



2016 Best of the Best Class & 2015 Alumni Representatives

State Leadership Conference

Our advocacy efforts received a great boost last week, when hundreds of broadcasters from across the country came to Washington, D.C., to speak with their members of Congress about legislative issues impacting broadcasters during NAB's State Leadership Conference. This annual event features a robust program where broadcasters hear from prominent federal policymakers and industry leaders, and where broadcasters meet with their legislators to discuss current issues affecting the industry. The conference is also a great opportunity to network with fellow broadcasters from across the country.

Members of our Board of Directors, the 2016 Best of the Best class as well as our 2015



Gordon Smith, President & CEO of the NAB



**George Kayes, WSET-TV, VAB President
Charlie Russell of WESR-AM/FM, Candice
Cole, WRIC-TV, Gina Honeycutt, WWBT-TV.**



**Jack Dempsey, WCYB-TV, won a
raffle prize!**

Continued on page 2

Inside

- 2-State Leadership Conference** *(continued)*
- 3-WDBJ's President & General Manager to step down following station's sale**
- 4-VAB Best of the Best Featured Q & A**
- 5-WDBJ's President & General Manager to step down following station's sale** *(continued)*
- 6-Job Bank**
- 7-The Virginia Association of Broadcasters Station Awards**
- 8-Fourth Circuit Backs NLRB on Supervisor Status**
- 10-Cocktails & Conversations**

Upcoming Events:

March 17, 2016
Abingdon Regional Meeting
Martha Washington Hotel

April 21-22, 2016
Best of the Best Session #3
Omni, Charlottesville
Charlottesville, VA

June 23-25, 2016
79th Annual
Summer Convention
Hilton, Virginia Beach

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Continued from page 1

Best of the Best alumni representatives were in attendance and stormed the Hill on Wednesday, February 24th attending 12 meetings with Virginia Senators & Congressmen.

As primary politics heat up, policy work slows down in Washington, D.C. Broadcasters, however, continue to face important action, including a historic auction of television spectrum and an AM revitalization process at the Federal Communication Commission (FCC). We're anticipating the possibility of a productive lame duck session and laying the foundation for the next Congress, which could consider changes to the music licensing system. Vital to our advocacy on these issues is legislators' understanding of radio and television stations' valuable local impact.



Mark Johnson, WAVY-TV won a raffle prize!



Members with Congressman Morgan Griffith.



WDBJ's President & General Manager to step down following station's sale



By Ralph Berrier Jr.

Jeffrey Marks, the president and general manager of WDBJ (Channel 7) who guided the station through the shock, mourning and recovery that followed the on-air killings of two Channel 7 employees last year, will leave Roanoke's top-rated television station for a role with its new corporate owner.

Marks said he will become director of talent development for Gray Television, the Atlanta-based media company that is buying WDBJ and several other television stations from Schurz Communications of Mishawaka, Indiana. The sale of the stations could be complete by Feb. 1, according to a Schurz executive.

Marks said he decided to stay at WDBJ through the sale. In his new job, he said that he will help recruit and develop new talent for Gray's stations, which will number 50 after the sale. He plans to stay in Roanoke for the time being and will work from home and on the road.

"I expect I'll be working out of my briefcase," he said. "It's a big job, and one I think I will enjoy. Gray wants to step up their recruitment of talent and development of talent. This is something I can really sink my teeth into."

Marks, 63, has been the boss at WDBJ since 2007 and is just the fourth general manager in the 60-year history of Roanoke's CBS affiliate. His leadership came during a tumultuous time for news organizations, including broadcast outlets, as more digital offerings pried eyeballs away from traditional newscasts. WDBJ was also hit with a record penalty from the Federal Communications Commission after

a 2012 newscast included a televised image from a website that briefly showed male nudity. WDBJ has appealed the FCC fine.

Still, nothing could compare to the tragedy that unfolded on Aug. 26 when reporter Alison Parker, 24, and cameraman Adam Ward, 27, were shot and killed by a former WDBJ employee during a live segment aired on the "News 7 Mornin'" broadcast.

