



THE ROCKET DOCKET NEWS

The Newsletter of the Northern Virginia Chapter of the Federal Bar Association

JUNE 2006

OFFICERS

President

Michael S. Nachmanoff
Office of the Federal Public Defender
Michael_Nachmanoff@fd.org

President-Elect

John A. Trocki III
Morrison & Foester LLP
JTrocki@mofo.com

Immediate Past President

Barbara S. Wahl
Arent, Fox, Kintner,
Plotkin & Kahn
wahl@arentfox.com

Vice President

John F. Anderson
Troutman Sanders LLP
John.Anderson@troutmansanders.com

Secretary

John E. Coffey
Reed Smith LLP
JCoffey@ReedSmith.com

Treasurer

Attison Barnes, III
Wiley Rein & Fielding LLP
abarnes@wrf.com

Director

Sean F. Murphy
McGuireWoods LLP
sfmurphy@mcguirewoods.com

Director

Laurie Hand
Morrison & Foerster LLP
LHand@mofo.com

Director

Charles F. B. McAleer, Jr.
Miller & Chevalier Chartered
cmcaleer@milchev.com

National Delegate

Suzanne Little
Office of the Federal
Public Defender
suzanne_little@fd.org



News from the President

Spring finally arrived, and I hope that all of you have had the opportunity to enjoy some of the good weather that I have observed through the window of my office. The Northern Virginia Chapter of the Federal Bar Association ("FBA-NOVA") has had a full schedule this year starting in March at the Army Navy Country Club with a lively CLE entitled *Judicial*

Perspectives on Daubert. Tony Trenga, Esquire, skillfully moderated a panel which included the Honorable Gerald B. Lee from the Eastern District of Virginia and the Honorable Royce Lamberth from the District of Columbia. The CLE was entertaining (how often can you receive CLE credit by watching a clip from the movie *My Cousin Vinny*) and informative. In April, the FBA-NOVA hosted the annual Introduction to the Courthouse Program, which was attended by approximately seventy people, of whom more than forty were new admittees to the United States District Court for the Eastern District of Virginia. Judge Ellis graciously led his fellow judges in a mass swearing-in ceremony for the new admittees and personally greeted them after the admissions ceremony. At the reception following the Introduction to the Courthouse Program, it was my privilege to present former Clerk of Court Elizabeth Paret with a plaque on behalf of the FBA-NOVA expressing our appreciation for her service to the Eastern District of Virginia and wishing her all the best in her new position as Deputy Circuit Executive for the District of Columbia Circuit Court of Appeals. Finally, in May, the FBA-NOVA sponsored a bench-bar dialogue addressing federal civil discovery practice. In addition to a distinguished panel of practitioners, we were extremely fortunate to have all four magistrate judges of the Alexandria Division participate in the discussion.

We have one final event coming up before the FBA-NOVA takes a brief hiatus for the summer. I encourage you all to attend the upcoming FBA-NOVA CLE on Thursday, June 22, 2006 from noon until 2:00 p.m. at the Army Navy Country Club in Arlington, Virginia. The topic will be the False Claims Act, and I am sure it will prove to be a fascinating program. We will also hold our annual election of the FBA-NOVA Board of Directors. You will find more detailed information on this program below. I look forward to seeing you there.



EDITORS

Charles F. B. McAleer, Jr.
Miller & Chevalier Chartered
cmcaleer@milchev.com
(202) 626-5963

Rebecca L. Saitta
Wiley Rein & Fielding LLP
rsaitta@wrf.com
(703) 905-2831

The Rocket Docket News is a regular publication of the Northern Virginia Chapter of the Federal Bar Association. Any opinions or views published in the Rocket Docket News do not necessarily imply approval by the FBA, the Northern Virginia Chapter or any agency or firm with which the editors or authors are associated. All copyrights are held by the Northern Virginia Chapter of the FBA unless otherwise noted by the author.

Members of the Northern Virginia Chapter are encouraged to submit articles or news information of interest to other members of the Northern Virginia Chapter for possible publication in the Rocket Docket News. Please submit any proposed articles or news information to the Editors at the telephone numbers and e-mail addresses listed above. The Editors reserve the right to decide on publication, and any articles accepted for publication are subject to editing.

© Northern Virginia Chapter of the Federal Bar Association
All rights reserved.

