

Contributors



Bell



Brown



Burtch



Corriell



Oakey



Goldberg

Wayne L. Bell of Bristol is a former judge for the Twenty-eighth Circuit and a retired executive vice president and general counsel of the United Company.

Frank Overton Brown Jr.'s private Richmond practice concentrates on estate and trust planning, estate and trust administration, and related tax matters. He is the editor of the Virginia State Bar *Senior Lawyer News*, past chair of the VSB Senior Lawyers Conference, and a former member of the VSB Council. Brown is a fellow of the American College of Trust and Estate Counsel and the Virginia Law Foundation, a charter member of the University of Richmond Estate Planning Advisory Council, and cofounder of the University of Richmond Estate Planning Seminar. He authored the *Virginia Probate Handbook* and holds bachelor's, master's, and juris doctor degrees from the University of Richmond. *Photo by Olan Mills*

Jack W. Burtch Jr. was admitted to the Virginia State Bar in 1973. He received his undergraduate degree in 1969 from Wesleyan University in Middletown, Connecticut, and his law degree in 1972 from Vanderbilt University, where he served as an editor of the *Vanderbilt Journal of Transnational Law*. After serving as an associate in the labor law section of Hunton & Williams from 1973 to 1980, Burtch became a principal of the firm that became McSweeney, Burtch & Crump. In January 2001, he joined the firm that became Macaulay & Burtch PC, where he represents businesses, executives, and professionals in employment law and labor relations. Burtch is an adjunct professor of law at the University of Richmond, where he teaches negotiations, interviewing, and counseling.

Suzanne B. Corriell is head of reference and research services at the University of Richmond's Muse Law Library, and she is treasurer of the Virginia Association of Law Libraries. She received an undergraduate degree from Mount Holyoke College and law and master of library science degrees from the University of Iowa.

John M. Oakey Jr. is a retired litigation partner at McGuireWoods LLP. He is a fellow of the American College of Trial Lawyers and a former president of the Virginia Association of Defense Attorneys and the Greater Richmond Bar Foundation. For the past ten years, he has practiced pro bono work almost exclusively. He has received several awards, including the Virginia State Bar's Lewis F. Powell Jr. Pro Bono Award.

Alan S. Goldberg of McLean is chair of the Virginia State Bar Health Law Section and vice chair of the VSB Committee on Technology and the Practice of Law. He is an adjunct professor of health law at George Mason University, a past president and inaugural fellow of the American Health Lawyers Association, and cochair of the Northern Virginia Technology Council's health technology committee.

CLE Calendar

Annual VTLA May Tort Seminar—“The Tort Lawyer’s Guidebook: Proven Methods to Earn More, Work Less, & Reduce Stress” — 8:45 AM–4:30 PM on May 4 at the North Richmond Marriott Courtyard, May 18 at the Roanoke Higher Education Center, May 25 at the Norfolk Airport Marriott, and May 27 at the Hilton Garden Inn, Fairfax. Sponsor: Virginia Trial Lawyers Association. Details: Alison Love at (804) 343-1143, ext. 310, or alove@vtla.com.

Virginia College of Trial Advocacy—“Focus Groups: The Gold Standard” — May 21–22 at the College of William and Mary School of Law. Sponsor: Virginia Trial Lawyers Association. Details: <http://www.vtla.com/VA/index.cfm?event=showPage&pg=VCTA2010Focus>

Summer CLE Seminar in Ireland— June 27–July 10 at Trinity College, Dublin. Sponsor: Virginia Trial Lawyers Association. Details: http://www.vtla.com/temp/ts_541579FF-D146-6F41-B18B91635B2C665154157A0E-E872-83AC-31E659637F82EFA7/Irelandweb.pdf

Annual VTLA Family Law Seminar— 8:45 AM–4:30 PM on July 1 at the North Richmond Marriott Courtyard, July 22 at the Roanoke Higher Education Center, July 27 at the Norfolk Airport Marriott, and July 29 at the Hilton Garden Inn, Fairfax. Sponsor: Virginia Trial Lawyers Association. Details: Alison Love at (804) 343-1143, ext. 310, or alove@vtla.com.

Virginia Lawyer publishes at no charge continuing legal education program announcements for nonprofit bar associations and government agencies. The next issue will cover July 23–October 18, 2010. Send information by May 21 to chase@vsb.org. For other CLE opportunities, see Current Virginia Approved Courses at <http://www.vsb.org/site/members/mcle-courses/> or the websites of commercial providers.

Thirty-seventh Annual Midyear Legal Seminar

November 4–12, 2010

(2 overnight flights + 6 hotel nights)

Park Tower, Buenos Aires, Argentina
A Luxury Collection Hotel

The Midyear Legal Seminar planning committee and our travel professionals are hard at work to create a memorable and fascinating experience. **So that hotel and air contracts may be confirmed, we need to hear from you right away if you plan to participate in this year’s seminar.** Air and land services will be handled by Tour Plan International of Richmond, Virginia.

REGISTRATION DEADLINE APRIL 2010

(deposits from 45 attorneys required this month for the seminar to proceed)

There will be no general mailing to the entire membership for this seminar. Registration information is available on the Virginia State Bar’s website at <http://www.vsb.org/special-events/midyear-legal-seminar/>.

Package cost details and airline info available at: <http://www.vsb.org/docs/2010-midyear-brochure.pdf>
Please contact Stephany Pishko to make your reservation: (804) 359-3217 (ext. 318); email: stephanytrvl@msn.com

We hope you will join us!

Courts Appoint Counsel in Parental Termination Cases

Clarence M. Dunnaville Jr.'s article "A New Role for Law Schools and the Bar" (*Virginia Lawyer*, December 2009) may lead the reader to believe that parental rights of indigent parents in the commonwealth are routinely involuntarily terminated per Virginia Code § 16.1-283 without the benefit of counsel. Nothing could be further from the truth in the courts of Newport News, Harrisonburg, and Rockingham County, where I have had the privilege of representing local departments of social services for eight years. Per Virginia Code § 16.1-266(D), these courts advise parents of their right to counsel in termination of parental rights proceedings and appoint counsel to indigent parents upon request. The Harrisonburg-Rockingham Juvenile and Domestic Relations Court generally also appoints counsel for absent parents per § 16.1-266(D).

Further, Mr. Dunnaville cites *Brazell v. Fairfax County Dep't of Soc. Servs.* to support his assertion that parents in involuntary termination proceedings are denied the right to counsel. In *Brazell*, the circuit court found that the biological mother was ineligible for court-appointed counsel because she was not indigent, and the mother's counsel conceded this point at the remand hearing. In *Brazell*, the mother was not denied the right to counsel because she could not afford a lawyer.

A Newport News circuit judge once told me that he would rather try a capital murder than a termination of parental rights case, indicating to me just how seriously he took the deprivation of a parent's fundamental liberty interest in raising his or her own biological child. The courts in which I have been lucky enough to practice have respected that constitutional right, have followed the law, and have routinely appointed counsel for indigent parents

in involuntary termination of parental rights proceedings.

Kim V. H. Gutterman
Rockingham County Assistant
County Attorney
Harrisonburg

Mr. Dunnaville's response:

I appreciate Ms. Gutterman's thoughtful comments regarding my article and her sharing her experience in Newport News, Harrisonburg, and Rockingham County. There is no assertion in my article that parental rights are routinely involuntarily terminated without the benefit of counsel within the commonwealth. The article does correctly set forth what happened in two cases.

The facts outlined below, which are substantiated in transcripts of proceedings before the trial court, correct Ms. Gutterman's assertions regarding the Brazell case:

Ms. Brazell, as an indigent person, initially was represented by court-appointed counsel, who was permitted to withdraw on April 7, 2006, approximately one month prior to trial.

After her counsel withdrew, Ms. Brazell sought the assistance of legal services. She was advised that with a trial date of May 2, 2006, legal services was unable to represent her at the trial and that the best thing for her to do was to get the court to appoint another attorney to represent her. Legal services assisted her with preparation of a motion for a continuance, which was set for the same date as the trial.

Ms. Brazell appeared on the morning of trial with the expectation that counsel would be appointed and a continuance granted. On the objection of the Department of Family Services, the court declined to appoint counsel, denied the continuance, and forced Ms. Brazell to trial without the assistance of counsel.

No evidence was taken by the trial court at the time of trial with respect to Ms. Brazell's income or whether she met the indigency requirements. The trial court ruled against Ms. Brazell and terminated her parental relations with her children. Without the assistance of counsel, she appealed the adverse decision to the Court of Appeals. The Court of Appeals remanded the case to the trial court for a determination regarding Ms. Brazell's indigency at the time of trial.

As the transcript of the August 16, 2007, remand hearing reflects at page 34, legal services made a determination that she was indigent when it assisted her with her application for a continuance and advised her to seek a court-appointed attorney. That application was presented to the court at the remand hearing.

Contrary to Ms. Gutterman's statement that the trial court found Ms. Brazell ineligible for court-appointed counsel, the legal services finding of indigency was accepted by the court, and she was appointed counsel, who represented her on appeal.

As stated in my article, the Court of Appeals held that Ms. Brazell was required to be held to the same trial procedural requirements as if she had been represented by counsel, and because she had not objected to the introduction of improper evidence or made a motion to strike at trial, she was precluded on appeal by Rule 5A:18 from challenging the insufficiency of the evidence against her.

My purpose in discussing Brazell and another case in my article was to illustrate that the inability of indigent persons to have legal counsel has had a huge impact on the lives of many citizens who lose fundamental rights because they are unable to navigate the legal system without the assistance of counsel. The need to make legal services available to all persons without regard to economic status is one of the greatest challenges facing the profession.

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VL Error Noted

The front cover of the February 2010 *Virginia Lawyer* magazine needed another edit. Unless the creative spelling — “detensions” — has replaced the customary spelling — “detentions” — you goofed. Otherwise, another helpful and interesting issue.

Thomas C. Carter
Alexandria

(Thanks to Mr. Carter and other readers who pointed out the mistake. Virginia Lawyer regrets the error. —Editor)

Lawyer Praises President’s Column

For (Virginia State Bar President)
Jon Huddleston:

All the best from Perth, Australia! I wanted to let you know how much I enjoyed your message in the December 2009 issue of *Virginia Lawyer*. http://www.vsb.org/docs/valawyer/magazine/vl1209_president.pdf Roberto Clemente was my favorite baseball player and always will be — not least because of his humanitarian efforts. I have a similar story where I gave back to my neighbor the 1960 Pirates yearbook. He had given it to me when he moved out of his parents’ home but now has a basement filled with 1960 Pirates memorabilia.

Your story brought tears to my eyes.

James S. Kolan
Midland, Washington

Sex with Clients? Never!

I just finished reading Legal Ethics Opinion 1853, Sexual Relationship with a Client. There are many things about the legal profession that I would like to change. This LEO synthesizes a lot of what is wrong with the legal profession. Wordy, obtuse, insensitive, unrealistic, and outrageous are just a few of the descriptive adjectives for LEO 1853.

I propose an alternative: “No lawyer — man or woman, regardless of sexual orientation — should ever have sex with a client.”

No one can misunderstand the above. The above standard is what we owe the public. Anything less than a concise, clearly stated standard is a disservice to the profession and is what we owe our clients.