Following the deaths of Parker and Ward, Marks became a national voice for WDBJ's anguish. He conducted interviews with dozens of national media outlets that camped in Channel 7's parking lot, spoke at memorial services and continued to make sure the station produced daily newscasts while reporters and co-workers processed their grief, sometimes during emotional broadcasts.

"When August 26 happened, I was so thankful to have him there," said Marci Burdick, senior vice president of broadcasting for Schurz. Burdick praised Marks' "ability to manage all of the external forces, all while never taking his eye off the way the staff was feeling inside. He never thought about himself, it was always about the staff. That's the mark of a true leader."

A native of Lexington, Kentucky, who was inducted into the Kentucky Journalism Hall of Fame last year, Marks came to Roanoke from WAGT in Augusta, Georgia, in July 2007. His broadcasting career began in 1971, when he was a student at the University of Kentucky, and he has been a radio reporter, TV news producer, editorial producer and general manager. He was an executive news producer at WJLA in Washington, D.C. and worked at stations in New York, New Jersey and Maine before joining Schurz in 2005.

Marks also presided over a transitional period for WDBJ, the longtime leader in the Roanoke-Lynchburg TV market. The station saw the departures of longtime anchorman Keith Humphry, sports director Mike Stevens, news director Amy Morris and other veteran reporters. Marks' 2011 hiring of then-23-year-old Chris Hurst as co-anchor alongside Jean Jadhon at the signature 6 p.m. newscast was a surprise move at the time.

Now, four and a half years later, WDBJ is still the market leader in broadcast news. The station's newscasts are the most-watched from morning until night.

Kevin Latek, a senior vice president for Gray Television,

Continued on page 5



VAB Best of the Best Featured Q & A

**1-Where did you grow up/
go to school?**

**2-What was your first job
in broadcasting?**

**3-What is your career
goal?**

**4-What are you most
looking forward to
learning/taking away
from the Best of the Best
Leadership program?**

**5-What do you like to do
in your free time?**

**6-If you could have
dinner with somebody
from the past, present or
future who would it be
& why?**



Candice Cole

1- I was born and raised in Washington, DC, in the Brookland/Catholic University neighborhood. I attended catholic schools until high school and graduated from Bowie High School in Bowie, MD. During my college years, I went to Clark Atlanta University in Atlanta, GA, but ultimately graduated from Bowie State University in 2009, Magna Cum Laude. I earned my BS in Communications w/a concentration in broadcast journalism, minoring in Spanish. I then went on to earn my MA in Television Journalism from Goldsmiths, University of London in 2011.

2- My very first paid gig in broadcasting was for the federal government where I worked for two-and-a-half years as an intern in the Broadcasting Branch for the Department of Housing and Urban Development. While there, I handled incoming phone calls and displayed viewer emails for live government broadcasts and training. I also provided voiceovers for some shows, assisted with studio set up, filled-in in the Technical Director role, and I also produced a short-version documentary project about the history behind the architecture of the HUD building.

3- So far as career goals, I have several. I love to travel and experience other cultures. I am working towards becoming an international correspondent because I want to be able to bring people stories from around the world into their living rooms. I would also like to have my own travel series. However, ultimately I would like to run my own broadcast network one day.

4-I am most looking forward to learning about the other sides that make up the broadcast business outside of the

newsroom. During my time in the VAB Best of the Best program, I want to learn more about how the business side of things is run. I am most looking forward to the next session coming up, when we go to Capitol Hill and find out more about the issues directly affecting broadcasting and what lawmakers need to do to protect our industry and also improve it. I'm excited to learn about lobbying for what we need to thrive and ultimately bring the best news/programming to viewers and protecting the people who work every day to do just that.

