you to the following presenters of CLEs during 2003:

Nuts & Bolts: *The Honorable Wenda K. Travers, Casey R. Stevens, E. Allen Newcomb, D. Scott Bailey.*

Distribution of Decedents Assets (Probate & Non-Probate) & Medical Directives (a.k.a) Living Wills: *Dan Newland.*

Law Office Technology & Computer Forensics: *John W. Simek, Vice President, Sensei Enterprises, Inc.*

Adoptions, Types and Procedures: *Robert Henry Klima.*

Serving Non-English Speakers in the Virginia Court System. Guidelines for Policy and Best Practice: *Kathy Mays, Director of Judicial Planning for the Supreme Court of Virginia.*

Your Firm Fitness Checkup: *Janean Johnston, Law Office Audits Program Administrator for the Virginia State Bar.*

Review of Legislative Changes Regarding the A.S.A.P. Program: *The Honorable Peter W. Stekete, and Kimball T. Peele, Director, Bull Run A.S.A.P.*

Business Valuations: *William Duvall, Fiducial Duvall Wheeler.*

Overview of the Disciplinary System of the Virginia State Bar and 10 Quick Tips on

Avoiding Bar Complaints: *Noel Sengel, Senior Assistant Bar Counsel, Virginia State Bar*

Uncontested Divorce Pro Bono Project: *The Hon. Mary Grace O'Brien, Frances Hedrick, Joan Hughes, E. Allen Newcomb, Amy M. Ashworth, Robert Henry Klima, Catherine S. Croft, and Robert M. Cooper Jr.*

DUI Consult Through Sentencing, advanced litigation issues: *Casey R. Stevens.*

CALL FOR FUTURE ENTRIES!!! In reviewing the above list of CLE presenters for the 2003 year, the same names appear this year as in earlier years. Thank you for your continued support. However, EVERY bar member has the opportunity to either present a CLE or to provide an idea for the presentation of a CLE.

To all committee chairpersons: Please consider assigning the presentation of a CLE related to your committee subject matter to members of your committee as an ongoing and yearly committee assignment.

Please call or fax Cathy Croft at 703-335-9390 (phone) or 703-335-0799 (fax) with questions, ideas, or commitments.



Local Production of “*A Christmas Carol*”
to Benefit PWCBA’s 2004
Beat the Odds® Program

By Kathleen Latham Farrell
Chairperson, Community Outreach Committee

Vpstart Crow, Inc., a local professional theatre company, has generously donated fifty tickets to their December 6th production of “*A Christmas Carol*” to the PWC Bar Foundation. All proceeds, 100%, from the sale of the 50 tickets will directly benefit the 2004 *Beat The Odds*® program. Vpstart Crow is the only professional theater company between Arlington and the Blue Ridge and the performance will take place locally at the Cramer Center for the Arts at 9005 Center Street, Manassas. Tickets are on sale now for \$20.00 each. For an additional \$5 you are admitted to a champagne reception, but all of these proceeds will go to Vpstart Crow to cover the cost of the reception. This is a special opportunity to get into the holiday spirit and support a worthy charity at the same time. **For tickets, contact Susan Grogan at sgrogan@vfnlaw.com or 703/369-4738.**

Character Counts!®

Claire Kenna is the chair of the Character Counts!® Essay Contest for the PWCBA. Claire has been enormously successful in obtaining donations for prizes from the community from the Potomac Mills Mall, the Manassas Mall, Blockbuster Video and Walmart. This year, we are also pleased to have been awarded funds from the PWCBF for cash prizes for the winners totaling \$600. We received nearly 450 essays from nine area middle schools, making this the most successful contest to date. The judging took place on November 14, and we express our sincere thanks to the following volunteer judges, attorneys and staff who gave up part of their Friday night to read what our area youth have to say about *Caring, Citizenship, Fairness, Respect, Responsibility and Trustworthiness*, the six pillars of character: Amy Ashworth, Judge Becker, Cassandra Chin, Kathy Farrell, Judge Gluchowsky, Mary Henry, Tracy Hudson, Terri Ireland, Megan Kelly, Amy McCullough, Donna McIntosh, Johanne Mullarkey, Gail Prentiss, John Primeau, Debbie Tolpa and Elaine Trautwein.

The essay contest winners will read their essays and receive their awards at a ceremony to take place on November 24th.