Terry W. Raney
Beaverdam

Response of VSB Ethics Counsel James M. McCauley:

Thank you for your interest in and comment on LEO 1853. I agree that we all could point to things in the legal profession that we would like to improve. Prior to publishing the opinion for comment and during the comment period the committee gave thoughtful consideration to the “bright line” rule you suggest but found it problematic. First, the bright-line approach would prohibit representation of spouses or other persons with whom the lawyer has a close and sexual relationship that existed before the professional engagement. Your proposal, unlike American Bar Association Model Rule 1.8(j), has no safe harbor for those situations. For example, I could not represent my wife on any legal matters and she would be compelled by the bright-line rule to pay for legal representation by another lawyer, when I am prepared to represent her without charging a fee. Second, a bright-line approach overlooks situations in which, infrequent

though they may be, the lawyer and a sophisticated client — i.e., a corporate executive or general counsel for a corporate client have consented to a sexual relationship, where there is no possible impairment of judgment, conflict of interest, vulnerability, or exploitation of the professional relationship. Third, proposed LEO 1853 uses the terms “lawyer” and “client” throughout and therefore applies to all sexual relations between lawyer and client, regardless of sexual orientation.

As to the opinion being “wordy, obtuse, insensitive, unrealistic, and outrageous,” the opinion borrows language from numerous public disciplinary decisions in which lawyers have been disciplined for having sexual relationships with clients in jurisdictions, including Virginia, that have chosen not to adopt a bright-line rule such as the one you suggest.

Letters

Send your letter to the editor* to:
coggin@vsb.org;
fax: (804) 775-0582;
or mail to:
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Virginia Lawyer Magazine
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Richmond, VA 23219-2800

*Letters published in *Virginia Lawyer* may be edited for length and clarity and are subject to guidelines available at
<http://www.vsb.org/site/publications/valawyer/>.

President's Message

by Jon D. Huddleston



Choices

Spring 1968

"Can you get your mom's car?" his friend asked. "Come on, can you get your mom's car? I've got a gun, let's go get some money. Get your mom's car."

"Are you crazy?" he replied.

"You've lost your mind."

"It'll be easy, let's go get some money."

In the pantheon of decisions typically confronting young men as they are crossing that threshold into adulthood, this scenario doesn't show up very often. At least, it didn't in my neighborhood.

Judge Gerald Bruce Lee recently told this story at the Colors of Justice program hosted at the U.S. District Court in Alexandria. Eighty high school kids witnessed a mock trial, deliberated as jurors, and heard from some of Virginia's finest jurists about the law, the profession, and themselves. It is an extraordinary program. But it was Judge Lee's story about choices — his choices — that so resonated with me.

August 26, 1972

I was twelve years old. It was Saturday morning. My father had this good idea that the grass needed cutting and that I was just the person for the job. I decided that this good idea could wait until I was through with whatever rerun I was watching. In short, I would get to it when I got to it. He went out to start the job himself, no doubt not wishing to expend the energy necessary to persuade his pre-teenage son as to the rectitude of his request.

Several minutes later, my brother came in, screaming to my mom that my dad had passed out working on the tractor, having witnessed a screw-

driver falling from Dad's unconscious hand. The ambulance was called and we waited.

I next saw my father a couple of days later, laid out in his favorite blue suit at the funeral home at what they call the visitation, struggling to hold back tears in an effort to be the man I thought my father would want me to be.

The heart attack that killed my father was a fairly inevitable event. He had degenerative heart disease stemming from rheumatic fever, his souvenir from his brief military career in service to our country. Much of my childhood was marked by extended hospitalizations and subsequent convalescence. I do not recall his attendance at a single sporting event or school activity. All of those responsibilities and so many more fell to my mother. It didn't mean he loved us less; it just meant that circumstances precluded him from participating in our lives as much as I am sure he had hoped.

Perhaps this is a curious juxtaposition of events, unrelated by time, stage of life, and neighborhood. However, each event inexorably helped shape our lives, our professional development, and our outlook on life.

Judge Lee's choice was far more palpable, more instantaneous. His refusal to bend to wishes of his friend meant the difference between jail (where his friend wound up) and college. I am sure Judge Lee would tell you there were other seminal events that helped chart the course of his career but I suspect none were more momentous.

My father's death, or rather his life, also uniquely shaped my choices

— for career, for family, for balance. I have long since understood that my failure to cut the grass did not kill my father. However, his absence uniquely permeated almost every important decision I would make as an adult.

I chose a career in law for a number of reasons. Inevitably, one of them was the influence of my cousin's husband, Jack Lotis, who was a fine lawyer and later a judge who was a great male role model for me. I chose a small firm that might allow me greater opportunity to not only practice law but to be a part of my community — to fulfill my notion of what being a "citizen lawyer" meant.

Last July, I appeared on the cover of *Virginia Lawyer* with nine children — two of whom are mine — whom I had coached in various sports, principally soccer and basketball. I felt that this would set the tone for beginning my year-long campaign — Virginia Is for Good Lawyers. My thesis was and is that no profession does more for its community than ours. Through "The Big Picture" program, we have showcased the good works of several Virginia lawyers and judges. I hope you have seen them on YouTube. What a thrill it was for me to meet good lawyers like Dave and Kami Lannetti and to learn of their great work with the Special Olympics in Norfolk, and Judge Angela Roberts and to discover the contributions she has made with the National Adoption Day Celebration in Richmond. I am proud of all our videos. I am prouder of the lawyers and judges we have profiled.

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President's Message

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What I have come to realize this past year is that all of this is about choices. The choice to help man a soup kitchen as Pete Buchbauer has done in Winchester for nearly ten years. The choice to referee high school football as Judge Rossie Alston did for several years while he practiced law. The choice to hammer nails for Habitat for Humanity, or to hand out fruit on a cold December afternoon for the Lion's Club, or to coach our youth, or to comfort the elderly. Choices. Good choices. Good lawyers.

The simple premise that "Virginia is for good lawyers" has carried us a long way. The Reflections page at VSB.org provides unique essays from many of Virginia's best lawyers and judges. We have used blogs, Twitter, and other social media to get our message out. But, the YouTube videos have been the cornerstone. These could not have been done without the creative energy and talent of Madonna Dersch at the Virginia State Bar. She has served as director, producer, editor, camera-

woman, and taskmaster. The credit for the breadth and quality of these programs begins with her. I would also like to thank Rod Coggin, the VSB's director of public affairs and publications, for his unwavering enthusiasm and support, even when it appeared that I was trying to turn their offices upside down. I have had the privilege of working with the wonderful professionals at the Virginia State Bar offices for years and this year was especially gratifying. To a person, each staff member has wished for nothing but success for my projects and me personally. Karen Gould leads an extraordinary team.

I will return to the full-time practice of law in June. The contributions of the president's firm are immeasurable. My colleagues at Sevila, Saunders, Huddleston & White have truly embraced this mission with me. Whether it meant covering or taking over my cases, or anything else, each member stepped up to allow me to fulfill the responsibilities of office. I could not ask to work with a better group.

The president's year is also very taxing on the president's family.

Whatever routine that may have existed previously disappears the day after the installation. My wife Cyndy and my sons Bobby and Jack weathered it all without complaint.

In June, my friend Irving Blank from Richmond will take over as the seventy-second president of the Virginia State Bar. Irv is an exceptional lawyer and an exceptional man. Virginia's good lawyers will be in excellent hands.

I began this column with an anecdote about Gerald Lee, my friend and very much a mentor to me. A few months before I began my term, I discussed some modest plans for the year with Judge Lee. No one would ever accuse Judge Lee of thinking small. His vision and creativity during that evening's discussion transformed my plans and served as much of the inspiration for what we tried to accomplish this year.

Soon, we return to the annual meeting to finish my term. This year, as it often does, the meeting will fall on Father's Day weekend. Happy Father's Day, Dad.

Executive Director's Message

by Karen A. Gould



Keeping Up With VSB Regulatory Requirements And Other Developments

New MCLE Regulation

Effective November 1, 2010, you will need to satisfy your twelve-hour mandatory continuing legal education requirement with at least four hours of live interactive programs. Or, to put it in the negative, the regulations will limit the number of on-demand hours you can use to satisfy your MCLE requirement to eight hours if no live interactivity is provided with the presenter and other attendees. This would include, for example, online and CD-ROM programs.

Approved live programs include traditional live programs, live telephone seminars, live Web casts, and video replays that include live interactivity with the speaker.

With regard to carryover hours, new MCLE Regulation 102(e) provides that “[n]o more than eight (8) credit hours, of which not more than two (2) ethics or professionalism credit hours, may be carried forward for pre-recorded programs.” You will be able to carry forward 12 hours of live interactive programs under the Supreme Court of Virginia Rules of Court Part 6, § IV, ¶ 17 — Organization and Government of the VSB, but only eight credit hours of prerecorded programs under Regulation 102(e). Carryover hours earned in the 2010 compliance year ending October 31, 2010, will be credited to year 2011 under the “live” category for a maximum of 12 hours.

Please remember to certify your MCLE attendance online after you attend a program. The credits immediately post to your record, and you do not have to worry about the attendance record getting lost in the mail, misdi-

rected, or inaccurately recorded. Simply go to the MCLE Records link at <https://member.vsb.org/vsbportal/>.

New February 1 MCLE Fee

If you did not file your MCLE compliance by February 1, you owed an additional \$100 fine. After February 1, 2010, 741 people paid that fee, and 163 people who had not paid were suspended on March 11, 2010. This is an improvement from the 195 attorneys who were suspended last March for MCLE noncompliance.

Diversity Conference Approved by Supreme Court

The creation of a Diversity Conference has been approved, effective immediately, by the Supreme Court of Virginia. The Diversity Task Force will meet on April 27, 2010, to work on the organizational details to set up the conference: appointment of the Board of Governors, funding, and an initial project. If you wish to join the Diversity Conference, as either an organization or an individual, e-mail Valerie Breeden at breeden@vsb.org and she will add you to the membership list.

Payee Notification Proposal Withdrawn at Court's Request

The VSB Council by a vote of 39 to 25 had authorized the officers to seek legislation at the 2010 General Assembly that would have required insurers that pay liability claims to notify claimants when they disburse settlement proceeds of \$5,000 or more to claimants' attorneys. The Supreme Court of Virginia asked the Virginia State Bar to withdraw the legislation because it had many questions and

wanted to seek the input of the seventeen statewide bar groups.

Other Supreme Court Actions

Effective January 4, 2010, attorneys licensed or admitted to practice in Virginia must register with the Virginia State Bar within a year of licensure or admission. (Rules of Court Part 6, § IV, ¶ 2(a))

Attorneys can now request the VSB omit their names and addresses from electronic or other disclosure of the membership list in response to Freedom of Information Act requests. (Rules of Court Part 6, § IV, ¶ 3) This can be done online through the Member Login feature on the VSB website. Log in with your member number and password, go to Member Options and you will see the option to have your name and address removed from the membership list when it is distributed for other than official purposes. There will also be an option that you can check to not have your e-mail address disclosed if we have to produce our membership list in response to a FOIA request.