5-During my free time I like to travel. Whenever possible, I will take a trip, even if it's just going back home to DC on the weekends, since I'm so close now. I also enjoy going out, exploring my surroundings, and learning new things. I love listening to NPR, especially 'All Things Considered' and 'Backstory'. I also hate to admit that I enjoy binge watching a new series here and there. I also love engaging with people about current events and social issues that are shaping the 'here and now'.

6-This question is the hardest for me to answer and partly why it's taken so long for me to respond, lol. If I could have dinner with anyone, at the moment I think it would be Pope Francis. My own faith aside, I have a great admiration for Pope Francis' example of compassion, humility, piety, love, and acceptance. His is a message that transcends across all faiths that has inspired many, but not without controversy. His willingness to speak up for what's right and just, along with his desire to set the world on a path of peace and forgiveness, I think would make for great dinner conversation to say the least.

Continued on page 5

PJ Styles



1-Where did you grow up/go to school? I spent the first 17 years of my life in Richmond until my family moved to Chicago right before my senior year of high school. Missing the Commonwealth, I returned to Virginia and spent four glorious (or infamous) years at James Madison University.

2-What was your first job in broadcasting? I started my radio career as a Promotional Assistant. I can't say it was the most glamorous year of my life, but it was a learning experience, and it started me on the path I've been on for the last 17 years.

3-What is your career goal? Keep improving. I've always said that the day I can't get any better is the day I need to quit.

4-What are you most looking forward to learning/taking away from the Best of the Best Leadership program? I look forward to becoming a more effective leader and person, in general. My hope is that I can share the tools I've learned with my fellow colleagues so that they too can become better leaders and advocates for our industry. I'm all about the trickle effect!

5-What do you like to do in your free time? Weight lifting, UVA baseball games, and catering to the world's best Boston Terrier, Wrigley

6-If you could have dinner with somebody from the past, present or future who would it be and why? The Beastie Boys. I've emulated them since I was 10. I love that they were pioneers and innovators in the music industry, but they never seemed to take themselves too seriously. I would love nothing more than to break bread with all three guys (RIP MCA) and convince them to add me as a 4th member.

VAB Best of the Best Featured Q & A

1-Where did you grow up/go to school?

2-What was your first job in broadcasting?

3-What is your career goal?

4-What are you most looking forward to learning/taking away from the Best of the Best Leadership program?

5-What do you like to do in your free time?

6-If you could have dinner with somebody from the past, present or future who would it be & why?

Continued from page 4

said the WDBJ job will be advertised after acquisition of the Schurz stations is completed. He said that Marks' experience will benefit his company, which will expand from 30 markets in the United States to 50 after the deal.

"News is incredibly important to us, and we want to marry his skills with our needs," Latek said. "We're a company that's expanding, and we want to make sure we keep up with training talent as we should. Jeff has decades of experience in television and television news. We're grateful he's not ready to retire yet."

Marks has also been active in Roanoke's charitable and cultural circles. He has chaired the boards of United Way of Roanoke Valley and Opera Roanoke and has been on the board of the Roanoke Valley Convention & Visitors Bureau.

"I've never had so much career enjoyment as I've had here," Marks said. "That stands in stark contrast with the last five months. It's really hard to balance that out. It's still enjoyable but the meaning has changed. Everything has taken on a new perspective."



How to Submit to the VAB Job Bank

Jobs that are printed in the newsletter are pulled directly from the online Job Bank. To include your listing:

- ▶ Go to **www.vabonline.com**. Login with your user name and password.
- ▶ Be sure to include your station ID or company name, information on how the applicant can apply and where to send the applications materials.