2004 BAR DINNER DANCE

By Donna McIntosh

HERE’S THE INFORMATION YOU’VE BEEN WAITING FOR! The 2004 Annual Bar Dinner Dance will be held on February 21, 2004. We’ve added some exciting new twists to this year’s event, which promise to make it one of the best ever. First, the Dinner will be held at the beautiful Hyatt Regency Hotel at Reston Town Center. For those of you who haven’t been to Reston Town Center, you’ll want to make this a weekend event. There are plenty of shops and things to do both before and after the dinner. Next, in addition to recognizing the Bar’s finest professionals with the Court Appointed attorney awards, Guardian Ad Litem Award and the prestigious Arthur W. Sinclair Professionalism Award, the Bar will also take this time to extend a special recognition to retired Judges Hoss and Gallagher, as we unveil their portraits on the night of the Bar dinner. Of course, we’ll have live music and the Bar Foundation’s Silent Auction as well.

Mark your calendars now so you will be able to join in the festivities in February. Invitations will be sent soon, and information will be included with room rates for the Hyatt.

**2003-2004 PWCBA
Section Liaisons to the
VSB**

Scott H. Donovan
Bankruptcy
(703) 257-1159

Thomas D. Duling
Business Law
(703) 690-6800

Daniel J. Morissette
Criminal Law
(703) 369-1987

Paul F. Nichols
Family Law
(703) 690-7800

Ronald A. Robinson
General Practice
(703) 392-8283

Jack A. Robbins, Jr.
Litigation
(703) 369-7500


Robert B. Dickerson
Local Government
(703) 792-6620

Bryan H. Guidash
Real Property
(703) 680-4664

D. Alden Newland
Trusts & Estates
(703) 330-0000

Diane P. Lewis
Young Lawyers
(703) 369-4738

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Family Law Update

By Barbara Stough

The Family law committee met on October 28, 2003. The GAL brochure is in final draft and will be presented to the JDR judges to review. The Uncontested Divorce CLE was a success with 25 new lawyers signed up, enabling 50 divorces to be handled in the coming year. During 2003, the project exhausted its resources earlier than anticipated. Any lawyer who missed the CLE, but is willing to do one or two uncontested divorces for Legal Aid, *pro bono*, call Allen Newcomb to volunteer. All the preliminary work is done for you, applicants are screened to be sure that the divorce is truly uncontested. The family law committee's next meeting is January 27th.

Juvenile Court Children's Waiting Room

By Elaine Trautwinn

As bar members who practice in the Juvenile Court are aware, many parents find it necessary to bring their children with them while they are conducting business with the Court. This may occur for a variety of reasons, such as day care issues or because the child is a potential witness in a civil or criminal matter.

As part of the current courthouse renovation, a space has been set aside to provide a children's waiting area. For the past several months, an ad hoc committee has been meeting regularly to plan for the use of this space. It is the goal and expectation of the committee that the space will be used to provide children with a safe and pleasant environment in which to play.

The committee currently is addressing issues of furnishings, staffing and criteria for usage. It is anticipated that the space will be available for children from approximately ages 2-10. Initially, the space will be staffed by one or more volunteers, although funding for paid position(s) in future years is being pursued by the committee. Volunteer duties will include monitoring and supervising the children's activities and maintaining toys, book and supplies. Volunteers will also communicate with parents, who will be required to remain within eyesight of their children while the children are in the play area.

If any bar members are aware of any individuals or groups who might be interested in serving in a volunteer capacity, the point of contact for applicants is Katrina Graves, Prince William County Department of Social Services, (703) 792-7655. A copy of the job description is available online at www.pwccgov.org (follow the links to Human Resources/Employment Topics/Residence/Volunteer Opportunities).

Donations of furnishings have been received from some local businesses such as IKEA. Construction is underway and the space should be available to the public at the time that renovations are completed in February/March. The committee will keep the bar members updated on the status of this project as it nears completion.

Law Library

By Helen Marmoll

Comfortable Space for the Law Library--Our Library may be under going major updating changes, but the end result should be just what the Bar, the Courts and the public need. In the new building, the Library will occupy about 2000 square feet. There will be more shelf space with the planned compact shelving. Two coat racks will eliminate the need to carry coats or search for a corner to stash them. There will be two meeting rooms for attorneys to use for conferences, depositions, etc., and ten (yes, ten) study carrels. The Library now has the Lexis Nexis research system, matching the Courts. Our Librarian, Robert Davis, is available to help anybody who needs assistance to become familiar with this system. While the Library will contain a solid Virginia print collection, most of the other research materials will be available electronically, rather than in print.

Judicial Screening

By Dan Newland

The following notice was sent to the membership via global fax on November 20, 2003, and is reprinted here as a courtesy.

NOVEMBER 20, 2003

NOTICE OF ANTICIPATED VACANCY IN A JUDICIAL OFFICE

TO ALL MEMBERS OF THE PRINCE WILLIAM COUNTY BAR ASSOCIATION:

As many of you know, Circuit Court Judge Whisenant has announced that he will retire soon. The Judicial Screening Committee has been advised that the members of the local delegation to the General Assembly would like to have the Bar's input on the vacancy ASAP. The Committee plans to receive nominations for the Circuit Court vacancy as well as for any vacancy that could be created by the General Assembly's selection of a sitting Judge from the General District Court or the Juvenile and Domestic Relations District Court.

