

**VIRGINIA:**

**IN THE SUPREME COURT OF VIRGINIA  
AT RICHMOND**

**IN THE MATTER OF  
PROPOSED LEGAL ETHICS OPINION 1901**

**(VSB Petition ID: 25-04)**

**PETITION OF THE VIRGINIA STATE BAR**

K. Brett Marston, President  
Cameron M. Rountree, Executive Director  
Emily F. Hedrick, Ethics Counsel  
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**VIRGINIA:**

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**PETITION**

TO THE HONORABLE CHIEF JUSTICE AND THE JUSTICES OF THE  
SUPREME COURT OF VIRGINIA:

NOW COMES the Virginia State Bar (“VSB”), by its president and executive director, pursuant to Va. Code §§ 54.1-3909-3910, and Part 6, § IV, Paragraph 10-4 of the Rules of this Court, and requests review and approval of Legal Ethics Opinion (“LEO”) 1901, as set forth below. The proposed opinion was approved by a 62-1 vote of the VSB Council (“Council”) on June 12, 2025 (Appendix, pp. 17-19).

**I. Overview of the Issues**

The VSB Standing Committee on Legal Ethics (“Committee”) has proposed LEO 1901. The LEO addresses the reasonableness of legal fees when lawyers use time-saving tools powered by generative AI. Specifically, it considers how Rule 1.5(a) of the Rules of Professional Conduct applies to such scenarios, noting that while hourly fees must reflect actual time spent, value-based billing remains appropriate for efficient work completed using generative AI. The opinion emphasizes that factors such as the lawyer’s experience, technical skill, and the

value delivered to the client are important to assessing the reasonableness of a fee, even when the task is completed more quickly due to the use of advanced technology.

The proposed opinion also critiques ethics opinions from other jurisdictions that indicate that it might be unreasonable for a lawyer to charge the same non-hourly fee for work done with the assistance of AI as for work done without the use of AI. The opinion concludes that value-based fees can reflect efficiency gains, the specialized skill of effectively incorporating technology, and the value of the lawyer's services and output, and remain reasonable under Rule 1.5(a).

The proposed opinion further explains some issues that may require additional explanation in order to comply with Rule 1.5(b)'s requirement to adequately explain the lawyer's fee, such as why the lawyer's experience or technical skills contribute to the value of the services even when the time spent providing the services is reduced by the effective use of generative AI.

The proposed opinion is included below in Section III.

## **II. Publication and Comments**

The Committee approved the proposed opinion for public comment at its meeting on March 20, 2025, (Appendix, p. 1). The VSB issued a publication release dated March 26, 2025, pursuant to Part 6, § IV, Paragraph 10-2(c) of the Rules of this Court (Appendix, p. 3). Notice of the proposed opinion was also

published in the VSB’s April 1, 2025, E-News (Appendix, p. 4); on the VSB’s website on the “Actions on Rule Changes, Legal Ethics Opinions, and Unauthorized Practice of Law Opinions” page (Appendix, p. 5), on the VSB’s “News from the Bar” page on March 27, 2025 (Appendix, p. 7), and the Committee approved the proposed opinion to be submitted to the Council at its meeting on May 15, 2025 (Appendix, p. 10).

When the proposed opinion was released for public comment, five comments were received: August Bequai (Appendix, p. 12), Timothy McConville (Appendix, p. 13), Matt Long (Appendix, p. 14), Justin Ritter (Appendix, p. 15), and James McCauley (Appendix, p. 16). All comments except Mr. Bequai’s were essentially in support of the proposed opinion, and the Committee did not make any modifications to the opinion based on the comments received.

### **III. Proposed Opinion**

#### **Legal Ethics Opinion 1901: Reasonable Fees and the Use of Generative Artificial Intelligence**

##### **Introduction**

The rise of generative artificial intelligence – artificial intelligence that can generate text and other content – has led to renewed interest in whether and how lawyers can appropriately bill for work done with the assistance of generative AI. While it is clear that time-based billing, such as hourly fees, can only be based on the actual time spent on a task, lawyers increasingly seek guidance on the ethical

parameters for non-hourly fee structures and how to assess reasonableness when using time-saving tools that rely on generative AI. This opinion discusses the ethical bounds and considerations when a lawyer is able to produce work dramatically more efficiently than in the past using generative AI. Though this opinion is specifically addressing productivity improvements generated through the use of generative AI, its principles may be equally applicable to a lawyer's use of other technological tools that result in comparable productivity improvements.