The Supreme Court also recently entered the following orders at the request of the VSB:

- The Standing Committee on Lawyer Advertising and Solicitation was eliminated, with its role taken over by the VSB staff and the Standing Committee on Legal Ethics, effective January 22, 2010.
- Rules 1.9 and 1.11 of the Rules of Professional Conduct were amended,

Keeping Up With VSB continued on page 38

Highlights of the Virginia State Bar Council Meeting

February 27, 2010

At its meeting on February 27, 2010, in Richmond, the Virginia State Bar heard the following significant reports and took the following actions:

Financial Report and Audit

President-elect Irving M. Blank reported that due to operational efficiencies the bar is operating within its revenues, and no dues increase should be needed through fiscal year 2012. An audit by the Virginia Auditor of Public Accounts reported that the VSB's records for the FY ending 2009 are in order and the bar was compliant with applicable laws and regulations.

Amendments to MCLE Regulations

Michael L. Davis, chair of the Mandatory Continuing Legal Education Board, reported to the council that the board

amended its regulations to reflect current policies relating to course approval standards, course sponsor responsibilities, and attorney compliance reporting procedures. The amendments limit pre-recorded programs to eight credit hours. Starting November 1, 2010, attorneys must take at least four hours of live, interactive programs. Live telephone seminars and webcasts will meet the live credit requirement, as will video replays with a local moderator.

LSCV Report and Request for Assistance

Mark D. Braley, executive director of the Legal Services Corporation of Virginia, reported to the executive committee that revenues from the Interest on Lawyers Trust Accounts program have declined 85 percent in the last two years. To assist

in offsetting those and other funding losses, he asked that the VSB include an opportunity for lawyers to contribute to LSCV through the annual dues statement or through a direct fund-raising campaign.

Proposed Amendments to Trust Account Rules

The proposed amendments to Part 6, § II, Rule 1:15 and Part 6, § IV, ¶ 20 were returned to the Standing Committee on Legal Ethics for reconsideration.

Resolution re Funding for Judicial Vacancies and Drug Courts

The council voted 55–2 with 1 abstention to ask the General Assembly to continue funding existing judgeships and drug courts.

Professional Guidelines Now Online in Searchable Format

The Virginia State Bar *Professional Guidelines* for the first time are published online in a searchable HTML format that allows users to quickly access the sections they are looking for without flipping through pages or waiting for PDFs to download. See <http://www.vsb.org/pro-guidelines/>.

Because the format will meet most VSB members' needs, print copies of the *Professional Guidelines* were not mailed with the October 2009 issue of *Virginia Lawyer*. A limited number of copies are available to members on request by contacting quarles@vsb.org.

The print version is published each fall and contains the rules and regulations of the bar, including the Rules of Professional Conduct, attorney trust account regulations, mandatory continuing legal education regulations and forms, Virginia Consumer Real Estate Settlement Protection Act regulations, and portions of the Supreme Court's rules for VSB governance and the procedure for disciplining attorneys.

The online HTML version allows members to browse the Rules of Professional Conduct by using a table of contents with hot links. Previously, the *Professional Guidelines* were available on the VSB website only as PDF files.

The HTML version will be updated throughout the year to provide a current electronic document at all times. The print version is updated once a year. Changes approved by the VSB Council and the Supreme Court of Virginia are published at VSB.org under Rule Changes.

Retired Judge Jere M.H. “Mac” Willis Presented with Carrico Award

The Virginia State Bar Criminal Law Section has presented its 2010 Harry L. Carrico Professionalism Award to retired judge Jere M.H. “Mac” Willis Jr. of Fredericksburg, who served on the Virginia Court of Appeals.

The award was presented on February 12, 2010, during the section’s Fortieth Annual Criminal Law Seminar in Williamsburg. Reno S. Harp III, retired chief counsel to the Virginia Judicial Inquiry and Review Commission and a previous Carrico award winner, was the keynote speaker.

In presenting this year’s award, section chair Richard E. Trodden of Arlington said Willis embodies the characteristics the award was created to recognize: a deep commitment to the ideals of professionalism in the practice of law and the administration of justice in Virginia; a unique contribution to the improvement of the criminal justice system; and dedication to excellence through competence, fairness, integrity, and courtesy.



Above: Richard E. Trodden, chair of the Criminal Law Section, presents the Carrico Professionalism Award to Judge Willis (right).

Right: Reno S. Harp III, a former chair of the section, gave the keynote speech.



Mark Your Calendar

**Bar Leaders Institute
Friday, October 22, 2010**

Roanoke Higher Education Center, Roanoke, Virginia

More information will be posted when available on the Conference of Local Bar Associations website at <http://www.vsb.org/site/conferences/clba/>.

William C. Mims Named to Virginia Supreme Court

William C. Mims, a former legislator and Virginia attorney general, has been elected a justice of the Supreme Court of Virginia. He takes the position vacated by Barbara Milano Keenan, who now sits on the Fourth Circuit U.S. Court of Appeals.

The General Assembly selected Mims, who represented parts of Loudoun and Fairfax counties in the House of Delegates from 1992 to 1998 and in the state Senate from 1998 to 2006. When Attorney General Robert F. McDonnell resigned as attorney general in 2009 to run for governor, the General Assembly named Mims — previously McDonnell's chief deputy AG — to the office.

He was to begin his duties on April 1. An installation ceremony was scheduled for April 9 at the Supreme Court.

Mims holds a bachelor's degree in history from the College of William and Mary and juris doctor and master of laws degrees from George Washington University Law Center.

He worked for U.S. Senator Paul S. Trible Jr. and Congressman Frank R. Wolf and practiced with Hazel & Thomas PC after law school. During his time in the legislature, he practiced with the firm Mims, Atwill & Leigh PC in Leesburg.

His extensive community and professional service includes serving on boards of directors for Voices for Virginia's Children and the Richmond Behavioral Health Authority; membership in the John Marshall American Inn of Court, the Virginia Bar Association Board of Governors, and the Chief



William C. Mims

Justice's Commission on Mental Health Law Reform; and chairmanship of the Virginia Code Commission and the Virginia Housing Commission.

Carrico to Receive Award from John Marshall Foundation

Senior Virginia Justice Harry L. Carrico will be presented with the John Marshall Foundation Medal in Law on October 29, 2010, at the Marriott Hotel in downtown Richmond.

The dinner will be preceded by a symposium on four biographies of Marshall, to be held at the University of Richmond.

The Medal in Law was established in 2005 to recognize persons who share Marshall's philosophy of the supremacy of the rule of law, a strong belief in judicial independence, and the principles displayed as a citizen soldier and lawyer and as chief justice of the United States.

Carrico — who served as the Supreme Court of Virginia's chief justice of 1981 until 2003 and was on the Court for forty-two years — will be the third

person to receive the award. The others were U.S. Associate Justice Anthony M. Kennedy and former U.S. attorney general Griffin B. Bell.

The foundation will sell tickets for individuals and sponsored tables. For information, contact the foundation's executive director, Lynn Brackenridge, at lynnbrackenridge@johnmarshallfoundation.org or (804) 775-0861.

Details will be provided in the June-July edition of *Virginia Lawyer*.

Local Bar Elections

The Prince William County Bar Association Inc.

Amy Marion Ashworth, President
Megan Eileen Kelly, President-elect
Laurie Jeanne Sholtis, Secretary
Joseph Wylie Thelin, Treasurer
Mark Thomas Crossland, Director
Angela Lemmon Horan, Director
Arthur vonKeller IV, Director
Petula Cherise Alston Metzler, Director

Washington Metropolitan Area Corporate Counsel Association

Curtis Lorin Schehr, President
Stephen C. Dwyer, President-elect
David Alan Kessler, Vice President
(Programming)
Robert Evan Gans, Vice President
(External Relations)
Anne Louise Milem, Secretary
Michael F. Finn, Treasurer

4th Circuit Judge Roger Gregory Receives UR Law's Highest Honor

The University of Richmond School of Law presented Judge Roger L. Gregory of the Fourth Circuit U.S. Court of Appeals with its highest honor, the William Green Award for Professional Excellence. The award was presented March 19 at the university.

The award was established in honor of a Richmond judge who was a member of Richmond College's original law faculty. In his address to the first law class in 1870, Green encouraged each student to adopt a personal-best standard—to measure success not in competition with others, but through surpassing “his own previous performance.”

Previous recipients of the award include jurists, attorneys, university and law school officials, and a journalist, from Virginia.

UR Law School Dean John Douglass said, “Judge Gregory’s skill and professionalism across decades of service as lawyer and judge make him an outstanding role model for our students and for all members of our legal community.”

Gregory, a native of Petersburg, graduated from Virginia State University and the University of Michigan Law School. He practiced with Hunton & Williams in Richmond and cofounded the firm Wilder & Gregory. Then-partner L. Douglas Wilder went on to become governor of Virginia.

Gregory was appointed to the Court of Appeals in 2001, after being nominated by President William J. Clinton and renominated by President George W. Bush. He is the first African American to sit on the Fourth Circuit and the only U.S. Court of Appeals judge to be appointed by presidents of different political parties.



Judge Gregory displays the William Green Award with University of Richmond President Edward L. Ayers (left) and John G. Douglass, dean of the UR School of Law.

CALL FOR NOMINATIONS

Award of Merit Competition

Sponsored by the VSB Conference of Local Bar Associations.
Nomination Deadline: April 30, 2010

Local Bar Leader of the Year

Sponsored by the VSB Conference of Local Bar Associations.
Nomination Deadline: April 30, 2010

For more information, see
<http://www.vsb.org/site/conferences/clba/view/awards/>.

Virginia Lawyer Referral Service

For information, see <http://www.vsb.org/site/public/lawyer-referral-service/>.

In Memoriam

Miriam S. Ageloff

Freeport, New York
November 1933–December 2009

Prof. Kelley Hollabaugh Bartges

Richmond
November 1958–January 2010

William Russell Brown

Portsmouth, Virginia
October 1953–January 2010

Thomas Joseph Chasler

Winchester
December 1947–November 2009

Nicholas Daniels

Petersburg
October 1928–February 2010

A. Robert Doll

Louisville, Kentucky
April 1927–November 2009

W. Lester Duty

Chester
November 1926–November 2009

David Campbell Kohler

Los Angeles, California
February 1953–October 2009

Richard Henry Lewis

Fort Lauderdale, Florida
April 1929–March 2010

Thomas P. Mains Jr.

Great Falls
September 1934–January 2010

Bruce Montgomery Marshall

Richmond
April 1951–February 2010

William P. Oberndorfer

Bridgewater
October 1916–June 2009

Terrence Patrick O'Brien

Vero Beach, Florida
March 1929–August 2009

Kendall W. Paul

Hartfield
March 1925–August 2009

John Douglas Perkins

Falls Church
February 1931–January 2010

John Edmund Smircina

Alexandria
July 1931–February 2010

Paul George Varoutsos

Arlington
December 1920–June 2009

Edward Joseph Walinsky

Fairfax
October 1954–February 2010

Leo C. Wilkerson

Winston-Salem, North Carolina
September 1933–January 2010

Hon. Benjamin A. Williams Jr.

Courtland
November 1919–January 2010

Join a VSB Section

Section membership is open to all members in good standing of the Virginia State Bar. Many sections also have law student and associate memberships. The sections are supported by dues which range from \$10 to \$35.