The Committee has established the following schedule for the nomination and balloting process:

November 19: Judicial Screening Questionnaires will be available for pick-up in the Law Library, or by e-mail, in Word format, or fax by sending a request to dan@tax-business.com or by calling Dan Newland at (703) 330-0000.

November 28: Deadline to return completed Questionnaires to Committee chairman, Dan Newland, 9835 Business Way, in Manassas. Each nominee should include a cover letter stating the court or courts for which he or she wishes to be considered.

December 4 and 5: Judicial Screening Committee will interview nominees in the offices of Dan Newland, 9835 Business Way, in Manassas.

December 8 or 9: The Committee will advise the Bar by global fax of the nominees found to be "qualified" as defined by Article IX, Section 2, of the by-laws along with a brief biographical summary for each nominee. Thorough biographical information will be made available in the Law Library in accordance with the Bylaws.

December 17 (Wednesday), 2:00 P.M.: Balloting in Circuit Courtroom 4.

Members will please note that Article VIII of the Bylaws provides in pertinent part as follows:

"A member delinquent in the payment of dues or penalties shall be deemed to be not in good standing and shall have no vote in the affairs of the Association. A member whose dues and/or penalties are delinquent for two or more years shall be removed from the rolls of the Association and may be readmitted only after payment of any admission fee and the current year's dues and a favorable vote from the Board of Directors."

Members having comments or suggestions concerning the nomination and/or balloting process are invited to contact any member of the Judicial Screening Committee. The Committee members and their telephone numbers are as follows:

Dan Newland (703) 330-0000
Kris Spitler (703) 369-4738
Paul Nichols (703) 690-7800

Casey Stevens (703) 897-1777
Bob Zelnick (703) 494-7171

Inclement Weather Policy

In the event of inclement weather, the PWCBA has formulated a policy for informing the membership, in as timely a fashion as possible, about court closings for Prince William County. As soon as the decision to close all three courts is made, (by the Chief Judge of the Circuit Court discussing conditions with Clerk of Court, Dave Mabie, and others), Dave will notify Alissa Hudson, (along with the myriad of others he notifies.) Alissa will then update the voice mail message at the PWC Bar office, (703) 393-2306, to reflect court closings for the day. If there is no update, courts are open. Alissa Hudson will also update the web site called www.cancellations.com for the Prince William County Bar Association. Simply log on to the web site, type in 20110 for the zip code when prompted, and information about court closings will be posted under the PWCBA heading. Accessing the PWCBA office or www.cancellations.com will hopefully provide the membership with an access line that is not subject to an inflow of calls from other county employees or from the general public.

If you can not get through to the bar office, or do not have access to the internet, you can call (703) 792-4636 (PWC-INFO) for information regarding court closings. The recorded message you will hear is updated once information regarding closings is communicated from Dave Mabie to the public services authorities and then to the PWC-INFO administrator.

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Bankruptcy Update

By Scott Donovan

TENANTS BY THE ENTIRETIES MAY NO LONGER PROTECT A SPOUSE FROM CLAIMS-In a recent decision by the Supreme Court (U.S. v. Craft 535 U.S. 274 2002), it ruled that a Federal tax lien against a husband would attach to a parcel of real estate despite the fact that he owned the property as Tenants by the Entirety with his wife, and despite a specific exemption provided by state law to the contrary. This is contrary to at least fifty years of consistent rulings that a single spouse could not cause a lien against entireties property. Later court rulings have limited this ruling to only Federal Liens, but Real Estate and bankruptcy practitioners and Estate planners beware. The law could broaden at any time and many clients may not be aware that the IRS has recorded liens against them.

VWWA Announcement

Celebrate the Holidays! The Virginia Women Attorneys Association, Northern Virginia Chapter invites all Prince William County Bar members to its annual holiday reception honoring recent state and federal judicial appointments. The following judges will be honored at this event:

The Honorable Allyson K. Duncan, The Honorable Dennis W. Shedd
The Honorable Liam O'Grady, The Honorable Elizabeth A. McClanahan
The Honorable James F. Almand, The Honorable William J. Minor, Jr.

The event will take place on Wednesday, December 10, 2003, from 6:30 p.m. to 9:00 p.m. at the home of Janet Kuhn. For further information or to RSVP for this event you may contact Debra Powers by phone at (703) 691-4848 or email her at dpowers@hicksfirm.com.