### **Applicable Rule of Professional Conduct**

#### Rule 1.5 Fees

- (a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:
- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
  - (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
  - (3) the fee customarily charged in the locality for similar legal services;
  - (4) the amount involved and the results obtained;
  - (5) the time limitations imposed by the client or by the circumstances;
  - (6) the nature and length of the professional relationship with the client;

- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- (8) whether the fee is fixed or contingent.

(b) The lawyer's fee shall be adequately explained to the client. When the lawyer has not regularly represented the client, the amount, basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.

## **Analysis**

### **Rule 1.5(a) – Reasonableness**

Much of the discussion about value-based or other non-hourly billing schemes arises in the context of generative AI, but the application of Rule 1.5 is the same regardless of the reason for increased efficiency in legal work. When applying Rule 1.5's reasonableness factors to value-based billing, the tension lies between "the time and labor required" and "the skill requisite to perform the legal service properly," both of which are components of 1.5(a)(1).

While generative AI can dramatically reduce the "time and labor required" for certain tasks, such as drafting routine documents, conducting preliminary research, or analyzing large volumes of data, it would not be reasonable to conclude that a lawyer is ethically required to reduce or limit the fee based solely on that factor. Rather, the "skill requisite to perform the legal service properly"

might actually increase, as effective AI use could require specialized knowledge to prompt, verify, supplement, and integrate AI outputs into competent legal work product. The lawyer’s judgment in determining when and how to deploy AI tools, and the expertise needed to critically evaluate AI-generated content, represent valuable services for which the lawyer reasonably can be compensated.

The factors concerning “the novelty and difficulty of the questions involved” (notably, this factor is included in the same sub-paragraph as the two factors discussed above) and “the experience, reputation, and ability of the lawyer” take on new dimensions in the AI context. The difficulty now includes properly configuring AI systems to address complex legal questions, understanding the limitations of current tools, and maintaining sufficient domain expertise to identify AI hallucinations or errors. A lawyer’s unique value proposition might involve their ability to frame legal problems in ways technology can address while knowing when human judgment must predominate, which provides a sound basis for maintaining value-based fees even as raw production time decreases.

The factor addressing “the amount involved and the results obtained” supports value-based billing models that focus on outcomes rather than inputs. If AI assists a lawyer to achieve superior results more efficiently, the client benefits from both the improved outcome and potentially reduced total costs compared to a lawyer using traditional methods.

The Committee notes that some other ethics opinions have reached a different conclusion. For example, ABA Formal Opinion 512 (2024) indicates, in the context of flat or contingent fees, that “if using a GAI tool enables a lawyer to complete tasks much more quickly than without the tool, it may be unreasonable under Rule 1.5 for the lawyer to charge the same flat fee when using the GAI tool as when not using it.” Likewise, in 2024 Formal Ethics Opinion 1, the North Carolina Bar cautioned that, “[i]f the use of AI in Lawyer’s practice results in greater efficiencies in providing legal services, Lawyer may not inaccurately bill a client based upon the ‘time-value represented’ by the end product should Lawyer have not used AI when providing legal services.” The North Carolina opinion goes on to suggest that flat fees may be appropriate in this context, but it is unclear to what extent the flat fee must be adjusted for the use of AI.

The Committee disagrees with the conclusions stated or implied by those opinions, concluding that it is not per se unreasonable for a lawyer to charge the same non-hourly fee for work done with the assistance of AI as work done without the use of AI. Any legal fee, regardless of the basis or type of fee, must be reasonable considering all the factors identified in Rule 1.5(a), but the time spent on a task or the use of certain research or drafting tools should not be read as the preeminent or determinative factor in that analysis. The opinions cited above fail to appreciate the value of advancing technology and the reaction of the legal markets

to that technology; while over time, the market rate might drop based on dramatic improvements in efficiency, Rule 1.5 should not require the lawyer to surrender any benefit from the efficiency gains if clients continue to receive value from the lawyer's output.

### **Rule 1.5(b) – Adequate explanation**

Separate from the reasonableness requirement in Rule 1.5(a), a lawyer's fee must also be adequately explained to the client under Rule 1.5(b). When a lawyer uses a fee arrangement that is primarily based on the lawyer's skills and the value of the anticipated final product, as opposed to time spent or reaching a fixed endpoint of a proceeding, the lawyer must ensure that the basis for that fee is adequately explained to the client. This could also be particularly important if the lawyer's time spent on the specific representation is substantially reduced due to the productivity-enhancing tool, such that the client may need additional explanation of why the lawyer's experience, technical skills, or other efficiencies contribute to the value of the services and determination of the fee.

### **Summary**

When evaluating fee reasonableness for a lawyer who uses generative AI or other productivity-enhancing tools or experience, Rule 1.5 does not equate reduced time with proportionally reduced fees. Such an approach would fail to account for the investment lawyers make in developing AI expertise and the continuing value

of their professional judgment. Instead, a proper analysis should recognize that reasonable non-hourly fees can reflect efficiency gains, the specialized skill of effectively incorporating technology, and the value of the relevant services and output.