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Antitrust, Franchise &
Trade Regulation
Bankruptcy Law
Business Law
Construction Law &
Public Contracts
Corporate Counsel
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General Practice
Health Law
Intellectual Property Law
International Practice
Litigation
Local Government Law
Military Law
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Trusts and Estates

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or visit <http://www.valhl.org>.

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http://www.vsb.org/site/pro_bono/resources-for-attorneys

Virginia State Bar Harry L. Carrico Professionalism Course

See dates and registration information at
<http://www.vsb.org>.

Hate Speech Is Theme of Richmond Law Day Event

Judge Richard Williams Among Honorees

Free Speech, Fair Speech, Fear Speech is the theme of the Third Annual Law Day Conference, to be held April 30, 2010, at the Virginia Holocaust Museum in Richmond.

The event is sponsored by the Virginia Law Foundation and the museum.

The conference will take place from 8:30 AM to 1 PM. During a 6 to 8 PM reception and ceremony, the Rule of Law Award will be presented to Seventh U.S. Circuit Court of Appeals Judge Ilana Rovner, and senior U.S. District Judge Richard L. Williams of the Eastern District of Virginia will receive the Legacy of Nuremberg Award.

The Virginia Law Foundation Rule of Law Award honors extraordinary commitment to promoting the rule of law as the foundation of peaceful, stable, and prosperous nation states.

Rovner was born in 1938 in Riga, Latvia. As an infant, she and her mother fled to the United States to escape Nazism. In 1992, President George W. Bush nominated her to the Court of Appeals, and the U.S. Senate

confirmed her. She previously worked in the U.S. Attorney's office for the Northern District of Illinois, served as deputy governor and legal counsel to the governor of Illinois, and sat on the U.S. District Court for the Northern District of Illinois.

The Legacy of Nuremberg Award is given to a person who upholds the ideals of Nuremberg by his or her participation in the historic trials of war crimes there or by work to "keep alive the promise of Nuremberg, that justice knows no bounds."

Williams served in the U.S. Army Air Corps during World War II, and was stationed at Pearl Harbor when Japan bombed that port on December 7, 1941. He received bachelor's and law degrees from the University of Virginia. He was a Richmond circuit judge before President Jimmy Carter nominated him to the federal bench. He took senior status in 1992, after serving for twelve years.

Conference speakers and their topics will be:

- Dr. Susan F. Hirsch, a legal anthropologist, professor, and director of the Institute for Conflict Analysis and Resolution at George Mason University — "Uncivil Discourse: A Conflict Resolution Perspective."
- Rick Eaton, chief investigator for the Simon Wiesenthal Center and Museum of Tolerance in Los Angeles — "Method and Means of Hate- and Fear-Speech Communication."
- Rodney A. Smolla, dean of Washington and Lee University School of Law and president-designate of Furman University — "Constitutionally Informed Responses to Hate and Fear Speech."

The conference is open to the public without charge. Complimentary breakfast and lunch will be served. To register, contact the Virginia Law Foundation at (804) 648-0112. A downloadable brochure is available at <http://www.va-holocaust.com/documents/WorldJusticeConference.pdf>.

YLC Board Elections

At its Annual Meeting on June 18, 2010, the Virginia State Bar Young Lawyers Conference will be electing members to the Board of Governors. Both at-large and district seats will be available.

All nomination are due on May 1, 2010, and any letter of interest or nomination should be sent to:

Jennifer L. McClellan
Immediate Past President
Fax: (804) 772-2143
Jennifer.l.mcclellan@verizon.com

Any active member of the bar in good standing under the age of 35 or in the first 3 years of practice may serve on the YLC board.

R. Edwin Burnette Jr. Young Lawyer of the Year Award.

The Virginia State Bar Young Lawyers Conference is seeking nominations for the **R. Edwin Burnette Jr. Young Lawyer of the Year Award**.

This award honors an outstanding young Virginia lawyer who has demonstrated dedicated service to the YLC, the profession and the community.

The nomination deadline is May 1, 2010. Nominations should be sent to:

Jennifer L. McClellan
(804) 772-1512
Fax: (804) 772-2143
Jennifer.l.mcclellan@verizon.com

Giving Back and the Pursuit of Happiness

Good Lawyers Are Good for Virginia

by Frank Overton Brown Jr.

Virginia State Bar President

Jon D. Huddleston has shined the bright light of public recognition on the good deeds of Virginia lawyers.

He has done so through his coordinated initiatives, including “The Big Picture” video project, which promotes the image of the citizen lawyer by telling the stories of lawyers who contribute to their communities;

“Reflections,” a collection of essays written by or about Virginia lawyers; and “Raising the Bar,” his president’s blog.

Public recognition of good deeds not only engenders appreciation and raises public awareness; it also acts as a catalyst to generate more good deeds.

“Overwhelmingly, ours is a profession that gives back to the community,” President Huddleston said.

Law is a service profession. As part of this service, giving back to the community and the profession is something that Virginia lawyers have done for generations. Sometimes, giving back has been done by lawyers acting alone, but more often giving back has been done by lawyers who act in an official or professional capacity. Sometimes giving back has been done in direct, personal ways that improve the lives of individuals or small communities, such as John M. Oakey Jr. providing pro bono services, the late Professor Robert E. Shepherd Jr. working on behalf of juvenile justice, Phyllis C. Katz helping cancer patients, Robert B. “Chip” Delano leading youths in the Boy Scouts of America, Professor Lynne Marie Kohm teaching law students and new lawyers, the Norfolk and Portsmouth Bar Association collecting tons of food for the needy, Peter W. Buchbauer feeding the hungry, and

lawyers across the state giving legal assistance to the poor every day. Sometimes giving back improves not just the life of one individual or small community, but benefits the entire commonwealth. Examples are teaching the law (George Wythe, who, at the College of William and Mary, held the first chair in law in America and taught Thomas Jefferson, John Marshall, James Monroe, Edmund Randolph, and Henry Clay); the Declaration of Independence and the Virginia Statute for Religious Freedom and the University of Virginia (Jefferson); the Constitution of the United States with its Bill of Rights (James Madison, who was well-read in the law, but was not admitted to the bar); *Brown v. Board of Education* (Oliver W. Hill Sr., among others); the Community Foundation (<http://www.tcfritchmond.org/page2482.cfm>) (Fielding L. Williams Sr.); the Virginia Constitution of 1971 (A. E. Dick Howard); the American Jury Initiative (Robert J. Grey Jr., past president of the American Bar Association); the Virginia Holocaust Museum (Jay M. Weinberg); a lifetime of service to family, church, community, and the bar (Ken McFarlane Smith); Senior Citizens Law Day (William T. Wilson); Virginia and National Healthcare Decisions days (Nathan A. Kottkamp). All of us, as members of communities and of the profession, have been the beneficiaries of these acts.

We need only to look in this issue of *Virginia Lawyer* to find more evidence of giving back to the community and the profession — the Honorable Wayne L. Bell’s remembrance of the late George M. Warren Jr., who served thirty-seven years in elected offices in Virginia and helped to establish the Children’s Advocacy Center in Bristol; John M. Oakey Jr.’s article about pro bono service; and Jack W. Burtch’s essay on the importance of our remembering to counsel clients.

On January 21, 2010, in cooperation with the Virginia State Bar Senior Lawyers Conference and Richmond TRIAD, my son Matthew R.O.

Law is a service profession. As part of this service, giving back to the community and the profession is something that Virginia lawyers have done for generations.



Jimmy F. Robinson Jr. (left photo) talks about age discrimination to an audience of 350 at Richmond's First Baptist Church during a January 21 Senior Citizens Law Day program. Photos by Susan Brown.

Brown and I coordinated a Senior Citizens Law Day Program at First Baptist Church, where Matthew is a deacon. Three hundred fifty senior citizens attended the program. Each of the attendees received valuable educational materials, including a copy of the *Senior Citizens Handbook* and a pocket copy of the United States Constitution. The following gave generously of their time and knowledge in speaking on these topics: "Getting Your Affairs in Order," by Frank O. Brown Jr. of Frank O. Brown Jr. PC.; "Protecting Yourself Against Crime," by Officer Alice Snell of the City of Richmond Police Department; "Protecting Yourself against Scams, Fraud, and Identity Theft," by Ben C. Garrett III of the Virginia Department for the Aging; "Advance Directives and Knowing Your Rights as a Hospital Patient," by Nathan A. Kottkamp of McGuire Woods LLP; "Medicaid — Knowing Your Rights," by Paula L. Peaden of Parker, Pollard, Wilton & Peaden PC; "Knowing Your Rights as a Nursing Home Resident," by Carolyn C. Lavecchia of Williamson & Lavecchia LC; "Seniors' Health Issues: Preserving Your Health," by Dr. Terry L. Whipple of American Self; and "Avoiding Age Discrimination: Knowing Your Rights," by Jimmy F. Robinson Jr. of Troutman Sanders LLP.

A senior citizen who attended the program wrote: "What a wonderful afternoon yesterday. I feel like I was given \$10,000 worth of advice for free! Great speakers, information, sharing, (and) practical advice, and I learned many new things. I appreciate so much all the hard work that went into getting such excellent presenters. So much practical information that will be so useful to everyone and their families. Today, I am making a

summary that I can hand out to family and friends. This will be far-reaching."

The Senior Citizens Law Day Program was developed by William T. Wilson, who coordinated the first program in Covington, under the auspices of the Alleghany-Bath-Highland Bar Association. Since then, Senior Citizens Law Day programs have been held across the state.

Albert Schweitzer said, "I don't know what your destiny will be, but one thing I know: the only ones among you who will be really happy are those who will have sought and found how to serve." This quote encapsulates the concept of "servant leadership," which is firmly embedded in the legal profession. Robert K. Greenleaf, author of *The Power of Servant Leadership*, wrote, "The servant-leader is servant first. It begins with the natural feeling that one wants to serve. Then conscious choice brings one to aspire to lead."

Reinforcement of the power of servant-leadership thrives under the light being shined by current VSB President Jon D. Huddleston. We thank him for his support and encouragement of our giving back to the community and the profession. Giving back to the community is good for us and for the profession. It is part of our pursuit of happiness.

A senior citizen who attended the program wrote: "What a wonderful afternoon yesterday. I feel like I was given \$10,000 worth of advice for free!"

The Lawyer As Counselor

by Jack W. Burtch Jr.

In my second year of law school, I began working for a well-known Nashville defense lawyer. He was in his early sixties then, as I am now. One day he said, “JB, I want you to go to the county health department, find all the pamphlets on mental health, and bring them back here.” Thinking this was somewhat unusual, I asked the reason for his request. “Because many of my clients have trouble accepting reality,” he said, “and I want to find out why.” Sometimes simply bringing clients into reality is our job.

When I look at my law license with its faded signatures, I see the words “Attorney and Counsellor at Law.” For many years, only that first word registered. I was a lawyer. That meant I represented clients in their causes. Within the bounds of morality and legality, I helped them achieve their goals by zealous advocacy. I listened to what they wanted and tried to make it happen for them.