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Member - High Technology Crime Investigation Association

Arthur W. Sinclair Professionalism Committee

By Scott Bailey

The Professionalism Committee wishes to announce that nominations are now being accepted for the Arthur W. Sinclair Professionalism Award. Please note that no nominees are being carried over from last year; anyone you wish to nominate should be renominated this year for the award. Nominations should be sent, either on the enclosed form or by typewritten letter, to Scott Bailey, Chair, Professionalism Committee, 9311 Lee Avenue, Manassas, VA 20110, no later than January 2nd, 2004. The winner will be announced at the Annual Dinner which is scheduled to be held on February 21, 2004.

The Committee emphasizes both professional competence and courtesy with the following qualities to be considered in designating a recipient:

1. The nominee must have practiced law for a minimum of ten years (of which not all need have been in Prince William County).

2. The nominee must have a high standard of conduct, honor, integrity and courtesy to the legal profession and to those with whom the lawyer comes in contact.

3. The nominee must demonstrate courtesy and respect for the Court, as an officer of the Court, including punctuality, attention to procedures and cooperation with other counsel to identify and solve potential trial problems.

4. The nominee must demonstrate that his word is as binding as a written agreement.

5. The nominee should be vigorously devoted to civility in the Courts, to clients and other lawyers.

6. The nominee must demonstrate concern for the public good, respect for the civil rights and sensibilities of others and, where possible, provide public service.

Any nominee should be one who exercises candor with the Court, is a wise counselor who helps the client find non-confrontational solutions where possible, expeditiously, and for a reasonable fee, thereby facilitating the administration of justice and promoting public confidence in the legal system and legal profession.

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Criminal Law Update

By Dan Morissette

“Lautenburg Amendment” Considerations in Representing Military Personnel Charged With Domestic Violence Misdemeanors

In 1996, Congress amended the Gun Control Act of 1968 to, among other things, sanction possession of firearms by persons under a domestic restraining order or convicted of “domestic violence” crimes. The amendment, commonly referred to as the “Lautenburg Amendment”, is codified at 18 USC § 921 *et seq.* Upon the enactment of the amendment, the Department of Defense issued interim guidance to the military branches concerning how to manage military personnel known or reasonably believed to have domestic violence convictions. An example of the Army’s policy, typical of all service branches, can be found at www.gordon.army.mil/osja/lautenbu.htm. The policy does not provide sanctions for or even mention the restraining order provision in the amendment. I have been unable at this writing to determine why that is, although reading between the lines in some of the military news items written at the time regarding the amendment, it seems that there was consideration in the DoD policy for the individual rights of the military personnel. Much criticism has been directed at the amendment’s interdiction of Second Amendment rights based on a civil protective order founded on a preponderance of the evidence standard, and the military authorities may have been reluctant to invite litigation by taking punitive action against personnel in reliance on a such a court order.

In any event, the policy does require certain action to be taken by commanders regarding domestic violence convictions, including:

- 1.) Notifying all personnel under their command that they may not possess firearms if they have a domestic violence conviction;
- 2.) Reporting such convictions to headquarters;
- 3.) Detailing personnel with such convictions to non-firearm and non-ammunition bearing duties;
- 4.) Prohibiting such personnel from deploying on missions that require them to possess firearms or ammunition and to overseas assignments;
- 5.) Denying such personnel appointment to leadership positions involving access to firearms or ammunition;
- 6.) Prohibiting such personnel from attending individual weapons training.

In addition, the commander has the discretion to bar such personnel from reenlistment and to initiate proceedings for involuntary discharge.

The obvious consideration the policy raises in representing any military person charged with a domestic violence misdemeanor is that a conviction could mean their job, which for most military personnel means their career as well. Even if the military takes no formal disciplinary action against

them, the conviction recorded in their personnel file can have an extremely adverse effect on security clearances, promotion and assignments. It is therefore very important for counsel to vigorously defend these cases, which does not necessarily mean “going to the mat”. Not only the allegations of the offense, but also the defendant’s record in both the military and the community should be thoroughly investigated. If possible, communicate with the complainant, at least by letter, to make sure they are aware of the Lautenburg implications. It may make them more amenable to a favorable disposition, particularly in cases where reconciliation is possible or where they are relying on receiving child and/or spousal support from the defendant’s military earnings and a share of other military benefits such as pension and health care coverage. In addition to making sure the prosecutor is aware of the Lautenburg consequences to your military defendant *and the alleged victim*, mitigating circumstances of the offense and favorable factors in the defendant’s military and community background should be argued zealously to the prosecutor with the goal of obtaining a recommendation for a suspended imposition of sentence pursuant to § 18.2-57.3 (there is a finding of the sufficiency of the evidence to prove guilt, no finding of guilt is entered, and the matter is continued for two years to be dismissed, usually with certain conditions placed on the defendant), which disposition, by express provision in the military policy, does *not* trigger sanctions and is not even required to be reported. Make sure to inform your defendant that § 18.2-57.3 provides that if the matter is disposed of pursuant to that section, the arrest cannot subsequently be expunged, even if the defendant pleads not guilty.