Position	Locations	Type	Department	Organization	
TV Maintenance Engineer	Richmond, VA	Full Time	Engineering	WWBT, Inc.	2/29/2016
Broadcast Engineer	Richmond, VA	Full Time	Engineering	WWBT, Inc.	2/29/2016
Producer	Richmond, VA	Full Time	News	WWBT, Inc.	2/26/2016
Director	Richmond, VA	Full Time	News	WWBT, Inc.	2/22/2016
Digital Marketing Manager	Richmond, VA	Full Time	(Other)	WWBT, Inc.	2/12/2016
Sales Account Executive-Roanoke	Roanoke	Full Time	Sales	Sinclair Television Stations, LLC	2/11/2016
Sales Account Executive-Lynchburg	Lynchburg	Full Time	Sales	Sinclair Television Stations, LLC	2/11/2016
Digital Content Producer	Norfolk/Portsmouth/Virginia Beach	Full Time	(Other)	WAVY-TV 10 Media General	2/11/2016
Newscast Producer/Media Producer (avail 02/2016)	Norfolk/Portsmouth/Virginia Beach	Full Time	News	WAVY-TV 10 Media General	2/11/2016
Account Executive	Richmond, VA	Full Time	Sales	Young Broadcasting of Richmond Inc.	2/9/2016
News Producer	Richmond, VA	Full Time	News	Young Broadcasting of Richmond Inc.	2/9/2016
Digital Content Producer/MMJ	Richmond, VA	Full Time	News	WWBT, Inc.	2/9/2016
News Specialist	Richmond, VA	Part Time	News	WWBT, Inc.	2/9/2016
Chief Engineer	Charlottesville, VA	Full Time	Engineering	Charlottesville Radio Group	2/1/2016

To learn more about these jobs and to see new postings, please visit

www.vabonline.com/careers

The Virginia Association of Broadcasters Station Awards

The Virginia Association of Broadcasters Station Awards Program is sponsored annually by the VAB to recognize outstanding achievement by Virginia radio and television broadcasters. This competition was established to encourage the highest standards of reporting, community service, and production creativity. It brings the ultimate prize- peer recognition to members of the broadcast industry in Virginia.

Visit <http://vabonline.com/events/79th-annual-summer-convention/> for the official Station Awards Call for Entries brochure. This year, the award entries will be judged by the West VA Broadcasters Association. Entries will be due by Friday, April 8, 2016. Award winners will be announced at the Awards Banquet on Friday, June 24th.

Remember the time, remember the date...don't be late!

If you are planning on submitting an entry for the Outstanding Newscast category, please note it should have aired on your station during a regularly scheduled time period on either Tuesday, December 8, 2015, OR Thursday, December 10, 2015.

Should you have any questions or concerns, please call Christina Sandridge in the Association office at (434) 326-9815 or email, christina.sandridge@easterassociates.com.



Fourth Circuit Backs NLRB on Supervisor Status

By John G. Kruchko and Jacquelyn L. Thompson*

This legal review should in no way be construed as legal advice or a legal opinion on any specific set of facts or circumstances. Therefore, you should consult with legal counsel concerning any specific set of facts or circumstances.

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*John G. Kruchko

Executive Summary: The Fourth Circuit, which controls labor law in Virginia, recently upheld a finding of the

National Labor Relations Board (NLRB) that four employees were not supervisors, even though each employee oversaw the daily work of between 22 and 40 workers. The Fourth Circuit acknowledged that there was some evidence of supervisory authority but deferred to the NLRB's conclusions that the employees at issue were not supervisors. See *Pac Tell Grp., Inc. v. NLRB*, No. 15-1111, unpublished (Dec. 23, 2015).

Background

U.S. Fibers, a polyester recycling plant in Trenton, South Carolina, utilizes a tiered management structure that includes several senior managers, four "supervisors," and team leads. The team leads report to the supervisors. The four putative supervisors each oversee the daily work performed by workers during a 12-hour shift.

The union filed an election petition to cover certain workers at the plant. The Board directed an election over U.S. Fibers' objections that the putative supervisors should not be included in the bargaining unit because of their alleged supervisory status. The employer then filed objections to the results of the election, arguing that the putative supervisors had engaged in objectionable conduct, and the results should be set aside. The Regional Director concluded that U.S. Fibers failed to establish that the putative supervisors were supervisors as defined by the National Labor Relations Act (NLRA), and the Board adopted those findings and affirmed his decision.