Yet as the years went by, I began to notice something unexpected. In my practice in labor and employment matters, I could now see that certain types of situations tended to produce certain types of problems. Although each client’s case was unique, I began to see patterns in both causes and solutions. This wasn’t true for every problem, of course, but it was for many. It then dawned on me that I might know more about how a situation would play out than those who had been enmeshed in it from the beginning. I was suddenly able to predict how a group of employees might respond to a new management directive. I now realized the larger trajectory of an executive’s career could be forecast by examining a few recent assignments and duties.

Creating Opportunity out of Disappointment

For me, the counselor’s role came into focus about fifteen years ago when an executive called and asked for an appointment. “I don’t know why I’m calling,” he said, “but I’ve talked with some

friends, and they strongly suggested I come and talk to you.” I didn’t know why he was calling either, but I was certainly intrigued. And after we had chatted for about half an hour, I started to see the picture. Here was a successful executive in a large organization who was being nudged toward the sidelines. To me, the signs were obvious: more responsibility for “special” projects; less line accountability; exclusion from meetings he once led; less informal interaction with top management. I thought he was on the way out, but he didn’t have a clue. So, in the nicest possible way, I told him what I saw and suggested that his time with this company might be coming to an end. After his initial, emotional reaction, he sat very still for some minutes. Then he looked up and said, “They want me out. But they don’t know I’m now onto their game.” He paused again and asked, “How can we use what we now know to get what we want?” In the shortest time I’d ever seen, this client was ready to turn disappointment into opportunity. We met again to develop a strategic plan, and a few months later my client walked out of his office for the last time, as a happy man. Any lawyer who has practiced for a long time has had similar experiences. Situations that seem mysterious to our clients often appear clear to us. This is not because lawyers are smarter, or have better insight, or are gifted with legal clairvoyance. It’s simply because the experienced lawyer has been down this road before and the territory is familiar. Notwithstanding the vagaries and complexities of human character and motivation, people often react to given situations within a range of somewhat predictable responses. The longer we practice, the more familiar we are with those likely responses.

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Capitalizing on Industry Knowledge

In academic legal counseling terminology, the lawyer's accumulated past experience in a particular field is called "industry knowledge." This term refers to the information gathered by working through the same types of legal problems over and over again. Land-use lawyers know how land developers tend to react when interest rates drop; criminal lawyers know that experienced criminal defendants have different fears than people charged for the first time; trial lawyers know that eyewitness testimony isn't always right.

Experienced lawyers armed with industry knowledge have an advantage others do not. These lawyers can advise clients about legal issues and at the same time offer the benefit of their experience. Experienced lawyers can suggest what types of approaches tend to work best and what good outcomes might result—often to the surprise of clients who haven't considered these options before.

Practicing Legal Counseling

I did my first actual legal counseling by accident. Or at least I didn't know I was doing it; only hindsight made it clear. I was the new associate in a large law firm. Everyone on the labor team, including my boss, was out of town.

The union employees of a client company had gone on strike and were picketing the plant. This was expected and not considered a problem. However, early one afternoon I got a phone call from the manager of the trucking company next door to the plant. Some pickets had moved over to the trucking site, and the unionized truck drivers were refusing to cross the picket line. The truck facility was functionally shut down. Its manager told me to go to court and get an injunction to make the pickets go away. I got the facts from him as best I could and did some quick legal research. Because the company on strike owned the trucking company and was arguably in a related operation, I didn't think an injunction was likely. In fact, there was a good chance that losing an injunction could actually worsen the trucking company's current situation. I told the manager what I had found out, and he told me I was wrong.

Late that afternoon, I drove over to the truck yard. A small band of pickets was patrolling the entrance. In the middle of the yard was a large trailer. The name of the company being struck was painted, in large letters, along its entire length. I suggested to the manager it might be a

good idea to move the trailer off the property, since it looked like a billboard supporting the struck company. He thanked me for my thoughts, again told me to get an injunction, and ushered me out the door.

The next morning, I got a call from the irritated general counsel of the parent company in New York. He said if I didn't have the fortitude to get an injunction, my boss would. So I went back over to the yard to get affidavits for an injunction hearing. After finishing up, I said to the manager, "Just do me a favor. Move the trailer and see what happens." He humored me and hooked the trailer up to a truck. As it headed out the gate, the pickets followed in a line, looking for all the world like a small parade. Clearly, the men were picketing the trailer, not the truck company.

Practicing Client-Centered Counseling

At the time of that strike, I was a new lawyer. I wasn't a legal genius, but I had blundered onto the revelation that not every legal problem has a legal solution. While I had not done any intentional counseling, I had proposed an alternate way to achieve the client's goal without going to court. Fortunately the trucking client's goal was clear, but that's not always the case.

In order to discern client goals, the lawyer has to somehow get inside the client's head and view the issue through the client's eyes. In modern legal counseling theory, this is known as "client-centered counseling." It focuses on the client's needs, desires, values, and attitudes. This theory sees it as the lawyer's duty to present various options that address the issue based on the client's orientation.

Client-centered counseling derived from the psychological theory developed by Carl Rogers. Rogers believed that human beings seek to become self-actualized—to achieve their full potential. The counselor's job is to show empathy, respect, and understanding so clients can make healthy decisions for themselves and develop their own potential to the fullest extent.¹

In legal theory, the client-centered approach was first introduced by Binder and Price² in the late 1970s. This approach has also been referred to as the "autonomy" or "informed consent" approach.³ Binder and Price introduced this model as an alternative to what they deemed to be the "traditional" approach.⁴ Other names for this approach are the "paternalist" and "best interest" approach.⁵

Practicing Traditional Counseling

There is no evidence the traditional approach is a single coherent model. Instead, it seems to be a much looser concept: simply the way professionals interact with laypersons. Different lawyers practice different ways, depending on their own experience and what seems to work best for them and their clients. It has not been until recently that theories, methods, and approaches to client counseling have even been discussed. Before, lawyers often relied on the approach they learned from their mentors.

The practice of law is dynamic; different situations require different approaches.

The traditional approach is probably just a romanticized view of the way some lawyers once practiced law. It stands in contrast to the new approaches and theories of professional interaction. In truth, the successful practice of law probably requires a pragmatic mixing of different theories. More accurately, it requires a little of each theory, depending on the particular situation and the particular client. The practice of law is dynamic; different situations require different approaches. Attempting to invent a universal method or strategy to be applied to every situation likely will result in disappointment.

When the Binder and Price model was first presented in 1977, it received substantial criticism — much of it justified — from the practicing bar. Decisions, Binder and Price argued, should be based on alternatives that bring the “greatest client satisfaction.”⁶ They said that lawyers cannot really know what value clients place on different consequences and what alternatives will bring the greatest satisfaction. Therefore, ideally, all decisions should be left to the client. A close reading of this approach led many to conclude that Binder and Price fundamentally believed lawyers should not give legal advice. The lawyer’s only role, under this theory, was to evaluate the legal and nonlegal consequences of different courses of action so the client could make the best choice, according to the client’s desires.

Possibly in response to some of this criticism, Binder and Price pulled back from this view in later editions of their textbook. However, they were careful to do so without compromising their allegiance to client-centered counseling.⁷

Balancing the Merits of Counseling Styles

If part of the value an experienced lawyer provides is industry knowledge, then using the client-centered approach to practice presents certain challenges. Broadly speaking, most clients’ problems can be broken into two categories: their specifically legal concerns and their more general, nonlegal concerns.

For example, a customer on the East Coast may want to sue a supplier for damages because the widgets he ordered did not meet specifications. It is clearly the lawyer’s job to identify the elements supporting a breach-of-contract or -warranty theory. But if a recent upheaval in the widget market has reduced the number of possible suppliers to two and the only other supplier is located on the West Coast, the customer’s nonlegal concern could become paramount. Anything that disrupts relations with the current supplier now could produce even more adverse consequences over the long term.

Experienced commercial lawyers will view this as one problem with two components. The first component, what the law requires, is the most straightforward. Commercial lawyers have so internalized these rules that they are able to analyze the legal elements without much conscious thought. The second component of this issue is more challenging and thus more interesting. An experienced commercial lawyer will remember the approaches that worked for other clients in similar situations. Without telling the client what to do, this lawyer can draw on years of experience to develop possible courses of action. This blended counseling style works, because lawyers, even unconsciously, integrate their legal and nonlegal knowledge to give effective advice. Few problems have purely legal solutions.

It is a lawyer’s job to honor all the client’s concerns — legal, economic, social, emotional — in developing a strategy that yields the best solution to the problem under the existing circumstances. To do this, the lawyer has to ask pointed questions to figure out what the problem really is, even if the client doesn’t know or doesn’t want to reveal it. (Few clients will freely admit they want to disinherit a child because they did not approve the choice of marriage partner. They will find a more palatable excuse.) Solutions to nonproblems aren’t solutions. Only discovering the real problem will uncover the real solution.

Of course, lawyers never have enough information to produce certainty in any result. We negotiate deals, structure business transactions, and draft complex agreements to solve the errors

of the past and control events in the future. We assume that the way humans have tended to behave in certain circumstances in the past will continue into the future. Otherwise, how could we believe that, in most cases, our deals, structures, and agreements will work as intended?

Honoring Our Calling

Law is a multidisciplinary profession. Our work represents an integration of skills as we craft the strategies, plans, pleadings, and documents that are our tangible work product. Surely our clients are partners in these efforts. It is, after all, their problem, not ours. While we may be empathic listeners, we need to be detached from their problems to provide an impartial perspective.

Some may argue that by emphasizing the counseling role of the lawyer we are straining the boundaries of our profession. Most of us were not trained as clinical psychologists. Only a few hold a master's of business administration degree. Lawyers who think they can do it all risk being seen as arrogant. But on the other hand, taking too narrow a view of the lawyer's role deprives clients of the very service they hired us to give.

Clients call lawyers because they experience a problem that requires legal expertise to resolve. If their problems didn't have a legal component, the clients probably wouldn't have come to a lawyer in the first place, or the lawyer would have referred them elsewhere. But few real legal problems have only legal components. The other issues are there, even if they aren't immediately visible, and they need to be taken into account.

Giving good legal advice means the lawyer must listen closely in order to appreciate and understand the client's particular concerns and values. Good legal advice also requires the lawyer to draw on personal experience, skill, and knowledge to formulate the strategies and solutions that will help achieve the client's goals.

We have a reminder of our calling near at hand. Just look up at the license hanging on your wall. It reads "Attorney and Counsellor at Law."

Endnotes:

- 1 See, e.g., CARL R. ROGERS, *COUNSELING AND PSYCHOTHERAPY* (1942).
- 2 DAVID F. BINDER & SUSAN C. PRICE, *LEGAL INTERVIEWING AND COUNSELING: A CLIENT-CENTERED APPROACH* (1977).
- 3 See William H. Simon, *Lawyer Advice and Client Autonomy: Mrs. Jones's Case*, 50 MD. L. REV. 213, 213 (1991).
- 4 See BINDER & PRICE, *supra*.
- 5 See Simon, *supra* note 2 at 213.
- 6 See BINDER & PRICE, *supra* at 148.
- 7 DAVID F. BINDER, PAUL BERGMAN, SUSAN C. PRICE, & PAUL R. TREMBLAY, *LAWYERS AS COUNSELORS: A CLIENT-CENTERED APPROACH* (2d ed. 2004).