Let me suggest that the extreme career risk to military personnel accused of domestic violence misdemeanors requires counsel to suggest strongly to the reluctant client that an offer of suspended imposition be taken. The usual irritants in these cases, such as obvious exaggeration or outright fabrication by the complainant and the amazing coincidence of the allegation being made after consultation with divorce counsel, should really not be given much, if any, weight in the analysis. The sometimes low level of proof found sufficient in these cases to convince the fact-finder “beyond a reasonable doubt” *must* be considered. Unfortunately, an unintended consequence of the Lautenburg Amendment and the military’s policy in reaction to it is that actually innocent military defendants, some of the finest people in our society, have been placed in the position of virtually having to falsely acknowledge guilt in order to avoid forfeiting their careers and their ability to provide for their families. For those not “fortunate” enough to obtain the prosecutor’s agreement for suspended imposition and therefore having to proceed to trial (in my opinion, a guilty plea without an SIS recommendation is not an option in these cases), I suggest doing something that I rarely, if ever, engage in. If the judge finds the client guilty, try to get him or her to change their mind. Ask for a pre-sentence investigation (assuming it will result in a positive report), and at the sentencing hearing or, if the judge denies the request, immediately, make the same arguments to the judge that were made to the prosecutor in an effort to get the judge to do an SIS.

Trusts and Estates Update

By Dan Newland

A Very Long Trip to Tibet -- Succession at the Top

When thinking about the need to do estate planning, imagine yourself on a trip to Tibet. Then consider -- what if the trip never ended and I never returned? Just as you must consider the impact of your mortality on your family, you must also consider the impact of your death or incapacity on your business. Many abhor this dreary subject but it requires attention.

Planning for the Passing of Control

Although it can prevent a lot of headaches in the long run, few business owners have the foresight to have written control agreements between the founder(s) and the next generation (or underlings) regarding the passing of control. Control agreements can take a number of forms, and may be called redemption agreements or buy-sell agreements.

For example, suppose the stock in a family-owned business is owned by several members of the family and it is the wish of all of them that, in the event of the death of one of them, the deceased's stock be kept in the family. If there is no agreement mandating the sale of the decedent's business interest, then that interest will pass by Will or intestacy (if there is no Will) to "someone." That "someone" may be an estranged spouse who is not a blood relative of the family or an out-of-state relative who previously had no contact with the business.

One way of preventing ownership from passing outside a family or group (say, a group of founders) is to have a redemption agreement between the current owners of the business. A redemption agreement would provide that if any one of the family members dies, the business or the survivors, individually, will buy the interest of the decedent. Such an agreement provides a number of benefits in addition to keeping the ownership in designated hands.

Such an agreement can create a market for the sale of closely held stock or partnership interests when there is no other practical way to sell the interest of a decedent. Often the decedent's immediate family members are not experienced in the business or psychologically ready to carry on the duties of the deceased owner. Such relatives are often better off with cash than with an interest in a closely held business.

Financing the Purchase of a Decedent's Stock

Life insurance, if it is available at a reasonable price, can prove invaluable in providing funds to purchase the interest of a deceased family member/stockholder. Furthermore, it allows the family of a decedent to have cash rather than an interest in a closely held business for which there is no market.

If insurance proceeds are not available to help pay for the purchase, few small businesses can pay cash for the entire interest of a decedent. Promissory notes providing for payments over a period of years may be the answer. Promissory notes allow the business time to pay for the interest, while giving the decedent's family a binding commitment from the business to pay, usually with interest added for the time value of the use of money. Such notes can, if agreed in advance, provide the promissory note holders with information about the business. They may also forbid the business from selling major assets or reorganizing unless the note holders are paid in full.

More Benefits of a Redemption Agreement

Mandatory sales agreements can also afford another benefit -- avoiding a fight with the IRS over the value of a decedent's interest. If the decedent has a taxable estate, the price stated in a bona fide redemption agreement will usually establish the value of the decedent's interest for estate tax purposes. So, in addition to handling immediate problems such as cash flow for the business and the financial needs of the decedent's family, a mandatory sales agreement, if properly drafted, can help keep the IRS examiners at bay.

What about the duties performed by the deceased business member? Often, in the event of the death of a colleague, the surviving officers are doubly burdened. Now, they have to handle more duties and work harder in order to provide income to the surviving members of the decedent's family. Imagine having to handle a heavier workload while, at the same time, having to deal with a surviving spouse of a deceased business associate who is demanding cash for necessities!