#### **IV. Conclusion**

The Court is authorized to regulate the practice of law in the Commonwealth of Virginia and to prescribe a code of ethics governing the professional conduct of attorneys. Va. Code §§ 54.1-3909-3910.

Pursuant to this statutory authority, the Court has promulgated rules and regulations relating to the organization and government of the VSB. Va. S. Ct. R., Pt. 6, § IV. Paragraph 10 of these rules sets forth the process by which legal ethics advisory opinions and rules of professional conduct are promulgated and implemented. Proposed LEO 1901 was developed and approved in compliance with all requirements of Paragraph 10, approved by the Committee at its meeting on May 15, 2025, and by 62-1 vote of the Council on June 12, 2025.

THEREFORE, the VSB requests that the Court approve proposed LEO 1901  
for the reasons stated above.

Respectfully submitted,  
VIRGINIA STATE BAR

By   
K. Brett Marston, President

By   
Cameron M. Rountree, Executive Director

Dated this 24th day of July, 2025.

**VIRGINIA:**

**IN THE SUPREME COURT OF VIRGINIA  
AT RICHMOND**

**IN THE MATTER OF  
PROPOSED LEGAL ETHICS OPINION 1901**

**(VSB Petition ID: 25-04)**

**APPENDIX TO PETITION OF THE VIRGINIA STATE BAR**

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**MINUTES  
LEGAL ETHICS COMMITTEE  
Hybrid Teams Meeting  
March 20, 2025  
10:00 AM**

The Virginia State Bar (VSB) Standing Committee on Legal Ethics met in the VSB Board Room, 1111 East Main Street, Suite 700, Richmond, VA, with a quorum of members participating on March 20, 2025, pursuant to public notice.

**Members Present in Person:** K. Brett Marston (Chair), Megan Clark, Patrick Hanes, Michael HuYoung, Michael Robinson, and Nia Vidal.

**Members Present on Teams:** Pursuant to Va. Code § 2.2-3708.3(B), the following committee members appeared remotely: Naveed Kalantar (Virginia Beach, VA, more than 60 miles from the meeting location), Jeff Mitchell (Blacksburg, VA, more than 60 miles from the meeting location)

**Members Unable to Attend:** Katie Dougherty.

**VSB Staff Present:** Janet Van Cuyk, Deputy Executive Director; Emily Hedrick, Ethics Counsel; Dorian Dalton, Assistant Ethics Counsel; Krista Mathis, Assistant Ethics Counsel; and Diane Ferguson, Assistant Ethics Counsel

**I. Approval of remote participation**

Remote attendance of the members identified above was approved on a motion from Nia Vidal, seconded, and unanimously approved by voice vote.

**II. Approval of minutes**

The minutes of the January 16, 2025, meeting were approved on a motion from Nia Vidal, seconded, and unanimously approved by voice vote.

**III. Update on March 1 Council meeting**

Brett and Emily reported on the discussion at the March 1 council meeting, where both of the committee's proposals were approved for submission to the SCV. The committee

discussed the feedback from Council about whether additional education is needed on flat fees and nonrefundable fees.

#### **IV. Proposed Opinions and Rules of Professional Conduct**

##### **A. Proposed amendment to UPL rules**

After reviewing the public comments received, the committee approved the proposed amendments to the rules for submission to VSB Council, on a motion from Michael HuYoung, seconded and approved by a vote of 6 to 1. Brett Marston did not participate in the discussion or vote on this matter.

##### **B. Discussion of former client conflicts/imputation – proposed amendments to Rule 1.9(c) or 1.10(a)**

After discussion of the materials prepared by staff, the committee agreed to release the proposed amendment to Rule 1.9(c) for public comment, on a motion from Megan Clark, seconded and approved by unanimous voice vote.

##### **C. Proposed LEO 1901**

After discussion of the draft opinion, the committee agreed, on a motion from Michael HuYoung, seconded, and approved by unanimous voice vote, to release the opinion, as amended, for public comment. The amended opinion will be circulated to the committee for approval before release.

##### **D. Proposed amendment to Rule 1.5(d) – contingent fees in domestic cases**

After discussion, the committee agreed to release the version of the rule removing the ban on contingent fees in domestic cases for public comment, on a motion from Michael Robinson, seconded, and approved by unanimous voice vote.

##### **E. LEO request – billing for withdrawal from case**

After discussion, the committee determined that an LEO is not necessary on this topic.