Judges Lee and Lamberth Speak at March 1, 2006 Daubert Program

On March 1, 2006, the Northern Virginia and District of Columbia Chapters of the Federal Bar Association co-hosted a fascinating CLE lunch program entitled "Judicial Perspectives on *Daubert* in D.C. and Virginia Federal Courts." The program was held at the Army-Navy Country Club in Arlington, Virginia. The panelists were two distinguished federal district court judges, the Hon. Gerald Bruce Lee of the Eastern District and the Hon. Royce C. Lamberth of the United States District Court for the District of Columbia. The moderator of the program was Anthony J. Trenga of Miller & Chevalier Chartered. The program planners were John F. Anderson (Troutman Sanders, LLP), Attison L. Barnes, III (Wiley, Rein & Fielding, LLP), Silvio A. Krvaric (Covington & Burling) and Chas F. B. McAleer (Miller & Chevalier Chartered). Additional program assistance was provided by Laurie Hand and John A. Trocki, III, both of Morrison & Foerster, LLP. Approximately fifty attorneys attended the program.



**President Nachmanoff,
Judge Lamberth, Judge Lee, Tony Trenga**

Following welcoming remarks by the FBA-NOVA's president, Michael Nachmanoff, Judges Lee and Lamberth identified the issues that arise most frequently in their courts regarding the admissibility of opinion testimony from experts and other witnesses. Focusing both on the pre-trial and trial phases, the judges then gave practical suggestions for offering or opposing opinion testimony. Attendees left the program with helpful advice from the judges and a set of materials analyzing relevant authority in the D.C. and Fourth Circuits. In his concluding remarks, moderator Tony Trenga thanked the judges for the generous contribution of their time to help the attendees



**Judge Lamberth offers comments,
as Tony Trenga and Judge Lee listen**

improve their evidentiary presentations.



Another Successful Introduction to the Courthouse

On April 7, 2006, the Northern Virginia Chapter hosted the annual "Introduction To The Courthouse" program for new attorneys and those recently admitted to the Eastern District. There were over 70 attendees who had an opportunity to hear from or speak with Judges Cacheris, Ellis, Lee, Buchanan, Mayer and Mitchell, as well as U.S. Attorney Chuck Rosenberg, then-Clerk of the Eastern District Elizabeth Paret, Clerk of the Fourth Circuit Patricia Connor and attorney Bill Dolan. The program included a group swearing-in ceremony at which Judge Ellis administered the oath. The written evaluations for the program were very positive. One attendee commented: "I took to heart the emphasis upon civility made by all of the speakers." Another attendee wrote about the reception that followed the program: "I very much enjoyed the small reception afterwards; it was an excellent opportunity to meet with some of the speakers and judges and network with other attorneys." In a ceremony that one attendee described as "very touching," FBA-NOVA presented a plaque to Betsy Paret in recognition and appreciation of her service to the Court. The Northern Virginia Chapter extends its deep appreciation to all of the judges and speakers who participated in the program, to the Clerk's Office and Marshals Service for their logistical support and to Chapter Treasurer Attison Barnes of Wiley, Rein & Fielding LLP for his efforts again in planning this important annual event.

Alexandria Division Magistrate Judges Participate in May 17th Bench-Bar Dialogue

As they have done frequently in the past, the four Alexandria Division magistrate judges -- Judges Buchanan, Jones, O'Grady and Poretz -- generously made time in their schedules on May 17 to participate in a Bench-Bar Dialogue sponsored by the Northern Virginia Chapter. The program, which was held in the Jury Assembly Room at the federal courthouse, focused on "Federal Civil Discovery Practice." It was organized and moderated by John E. Coffey of Reed Smith LLP. The bar panelists were John A. Trocki, III of Morrison Foerster, LLP and Chas McAleer of Miller & Chevalier Chartered. Attendees received two hours of CLE credit for the program.

The program materials consisted of six hypothetical fact patterns that were annotated with relevant caselaw. The topics addressed in the hypotheticals included privilege protection for communications with former employees, attorney conduct at depositions, privilege logs, corporate designee depositions, expert witness designations and discoverability of documents produced to government investigators. The judges offered helpful comments regarding each of the topics and also responded to questions from the audience. As comments during the post-program reception suggest, attendees left with greater insight into how they can more effectively manage the discovery process and work with opposing counsel to avoid or resolve discovery disputes.

Plan to Attend the June 22nd Annual Lunch Meeting and CLE Program

FBA-NOVA will hold its annual business meeting and lunch at the Army-Navy Country Club on June 22nd from 12 noon to 2 p.m. On the agenda for the meeting is the election of the Chapter's officers and directors. The Nominating Committee has proposed the following slate of candidates for the next year: John Trocki (President), John Anderson (President-Elect), Jack Coffey (Vice President), Attison Barnes

The Federal Bar Association's
Mission Statement:

"The mission of the Association is to advance the science of jurisprudence and to promote the welfare, interests, education, and professional growth and development of the members of the Federal legal profession."