What if a major business owner is not dead but is seriously incapacitated? Suitable agreements can provide for mandatory purchases of the interest of a disabled or incapacitated business owner, although such provisions are less common. There is also insurance available for such disabilities but it is much more expensive than life insurance.

Upcoming CLEs

Fairfax Bar Association

For more information, call (703)246-2740

December 3, 2003, "Learning the Properties of Landlord and Tenant Law", 4:30 to 7:30 p.m., Fairfax Courthouse Cafeteria, 3.0 MCLE credits, Free with participation in three intake sessions during the next year in conjunction with Legal Services.

December 9, 2003, "DUI" CLE, topics to include the legislative process, pre-trial preparation, reckless driving, sobriety tests, a view from the bench, the Commonwealth's perspective, and blood tests. 4:30 to 8:30 p.m., Fairfax Courthouse Cafeteria, 4.0 MCLE credits, (pending)

There are no CLEs scheduled by the Prince William, Alexandria or Arlington County Bar Associations for the month of December.

VSF Young Lawyers Conference

By Diane Lewis Waters, 31st Judicial Circuit Representative

The Virginia State Bar Young Lawyers Conference (“YLC”) Annual Leadership Conference was held on September 13, 2003. The YLC provides a mechanism to implement many of the goals, objectives, and programs initiated by the Virginia State Bar (“VSB”), as well as programs designed to benefit young lawyers and members of the public. If you are a member of the Virginia State Bar in good standing who is under the age of thirty-six (36) or if you have been admitted to your first bar association for less than three (3) years, you’re a member of the YLC. In past years, the YLC sponsored a broad array of programs including, continuing legal education programs on professionalism, distribution of handbooks designed to promote access to legal services, such as the “So You’re 18 Handbook” and “Senior Citizens Handbook”, and public service programs such as the Diversity Tolerance Program. The goal of the YLC is to have each judicial circuit present three programs each year.

At the annual conference, the following four project ideas were presented in addition to those listed above:

1. Diversity Tolerance Initiative: This program consists of a three part workshop during which third grade students observe video vignettes of social situations and discuss how they can ensure a welcoming and accepting environment in elementary school. Young lawyers serve as discussion facilitators after the presentation of each video vignette. For example, in one video vignette, a student is mocked for his physical characteristics.
2. Wills for Heros Program: Young Lawyers Conference members draft simple wills for members of local fire and police departments. The trial run of this program was very successful in Arlington County and the YLC is looking to expand the program.
3. Domestic Violence Safety Project CLE: The CLE trains volunteer attorneys to assist domestic violence victims.
4. Community Law Week Project: The YLC sponsors activities during first week of May to coincide with Community Law Week to enhance the public’s awareness and appreciation of the role of law in American life. This year, we can choose between one of the following two projects (i) Celebrate Your Freedom Independent Court to protect Our Liberties; or (ii) To Win Equality by Law: *Brown v. Board of Education* at 50.

In addition to the above programs, we can create and present new programs for the YLC to sponsor, including programs in conjunction with other Circuits, such as Arlington, Alexandria, Fairfax or Loudoun. Rather than solicit volunteers for pre-selected programs, I would like to find out which programs you would like to see this judicial circuit implement. Please send me any thoughts/comments you have at dlewis@vfnlaw.com or call me at 703-369-4738.

Lautenburg Amendment, Continued

Emphasize to the judge that § 18.2-57.3 permits the judge to dispose of the matter by SIS even where the defendant pleads not guilty. I believe the unique effects conviction imposes on such a military defendant *and their dependents* require that the judge seriously consider a suspended imposition in any case not involving unprovoked, severe, physically corroborated violence and where the victim can be adequately protected by such a disposition. To ignore these effects in order to treat the military defendant “like anyone else” in fact results in much worse punishment than most non-military defendants will receive, and will most likely result in the victim sharing in that punishment.

In those rare cases where, in spite of your valiant efforts and brilliant representation in behalf of your military client, he or she is convicted, in addition to the automatic right of appeal there are a few other things to know. First, your convicted military client can still possess and operate tanks, artillery, rocket launchers, and other heavy weaponry (hopefully sufficiently far away from the former marital abode). Also aircraft, which seems to me to be a bigger threat than rifles and handguns. Second, if the serviceman/woman has completed at least 18 years of service and the commander brings an involuntary discharge action, the person must be permitted to complete their 20 years to full retirement (10 USC § 1176). Lastly, 18 USC § 925 sets forth procedures for the Secretary of the Treasury in appropriate cases to grant relief from the amendment’s sanctions upon application by the affected party.