Analysis

According to U.S. Fibers, the individuals in question engaged in the following supervisory functions: (1) assignment of work; (2) rewarding employees; (3) disciplining employees; and (4) responsibly directing employees. Based on those activities, the employer contended that the employees were supervisors and that the election should be set aside because of pro-union activity by the putative supervisors.

The NLRB disagreed, finding that none of the putative supervisors exercised the necessary "independent judgment" to qualify as a true supervisor. The NLRA defines a "supervisor" as:

[A]ny individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline any

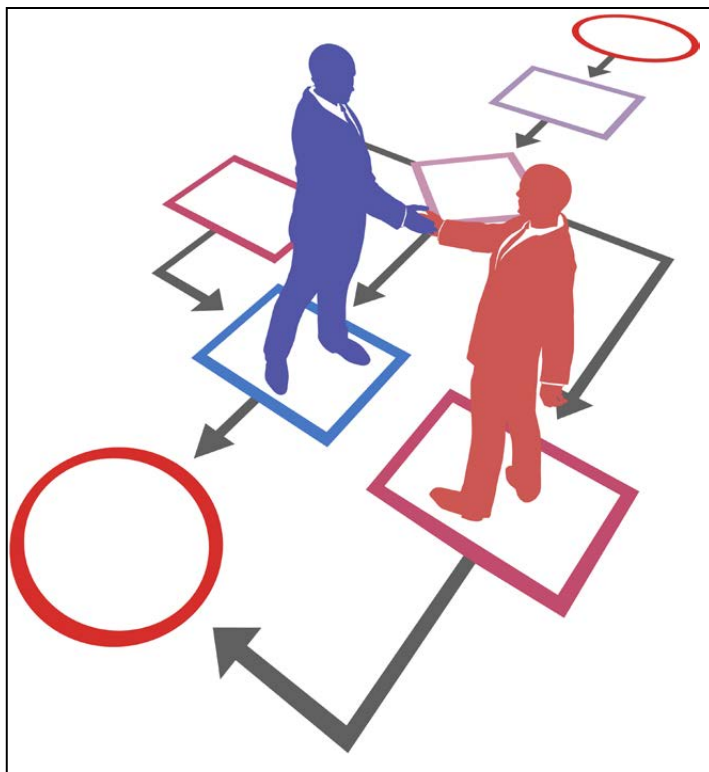
other employees, . . . if in connection with the foregoing, the exercise of such authority is not merely routine or clerical in nature, but requires the use of independent judgment.

29 U.S.C. § 152(11). The Board and the Fourth Circuit heavily relied on the last part of the definition – the use of independent judgment – in denying the supervisory status of the employees at issue.

The Court began by reviewing the putative supervisors' authority to assign work. The Court pointed out that the authority to assign work does not include assignments made solely on the basis of equalizing workloads. The Board and the Court both focused on the fact that the putative supervisors made the assignments within the structure set by upper management, and accordingly, as the assignment function did not require the use of independent judgment, the employees were not supervisors based on that function.

The Court also looked to whether the putative supervisors had the authority to reward by evaluating employee performance for the purpose of recommending raises. The Board found that the evidence was inconclusive as to the extent to which the putative supervisors'

Continued on page 9



LEGAL REVIEW

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recommendations influenced the employer's ultimate decisions. The putative supervisors evaluated employees on a biannual basis to determine which employees should receive a raise. However, the Board concluded that because the Vice President of Operations made the final determination

— even though he agreed with the recommendations 90 percent of the time — the evidence was ambiguous with respect to the weight given to the recommendations. Although the Court acknowledged that the Board could have concluded that the putative supervisors had the authority to recommend raises, it again deferred to the Board's conclusions.