##### **F. LEO request – revisit LEOs 278, 1141, and 1324**

After discussion, the committee agreed to move forward with withdrawing the identified opinions, including an explanation that they are not consistent with the current rules; staff will prepare materials for the May meeting.

##### **G. LEO request – prosecutor in a romantic relationship with law enforcement officer**

Release Date: March 26, 2025

**The Virginia State Bar  
Seeks Public Comment on Proposed Legal Ethics Opinion 1901**

RICHMOND - Pursuant to Part 6, § IV, ¶ 10-2(C) of the Rules of the Supreme Court of Virginia, the Virginia State Bar is seeking public comment on proposed Legal Ethics Opinion 1901, Reasonable Fees and the Use of Generative Artificial Intelligence.

The proposed opinion discusses the reasonableness of fees when a lawyer uses time-saving tools that rely on generative AI. Acknowledging that hourly fees can only be based on the actual time spent on a task, the proposed opinion discusses other factors in Rule 1.5(a) that support value-based billing on a non-hourly basis for work done efficiently with the use of generative AI. The proposed opinion further explains some issues that may require additional explanation in order to comply with Rule 1.5(b)'s requirement to adequately explain the lawyer's fee, such as why the lawyer's experience or technical skills contribute to the value of the services even when the time spent providing the services is reduced by the effective use of generative AI.

The proposed opinion also critiques ethics opinions from other jurisdictions that indicate that it might be unreasonable for a lawyer to charge the same non-hourly fee for work done with the assistance of AI as for work done without the use of AI. The opinion concludes that value-based fees can reflect efficiency gains, the specialized skill of effectively incorporating technology, and the value of the lawyer's services and output, and remain reasonable under Rule 1.5(a).

**Inspection and Comment**

The proposed opinion is available at the link below.

Any individual, business, or other entity may submit written comments in support of or in opposition to the proposed opinion with Cameron M. Rountree, executive director of the Virginia State Bar, not later than May 7, 2025. Comments may be submitted via email to [publiccomment@vsb.org](mailto:publiccomment@vsb.org).



## Governance and News

### [Susan Bradford Tarley Next President-elect of the Virginia State Bar](#)

Susan Bradford Tarley of [Tarley Robinson, PLC](#), in Williamsburg has been tapped as the 2025–26 president-elect of the Virginia State Bar. Tarley has practiced law for 36 years, focusing on common interest communities and commercial and residential real estate. Tarley also served as a substitute judge for the Ninth Judicial Circuit for 18 years and as an adjunct professor at William & Mary Law School.



### [VSB Seeks Public Comment on Amendments to Rule of Professional Conduct 1.5](#)

The proposed amendment to Rule 1.5(d) would remove the strict limits on charging a contingent fee in domestic relations cases. Comments are due no later than May 7, 2025, and may be submitted via email to [publiccomment@vsb.org](mailto:publiccomment@vsb.org).

### [VSB Seeks Public Comment on Amendments to Rule of Professional Conduct 1.9](#)

The proposed amendment to Rule 1.9(c) would permit a lawyer to use information gained in the course of the representation of a former client to the disadvantage of that former client if the information is limited to criminal history information that is available from external records in a law enforcement database or court records. Comments are due no later than May 7, 2025, and may be submitted via email to [publiccomment@vsb.org](mailto:publiccomment@vsb.org).

### [VSB Seeks Public Comment on Proposed Legal Ethics Opinion 1901, Reasonable Fees and the Use of Generative Artificial Intelligence](#)

The proposed opinion discusses the reasonableness of fees when a lawyer uses time-saving tools that rely on generative AI. Comments are due no later than May 7, 2025, and may be submitted via email to [publiccomment@vsb.org](mailto:publiccomment@vsb.org).

### [Supreme Court of Virginia Amends Spousal Testimony and Communications Rule](#)

Effective immediately, the Court's Order reverted the rule to its intended amendment in the Court's order dated January 12, 2021, effective that date, and clarified the meaning of the word "shall" as intended in the Court's order dated November 13, 2020, effective July 1, 2021.



# Virginia State Bar

*An agency of the Supreme Court of Virginia*

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**On behalf of:** [\(select\)](#)

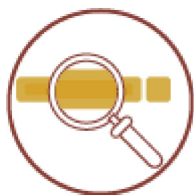
## Actions on: Rule Changes, Legal Ethics Opinions, and Unauthorized Practice of Law Opinions

### FILTER BY TYPE:

[Legal Ethics Opinion](#) | [Regulation](#) | [Rules](#) | [Rules of Professional Conduct](#) | [Unauthorized Practice of Law](#)

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### [VSB Seeks Public Comment on Amendments to Rules of the Supreme Court of Virginia Paragraph 13](#)



*Posted on 4/10/2025*

VSB is seeking public comment on proposed Amendments to the Rules of the Supreme Court of Virginia, Part 6, § IV, ¶ 13 - Procedure for Disciplining, Suspending, and Disbarring Attorneys

### [VSBS Seeks Public Comment on Proposed Legal Ethics Opinion 1901](#)



*Posted on 3/27/2025*

VSBS is seeking public comment on Proposed Legal Ethics Opinion 1901, Reasonable Fees and the Use of Generative Artificial Intelligence.