Prince William County Bar Welcomes Newest Members

Scott S. Newton
9255 Lee Avenue
Manassas, VA 20110
(703) 361-8246

Derek A. Poteet
Coon, Johnston & Purnell, P.C.
P.O. Box 530
Manassas, VA 20108
(703) 368-9196

Michael Mattock
Walsh Colucci Lubeley Emrich & Terpack, P.C.
9324 West Street
Suite 300
Manassas, VA 20110
(703) 330-7400

Cameron M. Powell
Compton & Duling
14914 Jefferson Davis Highway
Woodbridge, VA 22191
(703) 446-2451

From our family to yours, best wishes for good health, happiness and prosperity in 2004.



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The Young Lawyers Conference Of The Virginia State Bar

Will be hosting a Happy Hour on

Wednesday, December 17, 2003 at 6:00 p.m, At Jake's Seafood Restaurant

*To Welcome New Members of the Virginia State Bar Young Lawyers Conference
Practicing in the 31st Judicial Circuit*

*If attending, please RSVP to Diane Lewis Waters at
(703) 369-4738 or dlewis@vfnlaw.com*



Upcoming Dates:

December 5, 12:30 p.m., General Luncheon meeting at Jake's Seafood Restaurant, program: Docket changes in GDC by The Honorable Peter W. Steketee and Time saver guidelines by Susan Grogan.
December 5, CLE surveys due, and pro bono attorney of the year nominations due.
December 6, 8:00 p.m., Cramer Center, "A Christmas Carol to Beat the Odds".
December 10, deadline for submittals to January *Hear Ye! Hear Ye!* and nominations for bar leadership due.
December 17, 2:00 p.m., Circuit Courtroom #4, membership vote for Judicial nominations.
December 17, 6:00 p.m., Jake's Seafood Restaurant, Young Lawyers Conference Happy Hour.
December 18, Commonwealth's Attorney's Christmas Open House.
December 19, 7:30 a.m., PWCBA board meeting at Alissa Hudson's home.
December 24, 25 and 26, all three courts closed for Christmas. Note GDC closes at noon on December 24th.



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Remember to RSVP for the Friday, December 5th General Luncheon Meeting. Program: The Honorable Peter W. Steketee to speak about anticipated docket changes in General District Court, and Susan Grogan to present Time Saver guidelines for Circuit and GDC. (Manuals to be distributed at the luncheon.)
Call Cathie Beck at Gail's office at (703) 369-4738 or the bar office at (703) 393-2306 by 5:00 p.m., Wednesday, December 3rd, to RSVP.



Hear Ye! Hear Ye!
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Christmas Spirit for the Whole Family



The Prince William County Bar Foundation,
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Are proud to announce

“A Christmas Carol to Beat the Odds®”

*Saturday, December 6, 2003 at 8:00 p.m.
Cramer Center, 9005 Center Street, Manassas*

Members of the Bar, their family, friends, employees, and passing acquaintances are invited to celebrate the season and support the 2004 Beat the Odds Program by purchasing tickets through BTO representatives, to Vpstart Crow, Inc.'s December 6, 2003 performance of Dickens' Christmas classic,

A Christmas Carol.

Help the Spirit of Christmas Past bring joy to someone's future.

Tickets are \$20.00 each, 100% of which, up to 50 tickets, goes to the Beat the Odds® program. For an additional \$5.00 each, patrons are welcome to attend the champagne reception at 6:00 p.m. in the theater. All funds for the champagne reception will go to Vpstart Crow to cover the cost of the reception.

For tickets, please contact Susan E. Grogan at sgrogan@vfnlaw.com or 703/369-4738.

THE PRINCE WILLIAM BAR FOUNDATION
12610 Lake Ridge Drive
Woodbridge, VA 22192

The Prince William Bar Foundation's annual silent auction will take place on February 21, 2004 in conjunction with the Prince William Bar Dinner Dance. The Foundation is a nonprofit organization that provides law-related education to the community and legal services to those in need. Your contributions may be tax deductible to the extent provided by law.

Please contribute to the success of this event by contributing a silent auction item. We are seeking vacation homes, getaway weekends, golf and boating outings, tickets to sports and entertainment events, personal services, and gift certificates to restaurants and retailers.

Silent Auction Donation –February 21, 2004

Name (As you wish it to appear on the program) _____
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Organization _____
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Item Description(s) _____

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Estimated Value \$ _____ Expiration, if any _____
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*If different from above then designate **donor's name** as it should appear in acknowledgment* _____

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If the item itself cannot be displayed at the auction, please provide a brochure, ad or photograph. Include a certificate or letter stating whom the successful bidder should contact to receive the gift.