Law is a multidisciplinary profession. Our work represents an integration of skills as we craft the strategies, plans, pleadings, and documents that are our tangible work product.

Pro Bono Journey

by John M. Oakey Jr.

When I retired from my law firm ten years ago, I wanted to continue practicing and also do something to help others. Fortunately, over the years I have been able to develop a practice in the pro bono area which not only helps my clients, but also means even more to me. As I like to tell people, most attorneys do not realize how much fun it is to practice law without keeping time, fighting to get clients, or worrying about collecting fees. I hope that this article will give others some encouragement to develop a very rewarding practice in this area.

When I started practicing law in 1964, there were no legal aid organizations as they exist today. Yet many young lawyers did work for people who could not afford to pay fees. Some of the work was in criminal defense and some of it was civil law. Unfortunately, a large percentage of the disadvantaged population never had a lawyer to represent them merely because they had no way to find an attorney. Only if somebody you were related to or knew well worked for an attorney or an attorney's clients would you have the opportunity to even be mentioned to an attorney. Even in those days, younger lawyers did most of the work, due to the fact that it was their supervisors who were assigning the cases.

But, representing the poor is a type of community service that only lawyers can do, and if the lawyers fail to do it, it will not get done.

I was with a law firm in Richmond, but because I was the low man on the totem pole, I did much of my work in outlying counties and got to know a lot of small-town and country lawyers. In our discussions, it became obvious to me that those attorneys did every type of work that came to their office and represented just about every person who asked for their help. Many times they knew that the person

they were helping could not afford to pay them a realistic fee. But because they were the only attorney in town or the only one that this person knew to go to for help, they did the work. In their minds, representing these people without any pay was just part of being a lawyer. I have been thinking recently that, in a perfect world, this is probably the way all of us would view pro bono service.

In cities and metropolitan areas, many lawyers do community service or church work

and view these activities as the way they use their profession to help others. Community service is absolutely necessary to our society. But representing the poor is a type of community service that only lawyers can do, and if the lawyers fail to do it, it will not get done. This is a message that we should always remember. I feel that every lawyer has a responsibility to do some pro bono legal work for the poor. Making a financial contribution to legal aid is a step in the right direction, but the legal aid organizations cannot do it all. Currently, almost 80 percent of the people who need legal assistance receive no help. The only way we will close this gap is when more lawyers do pro bono work.

But back to my journey: In the 1970s, legal aid societies started building bar and community partnerships. From the first, they developed volunteer programs for lawyers in housing, hotline calls to give legal advice, family law matters, commercial law, and other types of cases. Even though protection against domestic violence has become a large focus of volunteers today, I do not remember any of those cases in the old days. I was one of many lawyers who received the letters asking for volunteers; I placed them on the corner of my desk with the intent to become involved, but unfortunately I got busy and never got around to volunteering for these programs.

As time went on, I became involved in bar activities and, later, in teaching seminars on litigation, and with other commitments such as a family and church activities I did very little pro bono work. It has been my experience that, in most cases, the more experienced an attorney becomes, the less pro bono work he or she does. I realize now that what I did was wrong. I had always considered myself a very professional attorney and

had even taught courses on professionalism and ethics. The professionalism creed of the Virginia Bar Association and Virginia Rules of Professional Conduct 6.1, which governs voluntary pro bono publico service, suggest that attorneys should contribute time and resources to charitable activities and pro bono work. Unfortunately, at that time I was in among those experienced attorneys who considered that bar activities and other community service was as important as pro bono work. It bothers me when I think of all the people who suffered from no representation because of this mind-set.

Thirteen years ago I decided to turn over a new leaf and make a complete change as to my pro bono responsibilities. I would become involved in as many pro bono programs as I could and use these activities to finally perform my responsibilities. Also, I would use this as my way of retiring from my law firm but not from the practice of law, which I still dearly love. The best part of my plan was that I would be able to help others at the same time I was making my retirement a lot more enjoyable.

The first volunteer program in which I became actively involved was a housing project then sponsored by the Central Virginia Legal Aid Society. Through the project, a client who meets the legal aid income guidelines and who has a problem with a landlord—eviction, failure to fix a leaky roof, and all matters in between—can possibly receive a free lawyer to assist them. Many of these cases involve going into general district court. Based on my experiences talking with low-income clients since then, it is amazing to me the number of qualified tenants who do not realize that this program exists. Unfortunately, probably hundreds of people are living in very unsatisfactory facilities because they do not have this information. If all these people sought help, we would have to expand this volunteer program greatly.

Most of the clients I have represented have been in subsidized housing. This means a large percentage of their rent is paid by the federal government. The amount the clients pay is based on their income. If they are evicted, it takes them years to get back on the list.

One of the cases that I remember the most involved a woman of about 30 who had two young children. She very much wanted to do something for her children, and the only way she could survive was because of the rent subsidy. She found herself in this position because her husband had deserted her, moved somewhere out in the country, and never paid child support. I was

requested to represent her because she had received an eviction notice. The landlady apparently did not like her and wanted to get rid of her.

The eviction notice was based on the allegation that my client's 8-year-old child had been on an outing with a church group and when the bus came back and was on the premises of the housing development, candy was given to all of the children who had participated. The allegation was that the child, without permission, took a half a bag of candy that was on the floor. A criminal act by a family member was a violation of the mother's lease. The incident probably did occur, and she was sure she would be evicted until I told her that we should fight it in court. I felt reasonably confident that the church people would not be willing to testify to this in court. At the trial, which was my first court appearance in the case, the attorney for the landlady seemed surprised that anyone had appeared. When the case was called, he told the judge he was taking a nonsuit (he didn't have the courtesy to mention this before). He had no witnesses. It was pretty obvious what would have happened had I not been there.

This is just one example what can be done to help a client in a housing case. So many of these cases illustrate how poor people can lose a lot without proper representation. They also pay a lot of extra fees. As one legal aid lawyer told me, "It's expensive to be poor."

One of the most valuable sources of pro bono services in the central Virginia area is the Pro Bono Clearinghouse. This is an organization that was envisioned and organized by Richmond lawyer Brian R. Marron. It is the premier project of the Greater Richmond Bar Foundation. Currently, more than 150 attorneys have volunteered to help. The organization provides free legal assistance to charitable corporations. These charities save funds that they need for their missions, and they also get high-quality legal services. The clearinghouse provides pro bono opportunities not related to litigation. Most of the work that I have done for this organization has been as a board member and president, but I also have worked with lawyers in my former firm and even handled several matters myself when there was a litigation component. I might add that the clearinghouse is continually looking for volunteers so if any nonlitigators would like to become involved, you should give them a call.

Here's an example of how the Pro Bono Clearinghouse helped a local adult day-care center that was audited by Medicaid. The federal

government sent a notice stating that the center owed \$220,000—an amount that would have put it in severe financial straits. A local attorney who had experience in this area spent about ten hours to prepare the reply of the charity. He was able to convince the federal government that the center owed only a couple thousand dollars. Without this free, high-quality service, the day-care center might have had to curtail their services.

In the last ten years, the clearinghouse has matched more than five hundred charities with an appropriate attorney. The charities likely have been saved millions of dollars.

I quickly realized that the greatest need for legal help from clients who cannot afford to pay is in family law. It's also the one area in which I've had more calls from people who explained to me that they've already been to court and the matter has been decided against them. In many cases, if they had they been represented by an attorney, the decision would have been different. Most attorneys don't realize how difficult it is for the average person to go to court, testify to the necessary facts, and cover all of the information that it is relevant. In addition, pro se litigants never seem to get the witnesses they need. Even when they do have witnesses, they don't know how to ask the proper questions. Many legal aid societies can handle only a small fraction of family law cases in which extended representation is needed. Some, due to scarce resources and other constraints, do not handle any.

It became obvious to me several years ago that these cases, which frequently involve the custody of a child, mean more to the clients than large sums of money meant to the clients I used to represent in tort cases. Custody of a child can mean even more than keeping a house or apartment.

As I was writing this article, I received a telephone call from a social worker asking if I would consider representing one of her clients in a custody matter. There were three children, ages 4 to 8, two of whom had disabilities. The father and mother each had a job, and a church leased them a house at a reduced rent because of the children's problems. The reduced rental rate was conditioned on the family remaining intact. The father was never close to the children. He had never been to the children's school, had very little contact with them, and had never even talked to the children's pediatrician. He had several affairs and eventually left the wife and refused to pay toward care of the children, who remained with her. He had only seen the children a few times since leav-

ing. Two months after leaving, he filed for divorce and requested custody of all three children plus child and spousal support. The mother had lost her job because she had to take care of the kids, move from the house, and basically do everything for the family.

The custody matter comes up in most of these cases because of the child support issue. The social worker had worked with both parents, but gave a very strong recommendation for the mother over the husband. I get several of these calls a month. I give telephone advice in most cases, but this one bothered me so much that I agreed to take it. A lawyer, apparently paid by the father's mother and stepfather, filed the papers for the father. Even though the papers said the father wanted the children, it was obvious from the wife's information that he not only had never taken care of them, but he could not do so in the future. Since the case was filed in circuit court, it would have been virtually impossible for the mother to fully represent herself, and I am sure that the father counted on that. Fortunately, I think he made a mistake.

I do not recommend that the legal aid system represent all parents who come to them for help in custody cases. In the early 1990s, when legal aid had more funding and more in-house lawyers, most programs represented parents in a custody case when the other side was represented by an attorney or there was domestic violence involved. Currently, because of funding constraints, some programs have eliminated the first category.

There is something very wrong about a legal system in which a person who cannot afford a lawyer will receive significantly less justice than the person would have received with representation. I hope I have been able to help a few people in that situation, and I plan to continue to do so as long as I can. But we need a lot more attorneys who are willing to help in difficult cases.

A number of years ago, I became involved in the Central Virginia Legal Aid Hotline program. I still do it. Volunteer attorneys go to the Legal Aid Offices once a month and, for approximately two hours, make telephone calls to people who have called in with legal problems for which no attorney is available. Volunteers attend a very good training program and are provided with a booklet for reference while making the telephone calls. Many of the questions can be answered by common sense, but many do require some legal advice. In the unusual case when you don't know exactly what to tell the person you are assisting, you can always check

with the legal aid supervisor and call back. Several retired attorneys work in this program. For anyone who has not done any prior legal aid work and wants to become involved, I highly recommend starting with the hotline.

Two other very valuable programs in which I have participated need volunteers.

G. Andrew Nea Jr. has organized Wills for Seniors, which provides wills, powers of attorney, and advanced medical directives to seniors who cannot afford to pay an attorney. The program has existed in Central Virginia for several years and has helped a lot of people. A power of attorney can be extremely important to many seniors, and most do not even realize they need it.

Another project, the Drive to Work program, was founded and is run almost entirely by O. Randolph “Randy” Rollins. This program is designed to help people who have lost their operator’s permits to obtain at least a restricted license so they can drive, primarily to work. Many people who would have been unable to obtain substantial employment have been helped by this program. I have helped Randy on occasion, and he tells me that he still needs volunteers, particularly in areas outside of Richmond.