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### [VSBS Seeks Public Comment on Amendments to Rule of Professional Conduct 1.9](#)

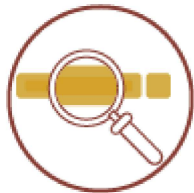


*Posted on 3/27/2025*

VSBS is seeking public comment on proposed amendments to Rule of Professional Conduct 1.9 Conflict of Interest.

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### [VSBS Seeks Public Comment on Amendments to Rule of Professional Conduct 1.5](#)

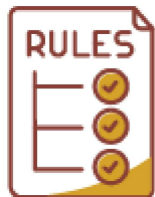


*Posted on 3/27/2025*

VSBS is seeking public comment on proposed amendments to Rule of Professional Conduct 1.5.

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### [Supreme Court of Virginia Amends Spousal Testimony and Communications Rule](#)



*Posted on 3/24/2025*

On March 21, 2025, the Supreme Court of Virginia amended Rule 2:504 of the Virginia Rules of Evidence concerning spousal testimony and marital communications.

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### [VSBS Seeks Public Comment on Legislative Activity to Amend Va. Code § 54.1-3912](#)



*Posted on 3/3/2025*

The VSBS seeks comments on its proposed engagement in legislative activity to amend Va. Code § 54.1-3912 in the 2026 General Assembly



# Virginia State Bar

An agency of the Supreme Court of Virginia

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## News from the Bar

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[Virginia Board of Bar Examiners Announce Virginia Bar Exam Content and Format Beginning July 2028](#)

Posted on 4/10/2025

The Virginia Board of Bar Examiners (VBBE) announced the content

and format for the Virginia law component of the bar exam beginning July 2028.

[VSBS Seeks Public Comment on Amendments to Rules of the Supreme Court of Virginia Paragraph 13](#)



*Posted on 4/10/2025*

VSBS is seeking public comment on proposed Amendments to the Rules of the Supreme Court of Virginia, Part 6, § IV, ¶ 13 - Procedure for Disciplining, Suspending, and Disbarring Attorneys

[Three Circuits Will Hold Contested Elections for VSBS Council](#)



*Posted on 4/3/2025*

Beginning April 15, and continuing until April 29 at midnight, active and in good standing Virginia lawyers in Circuits 12, 15, and 22 are asked to vote for their Virginia State Bar Council leaders.

[VSBS News April 2025](#)



*Posted on 4/1/2025*

The VSBS News monthly email was sent to all Virginia lawyers on April 1, 2025.

[Registration Open for the 2025 VSBS Annual Meeting](#)



*Posted on 4/1/2025*

Registration is open for the 2025 VSBS Annual Meeting! This year's meeting takes place June 11-14 in Virginia Beach.

[Sarah Louppe Petcher Receives 2025 Traver Scholar Award](#)



*Posted on 4/1/2025*

The VSBS Real Property Section and Virginia CLE have named Sarah Louppe Petcher as the 2025 recipient of the Traver Scholar Award,

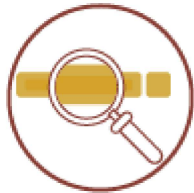
which is awarded to attorneys who embody the highest ideals and expertise in the practice of real estate law.



### [VSB Seeks Public Comment on Proposed Legal Ethics Opinion 1901](#)

*Posted on 3/27/2025*

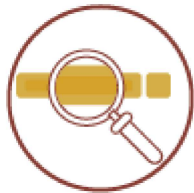
VSB is seeking public comment on Proposed Legal Ethics Opinion 1901, Reasonable Fees and the Use of Generative Artificial Intelligence.



### [VSB Seeks Public Comment on Amendments to Rule of Professional Conduct 1.9](#)

*Posted on 3/27/2025*

VSB is seeking public comment on proposed amendments to Rule of Professional Conduct 1.9 Conflict of Interest.



### [VSB Seeks Public Comment on Amendments to Rule of Professional Conduct 1.5](#)

*Posted on 3/27/2025*

VSB is seeking public comment on proposed amendments to Rule of Professional Conduct 1.5.