For more information regarding the Federal Bar Association and its activities, please contact the Federal Bar Association at its national offices:

The Federal Bar Association,
2215 M Street, N.W.
Washington, D.C. 20037

Telephone: 202-785-1614
Facsimile: 202-785-1568
E-mail: fbaf@fedbar.org



(Secretary), Chas McAleer (Treasurer), Suzanne Little (FBA National Delegate), Laurie Hand (Director), Sean Murphy (Director) and Scott Caulkins (Director). Members may nominate additional candidates from the floor. The meeting will include remarks by the Eastern District's new U.S. Attorney, Chuck Rosenberg, as well as a one-hour CLE program entitled, "Hot Topics in False Claims Act and *Qui Tam* Litigation." The CLE speakers will be Assistant U.S. Attorney Richard W. Sponseller and Robert K. Huffman, Esq. of Miller & Chevalier Chartered. Please send your registration form to Chapter Treasurer Attison Barnes as soon as possible to secure your spot at the meeting -- and don't forget to bring your summer associates.

Notice Regarding Amendments to Local Rules

The Court's Public Information Officer, Edward A. Adams, has asked FBA-NOVA to distribute the following message to its members: "On April 23, 2006, the U.S. District Court for the Eastern District of Virginia issued proposed amendments to Local Civil Rule 67, concerning deposits into court, and Local Civil Rule 83.6, concerning settlement conferences. The proposed amendments are located here: www.vaed.uscourts.gov/rules/proposedamendments0406.pdf. The proposed amendments will take effect on August 1, 2006, subject to revisions in light of comments received. Interested parties may submit comments by U.S. mail or e-mail on or before June 30, 2006 to: Edward A. Adams, Public Information Officer, U.S. District Court for the Eastern District of Virginia, 401 Courthouse Square, Alexandria, Virginia 22314, Edward_Adams@vaed.uscourts.gov."

FBA-NOVA president Michael Nachmanoff and former president Bill Cummings were recently nominated to serve on the Board of the Eastern District of Virginia Historical Society which is being organized by Chief Judge Douglas O. Tice, Jr. of the U.S. Bankruptcy Court for the Eastern District of Virginia. The Society recently engaged an author to research and write a history of the Eastern District of Virginia. The history should be published within the next several years.

Chapter Members Attend "Colors of Justice" Program

Several members of the FBA-NOVA, including board members John Anderson and Chas McAleer, attended the "Colors of Justice" reception held at the George Mason University School of Law on April 7, 2006. The reception is a very important annual event that celebrates diversity in the law. The Hon. Gerald Bruce Lee was the featured speaker and gave very inspirational remarks regarding the benefits of a diverse bar in the Northern Virginia region.

Make Plans for the Upcoming FBA Annual Meeting

The Annual Meeting of the Federal Bar Association will be held in Las Vegas, Nevada from August 23-26, 2006. Details regarding the Annual Meeting are available at the FBA's website, www.fedbar.org.



MEMBER
SPOTLIGHT

Catherine R. Nguyen



Catherine R. Nguyen is a first year associate working in the Falls Church office of Reed Smith LLP. Catherine joined Reed Smith in 2005 after earning her law

degree from Columbus School of Law at Catholic University. Since joining Reed Smith, Catherine has worked on complex commercial litigation cases at both the state and federal level, and has also worked on cases involving intellectual property disputes, including patent infringement and licensing disputes. Catherine is a member of the Intellectual Property and Information Technology Law Section of the Virginia State Bar Association, and the Virginia Young Lawyers Bar Association. She is fluent in Vietnamese.

Prior to earning her law degree, Catherine received her B.A. in Government and Theology from Georgetown University in 2001. Following graduation, she joined the Jesuit Volunteer Corps where, among other things, she worked at the Catholic Relief Services as a caseworker for an immigrant family from Burundi, Africa.

In her leisure time, Catherine is an avid runner and recently qualified for the Boston Marathon. She has also been involved in many charitable, community and social service activities over the years.

Recently Reported Opinions

In this and subsequent issues, *Rocket Docket News* will highlight selected decisions from the Eastern District of Virginia. If you know of recent court decisions, whether reported or not, that might be of interest or use to fellow Chapter members, please send a copies of the decisions (or summaries) to the Editors at cmcaleer@milchev.com or rsaitta@wrf.com.

A comprehensive securities fraud opinion: *Iron Workers Local 16 Pension Fund v. HILB Rogal & Hobbs Co.*, 2006 U.S. Dist. LEXIS 29460 (E.D. Va. April 24, 2006) (Alex. Div.) (securities fraud case; motion to dismiss granted; detailed analysis of allegedly fraudulent statements).