A recent initiative by the Virginia Bar Association could make a big difference in the number of lawyers and firms providing pro bono services. Chief Justice Leroy R. Hassell Sr. has called for a Pro Bono Summit on April 27, 2010, in Richmond. The purpose is to set up in all areas of the state committees that will meet periodically to form pro bono programs and recruit volunteers. The committees will report once a year on their progress. These committees would be called Firms in Service, and their emphasis would be on providing volunteers to organizations that do pro bono work. Despite the name, all attorneys, including solo practitioners, could be included. The meetings are designed to insure that this organization achieves its purpose and will continue for many years, hopefully until it’s replaced by something better. The state chairs are Scott C. Oostdyk, Harry M. “Pete” Johnson III, and Jennifer L. McClellan.

I have been to one meeting, billed as a pre-summit meeting, presided over by VBA President John D. Epps and Virginia Justice Donald L. Lemons and attended by an enthusiastic audience of legal aid providers. The most telling comments came from some of the organizations that deal with the financially disadvantaged community. Their reports highlighted that currently probably many thousands of people in the Richmond area

Retiring? Consider Your Own Pro Bono Journey

The following resources address the history of pro bono service in Virginia, its current status, and resources for those who wish to volunteer:

- “Reflections on the History of Legal Aid in Virginia,” *Virginia Lawyer*, December 2006. http://www.vsb.org/docs/valawyer magazine/vl1206_history-legal-aid.pdf
- “A New Role for Law Schools and the Bar,” by Clarence M. Dunnville Jr., *Virginia Lawyer*, December 2009. http://www.vsb.org/docs/valawyer magazine/vl1209_access.pdf
- Pro Bono Institute’s Second Acts program. <http://www.probono inst.org/secondacts.php>

need legal help but cannot obtain it. I believe this initiative will make a big difference in the number of low-income Virginians who will be helped with their legal problems.

One concern that has bothered me for the past ten years is why lawyers who are winding down their practices or who have actually retired don’t become more involved in community service — especially pro bono representation. I have read many articles in which service in retirement was suggested, but to this day I know only a few lawyers who have followed this path. I have received a couple of pro bono awards, and each time many of the friends I have at the bar who are of this age thank me for doing the work and tell me how wonderful it is. But what I would really like to hear someone say is, “I think it’s a great idea, and I’m going to start doing some pro bono or community service work myself, starting now.”

My main purpose in agreeing to write this article was because I am hoping it will convince at least a few people to become involved. The work is interesting and can be enjoyable to anyone who really enjoys being a lawyer. It’s not always the easiest thing to do, but if you have any problems or need advice, I am more than willing to spend whatever time is necessary to give you the benefit of my experience. I might add that this work has meant more to me than anything I’ve done in my professional life.

George M. Warren Jr. A Remembrance

by the Honorable Wayne L. Bell



George M. Warren Jr., a highly respected Virginia attorney, a preeminent Virginia statesman, a conscientious citizen, and a dear friend, died on Tuesday, January 12, 2010, after a long illness. He was 87.

Mr. Warren practiced law for fifty-five years in Bristol, Virginia. He attended Emory and Henry College, graduating in 1943. He then enlisted in the U.S. Navy and served in World War II as a lieutenant junior grade in the South Pacific. After the war, he graduated from the University of Virginia School of Law in May 1948, and was then admitted to the bar. Mr. Warren returned to Bristol to practice with his father, George Sr., a highly regarded lawyer in his own right, who had served in the Virginia General Assembly as a delegate and senator.

Mr. Warren had a general practice with emphasis on trial work, and was considered one of the best trial lawyers to have ever practiced at the Bristol bar. In 1998 Mr. Warren received the Tradition of Excellence Award for distinguished service to the bar, devotion to community, and dedication to the ideals of justice. The award is bestowed by the Virginia State Bar General Practice Section.

Mr. Warren, following in his father's footsteps, was elected to the Virginia Senate in 1963, and served for twelve years. In 1976, he became the commonwealth's attorney for the City of Bristol, and served in that post until January 2002. In all, Mr. Warren served thirty-seven years in Virginia elected offices. In August 2002, he was appointed pro tempore as a judge of the general district court for the Twenty-eighth Judicial District, where he served until 2003.

Mr. Warren was one of the first lawyers I met when I first came to Bristol in the early '70s as a young lawyer fresh out of school, and we struck up a friendship that lasted almost forty years. He immediately took me under his wing and shared with

me his experience, his knowledge, and his wisdom in a way that always made me feel like a peer rather than a pupil. He was always there for me, and I don't ever remember making a career decision without first consulting with him. Later, as a circuit judge, I had the pleasure almost daily of having Mr. Warren in court as the commonwealth's attorney, and I can say that he brought a sense of justice, fairness, and equality to the business of prosecution that consistently earned him the respect of participants and onlookers alike. As a trial lawyer, he had some of the best courtroom instincts that I ever observed. He loved the study of the law and he loved being in the courtroom, and he was good at both.

Mr. Warren was in the senate when I first met him. In addition to his senate committee assignments, he served on the State Crime Commission, the Election Laws Study Commission, the Virginia State Council for Higher Education, and more than a dozen blue-ribbon commissions under three governors. Yet he was totally unpretentious, humble in every way, and always had time for his friends and colleagues. One of his greatest virtues was his delightful sense of humor, which he used well to defuse the anxieties of day-to-day law practice—not only his own, but others' as well.

Notwithstanding his enormously busy schedule, Mr. Warren devoted a sizeable amount of time to helping others through community service, including helping to establish the Children's Advocacy Center in Bristol and the new Bristol library, as well as serving on the boards of his local church, the former Sullins College, and Johnston Memorial Hospital. He was active in civic, fraternal, and social organizations.

Mr. Warren was a kind, gentle man. As Kipling wrote, he could walk with kings and not lose his common touch. He respected all, and he was a gentleman in all respects. I was honored to call him a friend. George Warren was a good lawyer. He was a good man. He will be missed.



Senior Law Day Programs — Five Years of Success

MAY 24, 2010, will mark the fifth anniversary of the flagship program of the Senior Lawyers Conference of the Virginia State Bar. On May 24, 2005, under the able leadership of William T. “Bill” Wilson of Covington, the first Senior Law Day Program was held in the Alleghany County Circuit courtroom. Planned by the Alleghany-Bath-Highland Bar Association in conjunction with the League of Older Americans, the program provided valuable information to senior citizens in the community and was attended by more than 150 persons.

Since that initial offering, more than twenty programs have been held across the commonwealth from Luray to Marion and from Fairfax County to the Northern Neck. The Senior Lawyers Conference now offers a blueprint for local groups that wish to help sponsor such a program. An information packet can be obtained from the Virginia State Bar office by contacting Paulette J. Davidson at (804) 775-0521 or davidson@vsb.org.

In many instances, members of the Board of Governors of the Senior Lawyers Conference have provided the plans and local bar associations have implemented a program in partnership with local area agencies on aging. As the program developed, distribution of the *Senior Citizens Handbook* has been integral to the effort. Handbook chapters often are used as topics. Each program is designed for the special needs of a community.

Subjects include Medicare, Medicaid, long-term care, supported living and nursing homes, powers of attorney, advance medical directives, protection against fraud, and elder abuse.

The programs have been held at retirement communities and churches as well as courthouses.

F. Warren Haynie Jr. of Lottsburg worked with the Northern Neck Bar Association to sponsor a series of Senior Law Day programs in Kilmarnock, Montross, and Tappahannock. On some occasions,

the Senior Law Day Program combines with a continuing legal education program for solo and small-firm practitioners.

On January 21, 2010, 350 persons attended a Senior Law Day Program at led by SLC board member Frank O. Brown Jr. and his son Matthew, at Richmond’s First Baptist Church

More programs are being planned. Joseph W. “Rick” Richmond Jr. is spearheading a program to be held on May 4, 2010, in Charlottesville, where it will be videotaped in the city council chambers and broadcast on public access television. Other programs are scheduled for this year in Marion, Leesburg, and Lexington.

As we move forward, we hope that more local bar associations across the state will tap this valuable resource as a way to reach out to their communities and further enhance a positive image of attorneys.



The Senior Citizens Handbook: a resource for seniors, their families, and their caregivers. 2009 edition available.

We’re as busy as ever at age fifty-five and over, and we face new challenges and opportunities, with little time to search them all out. How can anyone find out about them all and, with such an array of choices, how does anyone begin to make a selection?

The Senior Citizens Handbook. Available online at <http://www.vsb.org/docs/conferences/senior-lawyers/SCHandbook09.pdf>.

Conference of Local Bar Associations

by Gifford Ray Hampshire, Chair



Local Bar Associations Celebrate Law Day

MAY 1 IS LAW DAY, originally established in 1958 by proclamation of President Dwight D. Eisenhower to strengthen our heritage of liberty, justice, and equality under the law. <http://www.abanet.org/publiced/lawday/2007/history/history.shtml>

Law Day was conceived as a counter-celebration to the May Day observance in the former Soviet Union. Although its origins were during the Cold War, Law Day remains relevant for recognizing the importance of the rule of law in our society.

Many local bar associations throughout the commonwealth celebrate Law Day. One purpose of the Conference of Local Bar Associations (CLBA) is to act as a clearinghouse for local bar projects that can be copied and tailored to other legal communities. I pass some of these celebrations along as models for celebrating Law Day in your legal community.

The Prince William County Bar Association celebrates Law Day by sending lawyers to speak to high school classes about the rights and responsibilities of adulthood. During these ceremonies, the lawyers hand out the Virginia State Bar's *So You're 18* booklet. This program is now conducted in conjunction with a voter registration drive. The bar association also has implemented a project in which lawyers visit area senior centers, give presentations, and distribute the VSB *Senior Citizens Handbook*.

The Virginia Beach Bar Foundation organizes a Law Day Gala that features

a reception and speaker. In 2008, for example, Clay Jenkinson, a humanities scholar, appeared in the persona of Thomas Jefferson and spoke about the rule of law. Each year, the gala raises funds for the foundation, which sponsors projects to meet the legal needs of the poor, educate about law, and support efficiency and integrity of the judicial process and administration of justice.

In 2006, the Roanoke Bar Association sponsored a Senior Citizen Law Day, which included distribution of the *So You're 18* and *Senior Citizens* handbooks. The seminar was cosponsored by the League of Older Americans, which also provided space and refreshments. The bar association distributed the *Senior Citizens Handbook* to more than 150 attendees.

The Roanoke Bar Association also celebrates Law Day through an annual black-tie gala at the Hotel Roanoke. Similar to the Virginia Beach program, the Roanoke event features a speaker on the importance of the rule of law. Speakers have included Supreme Court justices and Fourth U.S. Circuit Court of Appeals judges. Proceeds go to the Roanoke Bar Association Foundation, which provides scholarships for legal studies and funds charitable causes.

In 2009, the Richmond chapter of the Virginia Women Attorneys Association celebrated Law Day by sponsoring a one-hour ethics continuing legal education program at the University of Richmond School of Law. At the conclusion of the seminar, the

chapter's first summer public service fellowship award was presented, followed by a wine-and-cheese reception.

In 2008, the Fredericksburg Area Bar Association celebrated Law Day with a program titled Reviving Law Day, which returned to the association's past practice of providing speakers at area high schools.