### [VSB Opens Nomination Process for New Professionalism Course Faculty](#)

*Posted on 3/26/2025*

The VSB has opened the nomination process for appointments of new Professionalism Course faculty members. Nominations must be received by April 25, 2025.

NEXT

**Looking for news about something specific?**

**MINUTES  
LEGAL ETHICS COMMITTEE  
Hybrid Teams Meeting  
May 15, 2025  
10:00 AM**

The Virginia State Bar (VSB) Standing Committee on Legal Ethics met in the VSB Board Room, 1111 East Main Street, Suite 700, Richmond, VA, with a quorum of members participating on May 15, 2025, pursuant to public notice.

**Members Present in Person:** K. Brett Marston (Chair), Megan Clark, Patrick Hanes, Michael HuYoung, Naveed Kalantar, Jeff Mitchell, Michael Robinson, and Nia Vidal.

**Members Present on Teams:** Pursuant to Va. Code § 2.2-3708.3(B), the following committee member appeared remotely: Katie Dougherty (Norfolk, VA; resides more than 60 miles from meeting location)

**VSB Staff Present:** Cameron Rountree, Executive Director; Janet Van Cuyk, Deputy Executive Director; Emily Hedrick, Ethics Counsel; Krista Mathis, Assistant Ethics Counsel; and Diane Ferguson, Assistant Ethics Counsel

**I. Approval of remote participation**

Remote participation by Katie was unanimously approved by voice vote.

**II. Approval of minutes**

The minutes of the March 20, 2025, meeting were approved on a motion from Megan, seconded, and unanimously approved by voice vote.

**IV. Proposed Opinions and Rules of Professional Conduct**

**A. Rule 1.9(a)**

After discussion of the comments received, the committee approved the proposed rule change for submission to Council on a motion by Michael HuYoung, seconded and unanimously approved by voice vote.

**B. Proposed LEO 1901**

After discussion of the comments received, the committee approved the proposed opinion for submission to Council on a motion by Patrick, seconded and unanimously approved by voice vote.

**C. Proposed amendment to Rule 1.5(d) – contingent fees in domestic cases**

After discussion, the committee agreed to take no further action on the proposal at this time but to continue to consider the issues presented.

**D. Withdrawal of LEOs 278, 1141, and 1324**

After review of the draft withdrawn opinions and committee notes, the committee voted to withdraw the opinions, on a motion by Michael HuYoung, seconded, and approved by unanimous voice vote.

**E. UPL opinion request – split settlements**

After discussion, the committee agreed not to issue an opinion on this topic.

**VII. Adjournment**

The meeting was adjourned at 11:20am.

**From:** [attyabeg@aol.com](mailto:attyabeg@aol.com)  
**To:** [publiccomment](#)  
**Subject:** EXT LEO 1901 Public Comment  
**Date:** Tuesday, April 1, 2025 7:47:16 PM

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**Caution:** This email originated from outside the VSB. Do not click links or open attachments unless you recognize and have verified the sender.

The reason for embracing AI is to save time and resources for the attorney, which in turn counsel should pass on to the client. The technology is aimed at assisting both client and counsel. The proposal, while badly drafted and leaves much to the imagination, would have the savings of AI use in the profession go largely to the attorney. I vote no.

August Bequai, Esq.  
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**From:** [Timothy McConville](#)  
**To:** [publiccomment](#)  
**Subject:** EXT LEO 1901 Public Comment  
**Date:** Tuesday, April 1, 2025 2:06:02 PM

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You don't often get email from [timothy.mcconville@praemialaw.com](mailto:timothy.mcconville@praemialaw.com). [Learn why this is important](#)

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For non-hourly fees, proposed LEO 1901 strikes a reasonable balance among all the factors in Rule 1.5 and provides useful guidance with respect to the relative importance of the Rule 1.5(a) factors. Specifically, the LEO's emphasis that, in the context of non-hourly fees, time spent on a task or the use of a tool should not be read as the preeminent or determinative factor should provide important perspective to practitioners. I appreciate that the LEO expressly distinguishes the VSB ethics committee's proposed approach from the rules adopted in ABA Formal Opinion 512 and the North Carolina 2024 Formal Ethics Opinion 1.

Best regards,

**Timothy M. McConville, Esq.**

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**From:** [Matt Long](#)  
**To:** [publiccomment](#)  
**Subject:** EXT LEO 1901  
**Date:** Friday, April 4, 2025 12:24:30 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image005.png](#)  
[image007.png](#)

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I fully support Proposed Legal Ethics Opinion 1901. In fact, I believe its reasoning should extend beyond flat fees and value-based billing to include traditional hourly billing as well.