Constitutional challenges to Virginia statutes: *Atlantic Machinery & Equipment, Inc. v. Tigercat Indus., Inc.*, 2006 U.S. Dist. LEXIS 28561 (E.D. Va. April 14, 2006) (Rich. Div.) (Virginia Heavy Equipment Dealer Act; statute is not unconstitutional; plaintiff's motion for partial summary judgment granted); *Life Partners, Inc. v. Miller*, 420 F. Supp. 2d 452, 2006 U.S. Dist. LEXIS 11375 (E.D. Va. March 10, 2006) (Rich. Div.) (Virginia Viatical Settlements Act; statute is not unconstitutional; defendant's motion for summary judgment granted).

Three insurance cases: *State Farm Fire & Casualty Co. v. Singh*, 2006 U.S. Dist. LEXIS 33474 (E.D. Va. May 25, 2006) (Rich. Div.) (insurer had no duty to defend); *Mayton v. Auto-Owners Insurance Co.*, 2006 U.S. Dist. LEXIS 28952 (E.D. Va. May 2, 2006) (Rich. Div.) (granting defendant-insurer's motion for summary judgment); *Merenstein v. St. Paul Fire and Marine Insurance Co.*, 2006 U.S. Dist. LEXIS 22440 (E.D. Va. March 28, 2006) (Alex. Div.) (in case involving settlement of medical malpractice claim, court grants defendant-insurer's motion for summary judgment on fraud and bad faith claims).

Two patent infringement cases: *Alberta Telecommunications Research Centre v. Rambus, Inc.*, 2006 U.S. Dist. LEXIS 26313 (E.D. Va. April 12, 2006) (Rich. Div.) (motion to transfer granted); *Aventis Pharma Deutschland GmbH v. Lupin, Ltd.*, 2006 U.S. Dist. LEXIS 31960 (E.D. Va. May 11, 2006) (Norf. Div.) (extensive claim interpretation analysis).

Three cases involving fee requests and sanctions: *Bennett v. Fairfax County*, 2006 U.S. Dist. LEXIS 29458 (E.D. Va. April 25, 2006) (Alex. Div.) (in employment discrimination action, plaintiff is awarded attorney's fees); *America Online, Inc. v. Bagley*, 2006 U.S. Dist. LEXIS 30666 (E.D. Va. May 8, 2006) (Alex. Div.) (in default action, plaintiff awarded attorney's fees); *CareFirst of Maryland, Inc. v. First Care, P.C.*, 2006 U.S. Dist. LEXIS 11423 (E.D. Va. March 10, 2006) (Norf. Div.) (in trademark



Recently Reported Opinions (continued)

infringement and dilution action, plaintiff ordered to show cause why sanctions should not be awarded against it).

Several employment discrimination or retaliation cases: *Bullock v. Rehrig International, Inc.*, 2006 U.S. Dist. LEXIS 28308 (E.D. Va. May 10, 2006) (Rich. Div.) (granting defendant's motion for summary judgment); *Jiggetts v. American Funds Group*, 2006 U.S. Dist. LEXIS 30672 (E.D. Va. May 8, 2006) (Norf. Div.) (granting defendant's motion for summary judgment); *DePaoli v. Vacation Sales Associates, LLC*, 2006 U.S. Dist. LEXIS 22928 (E.D. Va. April 25, 2006) (Norf. Div.) (denying defendant's motion for JMOL and for new trial); *Bennett v. Fairfax County*, 2006 U.S. Dist. LEXIS 29451 (E.D. Va. April 25, 2006) (Alex. Div.) (denying defendant's motion for JMOL and for new trial); *Gray v. Winter*, 2006 U.S. Dist. LEXIS 29449 (E.D. Va. April 25, 2006) (Norf. Div.) (granting defendant's motion for summary judgment); *Hale v. Con-Way Transportation Services, Inc.*, 2006 U.S. Dist. LEXIS 23029 (E.D. Va. April 4, 2006) (Norf. Div.) (granting defendant's motion for summary judgment); *Shields v. Department of the Navy*, 2006 U.S. Dist. LEXIS 22498 (E.D. Va. March 29, 2006) (Newport News Div.) (denying defendant's motion for summary judgment; partially granting defendant's motion to dismiss on exhaustion grounds); *Harris v. Rumsfeld*, 2006 U.S. Dist. LEXIS 22499 (E.D. Va. March 29, 2006) (Norf. Div.) (granting defendant's motion for summary judgment); *Haro v. Gonzales*, 2006 U.S. Dist. LEXIS 22443 (E.D. Va. March 28, 2006) (Alex. Div.) (granting defendant's motion for summary judgment).