Please fax this form as soon as possible, but not later than January 29, 2004, to
Prince William Bar Foundation
Attention: Amy McCullough
Telephone (703) 494-7171 – Fax: (703) 643-2666

Thank You!



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Wendy Jones
Chief Deputy

September 23, 2003

Holiday Schedule for Calendar Year 2004 for the Prince William County Circuit Court

In accordance with §§2.2-3300 and 17.1-207 of the 1950 Code of Virginia, as amended, the holiday schedule for this office for 2004 will be as follows:

New Year's Day	Thursday	January 1, 2004
New Year's Friday	Friday	January 2, 2004
Lee-Jackson Day	Friday	January 16, 2004
Martin Luther King Day	Monday	January 19, 2004
President's Day	Monday	February 16, 2004
Memorial Day	Monday	May 31, 2004
Independence Day	Monday	July 5, 2004
Labor Day	Monday	September 6, 2004
Columbus Day	Monday	October 11, 2004
Veteran's Day	Thursday	November 11, 2004
Thanksgiving Day	Thursday	November 25, 2004
Thanksgiving Friday	Friday	November 26, 2004
Christmas Eve	Friday	December 24, 2004
Christmas Day	Monday	December 27, 2004
New Year's Day	Friday	December 31, 2004

Court is open but no cases will be set during:
Spring Judicial Conference – May 10 - 12, 2004
Fall Judicial Conference – September 27 - 28, 2004
Election Day - November 2, 2004

VIRGINIA

***IN THE JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT
OF PRINCE WILLIAM COUNTY***

TO: State, County, City and Town Police Departments, PWC Bar Association,
Magistrate, Sheriff's Department, Commonwealth's Attorney, City Prosecutors,
Office of Criminal Justice Services, Dispute Resolution, Clerk, General District
and Circuit Court, Juvenile Court Services Unit, County Attorney's Office,
DCSE

FROM: Clerk's Office
Juvenile and Domestic Relations District Court

SUBJ: **Amended** 2004 Court Calendar

There will be NO Juvenile and Domestic Relations District Court held on the following days of 2004. Please notify appropriate staff of this schedule.

Thursday/Friday	January 1 & 2	New Year's
Friday	January 16	Lee Jackson Day
Monday	January 19	Martin Luther King Day
Monday	February 16	Washington's Birthday
<i>Tuesday/Wednesday</i>	<i>April 13 & 14**</i>	<i>Spring Judicial Conference</i>
Monday	May 31	Memorial Day
Monday	July 5	Independence Day
<i>Monday/Tuesday</i>	<i>August 16 & 17**</i>	<i>Fall Judicial Conference</i>
Monday	September 6	Labor Day
Monday	October 11	Columbus Day
Tuesday	November 2**	Election Day
Thursday	November 11	Veteran's Day
Thursday/Friday	November 25 & 26	Thanksgiving
Friday/Monday	December 24 & 27	Christmas
Friday	December 31	New Year's Eve

**** Clerk's Office Open – DO NOT set cases**

Dated: October 30, 2003

Frances H. Hedrick, Clerk of Court

VIRGINIA

IN THE GENERAL DISTRICT COURT OF PRINCE WILLIAM COUNTY

TO: State, County, City and Town Police Departments, National Park Rangers, VA Dept of Game & Inland Fisheries, George Mason University Police Department, NVCC Office of Police & Public Safety, Area Bar Associations, Magistrates, Sheriff, Commonwealth's Attorney, Clerks of Juvenile and Domestic Relations and Circuit Court; Offices of Criminal Justice Services, Dispute Resolution, Bull Run ASAP Office; and Volunteer Action Committee.

FROM: Clerk's Office, Prince William County **General District Court**

RE: **Amended 2004 Court Calendar**

There will be ***NO*** General District Court held on the following days of 2004. Please be sure that all appropriate staff is advised of this schedule.

Thurs/Fri	January 1 & 2	New Year's Day
Friday	January 16	Lee Jackson Day
Monday	January 19	Martin Luther King Day
Monday	February 16	Washington's Birthday
<i>Tue/Wed</i>	<i>April 13 & 14***</i>	<i>Spring Judicial Conference</i>
Monday	May 31	Memorial Day
Monday	July 5	Independence Day
<i>Mon/Tues/Wed</i>	<i>August 16, 17 & 18***</i>	<i>Fall Judicial Conference</i>
Monday	September 6	Labor Day
Monday	October 11	Columbus Day
<i>Tuesday</i>	<i>November 2***</i>	<i>Election Day</i>
Thursday	November 11	Veteran's Day
Thurs/Fri	November 25 & 26	Thanksgiving
Fri/Mon	December 24 & 27*	Christmas
Friday	December 31	New Year's Day

*** Office open – DO NOT set cases.

* Subject to amendment