If a task once took an hour but now takes ten seconds thanks to AI, the value lies not just in the time spent, but in the years of training and experience it took to develop that efficiency. Knowing what to ask, how to review, and when to trust or refine an AI-assisted result are skills rooted in legal judgment—not shortcuts.

This same logic applies to other forms of legal work. For example, if a lawyer sends out a finely tuned discovery package that's been refined over 25 years of practice, it may only take minutes to prepare—but its value far exceeds the time it takes to send. Some lawyers rightfully charge what it would take to re-draft the entire package from scratch. That's not billing for "nothing"; it's billing for the accumulated knowledge, strategy, and experience embedded in that document.

We must ensure that our ethical framework recognizes the distinction between time spent and value delivered. Generative AI doesn't replace legal expertise—it amplifies it. And our billing practices should reflect that reality. The logic you all are using with value based billing, flat fees, and contingency fees can equally be applied to hourly billing models.

-

MATT LONG  
BOWEN TEN LONG & BAL, PC  
3957 Westerre Parkway, Suite 105  
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804-755-7599  
804-755-7550 Fax

**From:** [Justin Ritter](#)  
**To:** [publiccomment](#)  
**Subject:** EXT: Legal Ethics Opinion 1901  
**Date:** Thursday, April 24, 2025 4:22:02 PM

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VSB:

This is a great opportunity for our bar to reset relationships with our consumers, to give them greater certainty as to what they are paying for. That said, I do not want this rule to be interpreted as whatever time is saved by use of AI can then be billed to the consumer. Rather, if we are going to charge a client for time saved by using AI (as we should), its needs to be based on value to the consumer per deliverable and not on the time saved itself.

Thanks,

Justin  
434-218-1172  
[Schedule a meeting with me.](#)

**From:** [j.mccauley53@gmail.com](mailto:j.mccauley53@gmail.com)  
**To:** [publiccomment](#)  
**Subject:** EXT: Legal Ethics Opinion 1901  
**Date:** Tuesday, April 29, 2025 9:38:31 AM  
**Attachments:** [image001.png](#)

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Dear Ethics Committee:

I support the adoption of proposed LEO 1901. As I indicated in my comments in the VLW, the ABA Formal Op. 512 ( parts of which I agree) fails to address how lawyers may permissibly charge a reasonable fee for a legal representation in which the lawyer has used a GAI tool. Granted, using GAI is expected to enable lawyers and support staff to perform work more efficiently. On the other hand, in addition to the traditional training of a lawyer and support staff, obtaining and using a GAI tool requires specialized training and experience to develop the skills required to prompt and receive output that is relevant and responsive to a client's needs.

Lawyers, especially in certain areas of practice, i.e., criminal and family law, offer clients a flat fee for a legal representation. The reasonable value of a flat fee is measured by the factors in Rule 1.5(a). The actual time spent in performing a legal representation is but one of several factors set out in the rule. If a lawyer may only bill a client for the actual time spent in completing the legal representation, the other factors in Rule 1.5(a) would be meaningless.

Proposed LEO 1901 gives lawyers the option of using alternative billing methods. This is especially important because hourly billing is a source of great concern to individual and organizational clients. Alternative billing must remain reasonable and compliant with Rule 1.5. I expect that GAI will change the landscape of how lawyers and law firms bill clients for legal services. LEO 1901 foresees that and provides guidance for lawyers that employ non-hourly billing methods. Once a lawyer and client have agreed on a reasonable fee for a legal representation, what tools or means the lawyer chooses to represent a client is less important to the client that the results the lawyer obtains on the client's behalf.

**MINUTES OF THE VIRGINIA STATE BAR  
COUNCIL MEETING**

[in relevant part]

**DATE: June 12, 2025, 9:15 a.m.**

**Location: Hilton Oceanfront, 3001 Atlantic Avenue, Virginia Beach**

The VSB Council met on Thursday, June 12, 2025. At 9:15 a.m., President Michael M. York called the meeting to order. Sixty-four (64) committee members attended in-person, satisfying the meeting quorum requirement in Part I, Art. V, Sec. 2 of the Bylaws of the Virginia State Bar (VSB). There was no remote participation ....

**D. Approval of Legal Ethics Opinion 1901**

Michael Robinson presented the request for approval of LEO 1901 and discussed the use of generative AI in legal practice and the importance of value-based billing, emphasizing the need for lawyers to have discussions with clients about how AI is used and the value of the services provided. A copy of the memo from Emily Hedrick, dated June 11, 2025, re: Legal Ethics Opinion 1901 – Generative and AI Billing, was included in the meeting materials provided to Council.

After a discussion, a motion was made by Bruce Russell and seconded by Adam Krischer to vote to approve proposed LEO 1901 and to petition the Supreme Court for approval.