The Court next considered whether the putative supervisors had the authority to discipline employees. U.S. Fibers asserted that they disciplined employees by issuing written warnings. The Board focused on the fact that the managers provided blank warning forms to the putative supervisors and instructed them to issue a warning every time a worker disobeyed safety rules. Moreover, all warnings were subject to approval by management. Again, the Court admitted that there was evidence of independent judgment, but not enough to “erode the substantial evidence supporting the Board's conclusion.” The Court upheld the Board's conclusion that the putative supervisors did not act or recommend actions “free of the control of others” and did not use independent judgment in exercising this supervisory function.

Finally, the Court considered whether the putative supervisors had the authority to responsibly direct employees by instructing them regarding the manner in which they were to perform their duties. According to the Board, a supervisor “responsibly directs” when he or she “directs or performs the oversight of the employee.” The Board concluded that the putative supervisors did not use independent judgment when directing work because the employer failed to show that they were held accountable for the employees' work. Although one of the putative supervisors testified that he told employees what to do and how to do it, and employees confirmed that they received direction from the putative supervisors, the Board held that the evidence was not dispositive of the responsible direction inquiry even though the putative supervisors were on duty at times when there

were no managers. The Fourth Circuit agreed, finding that the work was “sufficiently routine that the employees did not require extensive direction.”

The Court acknowledged once again that there was evidence in the record to support the employer's view; however, the Court applied the deferential standard of review and concluded that the Board reasonably determined that the employer did not meet its burden of establishing supervisory status. Thus, it declined to set aside the results of the election on the basis of objectionable conduct by statutory supervisors.

Employers' Bottom Line

Although the opinion is unpublished, and thus not binding precedent in the Circuit, it still provides insight into how much evidence an employer may have to submit to support a supervisory status claim. The Fourth Circuit is generally considered to be a pro-employer Appellate Court, but here it strongly deferred to the NLRB. In its last year under the Obama Administration, employers can expect the Board to continue to issue pro-union decisions, including efforts to increase the likelihood of joint employer findings and attacks on employer policies it perceives as “chilling” employees' Section 7 rights. If the Fourth Circuit continues to give the Board the type of substantial deference it did in this case, more NLRB decisions will likely be affirmed at the appellate level.

Employers can also expect the Board to continue to apply a narrow definition of supervisor to bring more individuals under the auspices of the NLRA. Because the NLRA does not cover supervisors, they are excluded from bargaining units. A finding of fewer supervisors will result in larger bargaining units and more potential dues-paying members for unions. Additionally, the smaller the number of supervisors, the less opportunity for the employer to deliver its message during union campaigns.

This issue is especially significant in light of April 2015 changes to the Board's election rules, which allow the Board to decline to resolve the supervisory status of an employee prior to a union election. These changes will make it even more difficult for the employer to determine which of its employees satisfy the Board's demanding interpretation of supervisory functions. Employers seeking to designate an employee as a supervisor should be prepared to put forth tangible evidence of the employee's supervisory function, particularly the use of independent judgment.

© 2015 FordHarrison LLP | *John G. Kruchko is a Partner with the Management Labor and Employment Law Firm of FordHarrison, LLP, in Tysons Corner, Virginia; B. Patrice Clair is a Senior Associate in the firm's Washington, D.C. office. Rachel Ullrich, an attorney in the firm's Dallas office, prepared an original version of this article. For more information please contact Mr. Kruchko at (703) 734-0554 or Ms. Clair at (202) 719-2055 or by e-mail at jkruchko@fordharrison.com or pclair@fordharrison.com. This article is published for general information purposes and does not constitute legal advice.

cocktails & CONVERSATIONS

VAB Regional Meeting -Abingdon

The Virginia Association of Broadcasters would like to invite you to join us for a quick presentation and update regarding your Association and its activities as well as a social hour to get to know other broadcasters in your market.

Please join us on Thursday, March 17th

5:30 p.m. - 7:00 p.m.

**The Martha Washington Hotel
150 West Main Street
Abingdon, VA 24210**

Open to all station employees, with specific content for all department heads, managers and account executives.

We look forward to seeing everyone!

Please RSVP to Christina Sandridge at (434) 326-9815
or christina.sandridge@easterassociates.com