The motion passed and, Council approved the committee's request for approval of LEO 1901 and to petition the Supreme Court for approval. Member David Sher voted "yes" verbally. All other members voted using the Poll Everywhere voting tool. The electronic voting results are appended to these minutes ....

**D: Do you approve of LEO 1901?****Results Summary****Response Count**

<b>Yes</b>	61
<b>No</b>	1
<b>Abstain</b>	0
<b>Total</b>	<b>62</b>

<b>Count</b>	<b>Started At (CDT)</b>	<b>Screen Name</b>	<b>Response</b>
1	6/12/2025 10:12	Marie Washington	Yes
2	6/12/2025 10:12	Daniel P. Frankl	Yes
3	6/12/2025 10:12	Bob Walker	Yes
4	6/12/2025 10:12	Tom Bell	Yes
5	6/12/2025 10:12	Matt Foster	Yes
6	6/12/2025 10:12	Gary Davis	Yes
7	6/12/2025 10:12	Randy Rollins	Yes
8	6/12/2025 10:12	Debra Powers	Yes
9	6/12/2025 10:12	K Dickerson	Yes
10	6/12/2025 10:12	Sean Dolan	Yes
11	6/12/2025 10:12	Zaida C Thompson	Yes
12	6/12/2025 10:12	Adrienne George-Eliades	Yes
13	6/12/2025 10:12	Kyle Elliott	Yes
14	6/12/2025 10:12	Luis Perez	Yes
15	6/12/2025 10:13	Dale Pittman	Yes
16	6/12/2025 10:12	Ann Marie Park	Yes
17	6/12/2025 10:12	Richard Howard-Smith	Yes
18	6/12/2025 10:12	Paul Melnick	Yes
19	6/12/2025 10:12	Lisa Wilson	Yes
20	6/12/2025 10:12	CaroleHC	Yes
21	6/12/2025 10:12	Alison Mullins	Yes
22	6/12/2025 10:12	Peter McDermott	Yes
23	6/12/2025 10:12	E M Wright Jr	Yes
24	6/12/2025 10:13	Tamika Jones	Yes
25	6/12/2025 10:12	Chidinma U. Harley	Yes
26	6/12/2025 10:12	W. Huntington Byrnes	Yes
27	6/12/2025 10:12	Sebastian Norton	Yes
28	6/12/2025 10:12	Joel McClellan	Yes
29	6/12/2025 10:12	Allen Bareford	Yes
30	6/12/2025 10:12	David Hagan	Yes
31	6/12/2025 10:12	Derek Davis	Yes
32	6/12/2025 10:12	DJ Hansen	Yes
33	6/12/2025 10:12	Juli Porto	Yes
34	6/12/2025 10:12	Gobind Sethi	Yes

<b>Count</b>	<b>Started At (CDT)</b>	<b>Screen Name</b>	<b>Response</b>
35	6/12/2025 10:12	Cullen Seltzer	Yes
36	6/12/2025 10:12	Hope Townes	Yes
37	6/12/2025 10:12	Chidi James	Yes
38	6/12/2025 10:12	Susan Tarley	Yes
39	6/12/2025 10:12	Lonnie D Nunley, III	Yes
40	6/12/2025 10:12	Brett Marston	Yes
41	6/12/2025 10:12	Adam Krischer	Yes
42	6/12/2025 10:12	Naveed Kalantar	Yes
43	6/12/2025 10:12	Christine Mouglin-Boal	Yes
44	6/12/2025 10:12	Penn Bain	Yes
45	6/12/2025 10:12	Gifford Hampshire	Yes
46	6/12/2025 10:12	Will Egen	Yes
47	6/12/2025 10:12	Jonathan Petty	Yes
48	6/12/2025 10:12	Joanna Suyes	Yes
49	6/12/2025 10:12	Jim Hundley	Yes
50	6/12/2025 10:12	Veronica Meade	Yes
51	6/12/2025 10:12	Molly Newton	Yes
52	6/12/2025 10:12	Nicole Upshur	Yes
53	6/12/2025 10:13	Rex Flynn	Yes
54	6/12/2025 10:12	Bretta lewis	Yes
55	6/12/2025 10:12	Jeremiah Denton	Yes
56	6/12/2025 10:12	Charlene Moring	Yes
57	6/12/2025 10:12	Stephanie Grana	Yes
58	6/12/2025 10:12	Susan Butler	Yes
59	6/12/2025 10:12	Benjamin A. Shute	Yes
60	6/12/2025 10:13	Bruce Russell	Yes
61	6/12/2025 10:13	Craig E Ellis	Yes
62	6/12/2025 10:12	Patrick C. Murphrey	No