The Fairfax Bar Association Law Day celebrations this year will include a five-kilometer Run for Justice. Proceeds will go to the Fairfax Law Foundation, which sponsors charitable causes.

In Fairfax, Law Day also is celebrated annually by the law firm of Weiner, Rohrstaff & Spivey PC through its annual Weiner Roast. The event is held in the firm's parking lot across from the courthouse, and features a jazz band, food (including hot dogs), and drink. The event also raises funds for the Fairfax Law Foundation. This year's proceeds are designated to support courthouse tours for local middle school children.

Through these sorts of activities, local bar associations demonstrate the good works of lawyers and the importance of the rule of law, consistent with President Eisenhower's intent. If your bar association has not yet instituted a Law Day program, I encourage you to consider how the above examples might be applied in your community on May 1, 2010. Your members and the community they serve will benefit from your efforts.

Defending Liberty, Pursuing Justice

An Interview with ABA President Carolyn B. Lamm



AS THE VIRGINIA STATE BAR Young Lawyer's Conference representative to the American Bar Association's House of Delegates, I have witnessed lawyers zealously debating resolutions to defend liberty and pursue justice. I have learned from the experience of distinguished attorneys and have been inspired by their passion. So I decided to interview one of those lawyers for this column — ABA President Carolyn B. Lamm. Here are the highlights of the questions I asked and the answers she gave:

How did you become interested in law? When I was much younger, I saw the film *To Kill a Mockingbird* for the first time. I remember watching Atticus Finch standing alone in the courtroom. I wanted to stand beside him, to stand for what he stood for, to help him fight, and to win. It was not until some years later that I decided to study law. But somewhere in the background, Atticus Finch and the need to make a difference on issues of importance for the public and the profession inspired my decision. I decided to become a lawyer because I realized that the law is a noble profession. Lawyers fight against injustice and tyranny, protect the impoverished and outcast, and safeguard our most cherished liberties. It's no exaggeration to say that it's the work of lawyers willing to stand up for what's right that brings our own Constitution to life.

What in your opinion makes a lawyer successful? The most successful lawyers I know are the ones who remain true to themselves and to their principles. As Ambassador Madeleine Albright put

it, "Rely on your inner compass, for only you can set the standard by which your life will be measured." Lawyers with vision and principles are those who can make a profound difference for our society.

How has the practice of law changed during your career? For one thing, there are far more women in the profession. In 1973, I was one of twenty women who took the bar in Florida, out of a total of eight hundred. Today we are making progress, though we have far to go. Though women now graduate from law school at about the same rate as men, only 16 percent of equity partners in law firms are women. Discrimination remains in much more subtle, sophisticated, and even unconscious ways. It manifests itself in limited business opportunities, decisions regarding employment, promotion, and compensation, and views on performance. Another big change involves the technological advances and globalization that have transformed our world and the practice of law. The economic crisis demonstrates the interdependence of global markets and the emergence of truly global commerce.

How did you become involved in the ABA, and why? I have been involved in the ABA since I started practicing law. My ABA work began in the Young Lawyers Division, where many ABA leaders began. The ABA YLD is a place where you can learn about the ABA and the profession, enhance your professional skills and network to better serve your clients, earn valuable experience dealing with issues facing the pro-

fession and the public, perform community service, and develop lasting relationships with other lawyers. It was a great learning experience that I enjoyed tremendously on a professional and personal level. I became ABA YLD chair in 1983. Many of the friends I made then remain close friends today, and they were the foundation of a professional network that has since grown and helped me to become a better lawyer, better serve my clients and the public, and become a successful partner at my firm.

Why is bar service important? Years ago, many encouraged me to participate in the bar, and it has been instrumental and inspirational in my professional life. Indeed, some of my very best friends are friends that I've made through the bar. But most importantly, the bar and its work is where law reform often begins through discussion, resolution, and action. As Learned Hand observed, it is the bar that makes and changes the statutes. Collectively, through the bar, you can make an incredible difference in the lives of all citizens, ensure justice and fairness, and withstand governmental and other attacks on the rule of law, the judiciary, and the justice system. Collectively, you can ensure that the Atticus Finch of this generation would not stand alone.

What do you see as the biggest challenges for young lawyers? The current economy is certainly a big challenge for young lawyers today. Jobs are scarcer, the competition is fiercer, and many

Lamm continued on page 38

face staggering education debts. Even when times are good, lawyers have long struggled with the pressures of the profession and maintaining work-life balance.

What advice would you offer to young lawyers? It's very basic, but so often overlooked: Always do your very best. It's also crucial to always be prepared, work in a collegial way with those in your firm, share praise with your team, and always take care of your clients. I would also advise young lawyers to get involved in the bar. Business-related pressures can become overwhelming for lawyers, especially

young lawyers. But we need to make sure that we never forget the importance of the rule of law to our system of government and lawyers' obligation to assure equal justice for all. These principles are sacrosanct to lawyers, and the bar offers many ways to support these ideals.

What have you enjoyed the most about practicing law? Lawyers are the architects of society. As the trial lawyer Daniel Webster said, "There is no greater professional calling than to stand as a lawyer at the bar of justice and breathe life into the Constitution, the Bill of Rights, statutory law, and common law by defining, asserting, and defending the rights of citizens." This sentiment remains as relevant

today as when he spoke it nearly two centuries ago, and it's what I appreciate most about being a lawyer.

On behalf of the YLC, I thank Carolyn for sharing her experiences, wisdom, and advice. Her remarks remind me of why I am a lawyer and why I am involved in the YLC. May each of us follow Carolyn's lead in defending liberty and pursuing justice in our legal practice and through service to the bar.

Editor's note: Carolyn B. Lamm practices in Washington, D.C.

effective January 4, 2010, which has the effect of moving [Comment 10] to Rule 1.11 into the body of the rule, since it deals with a substantive issue of lawyer conduct (disqualification of other lawyers in an agency when one of the lawyers is disqualified from a matter). The amendment to Rule 1.9, [Comment 5], provides direction to lawyers regarding law firm disqualifications when lawyers move from private to public employment.

- Rules of Professional Conduct 1.17 was amended effective January 4, 2010, to prohibit a lawyer who sells part of a law practice from engaging in the private practice of law in the same geographic area only with respect to the particular practice area that he or she sold. (Previously you were totally excluded from practicing in the same geographic area.)

On January 22, 2010, the Supreme Court rejected a petition requesting a rule change to Rules of Professional Conduct 7.4(d). The proposed amendment, approved by the council on February 28, 2009, by a vote of 30 to

25, would have permitted attorneys to identify certification through an American Bar Association-approved specialized program without including a disclaimer.

A proposal to eliminate mailing the MCLE Form 1, required by Paragraph 17 of the Rules of Court, was rejected by the Supreme Court on November 2, 2009.

Miscellaneous

The VSB will distribute permanent bar cards in late November and early December. Active members will receive a plastic card at that time. For attorneys who want to have a photo on their VSB bar card, you will have the option of paying \$10 and providing a digital photo to the membership department to have a photo identification card produced. This option will not be available until next year.

Effective January 21, 2010, Social Security numbers other than the last four digits have been eliminated from our database for all members except those with public and private discipline and those who owe costs. This was done to protect our members' Social Security numbers in the unlikely event of a security breach.

The president of the Afghan Independent Bar Association, R. Qarizada, and his interpreter, Ajmal Hamdard, will visit the bar offices at the invitation of the VSB officers on April 23, 26, and 27.

The Supreme Court has asked us to work with it on a Forms for Bar Members project. Specifically, the Court has asked that we make court forms promulgated by the Court's Office of the Executive Secretary available to VSB members through a Web-based interface between the VSB and the Judicial System website. These forms will not be placed on the Court's public website and are ones that lawyers have indicated they would like to have online. The forms will be available through the limited-access VSB.org member site at some point in the near future.

If you have any questions about what's going on at the VSB, do not hesitate to e-mail me at gould@vsb.org or give me a call at (804) 775-0550. Current VSB President Jon D. Huddleston, incoming bar president Irving M. Blank, or I would be happy to speak to your bar group.

Your Retirement To-Do List: Enjoy Each Day

by Suzanne B. Corriell

CONGRATULATIONS! You have now become the envy of millions of twenty- and thirty-somethings: your workweeks are now free. But the trouble with retirement is that you never get a day off. So how will you spend your time?

Television's *Dancing with the Stars* and *America's Best Dance Crew* have been an inspiration to many to take up dancing. Group lessons, weekly dances, and dance weekends are a great way to meet new people and travel. For singles, there are also classes for line dancing or modern dancing. Community centers or local dance studios may have extensive offerings, including more exotic fares such as Zumba and capoeira. Such centers also may offer fitness or yoga classes.

Many seniors also take part in travel-and-learn programs such as Exploritas, formerly known as Elderhostel. Friends can get together by bunking in college dorms while taking courses in history, literature, or geography, for example. You can learn more about such programs at <http://www.exploritas.org>.

You may have heard of the ominously titled book, *1,000 Places To See Before You Die* by Patricia Schultz. Schultz highlights some of the world's most unforgettable locations and gives advice on the best times to visit. There is also now an accompanying website at <http://www.1000beforeyoudie.com/>. You might happily find that you are already able to check some of these fantastic locations off of your to-do list, but this book recommends others that you never knew existed.

There are some fantastic travel websites that highlight some of the best travel deals. Kayak (<http://www.kayak.com>) is a travel search engine that collects information from hundreds of websites and allows you to find the best price or the best schedule for your travel, often allowing you to book directly from the carrier. Frommers (<http://www.frommers.com>) allows you to search for

trip ideas or fares, travel tips, and advice. Some travel carriers, hotels, and destinations, such as Amtrak and the National Park Service, offer senior and AAA discounts. Members of AARP can save even more.

Of course, you don't have to be on the go all of the time. For those who would rather spend time at home, many community centers or colleges offer culinary classes, including courses on wine or beer-tasting. What a way to be a life-long learner! Avid moviegoers may want to use Netflix (<http://www.netflix.com>), a delivery service that allows you to create your own list of requested movies (and many television series) and to rank films that you've seen. Based on your preferences, the service then suggests movies that you might like. Booklovers can find reading groups at their local library or take advantage of GoodReads (<http://www.goodreads.com>). Like Netflix, GoodReads allows you to input what you've read as well as what you would like to read—but you can also share your lists with fellow readers, write reviews, or join an online book club. Some libraries also offer computer classes that give you a head start on software such as iPhoto.

Do you wish you'd kept in touch with friends from high school, college, or law school? There's no need to wait for a reunion to catch up. Online sites such as classmates.com or Facebook (www.facebook.com) can allow you to locate and communicate with friends near and far, old and new. With the capability to post links, videos, and pictures, these sites are a great way to stay up-to-date with all of those people. But be forewarned: these websites can easily turn into a way to waste many hours.

If you'd prefer to meet others in person who share similar interests, Meetup (<http://www.meetup.com>) is a great resource. Meetup is a community-building (and friendship-building) tool that allows people with shared interests

to set up in-person meetings and develop informal clubs. You can browse by location to see what Meetup groups are in your area—or you can set up your own group if your interest isn't covered. Best of all, Meetup groups can be formed about anything—including foreign language skills, Scrabble, movie or restaurant outings, and sports.

You may also find yourself with more time to tinker around the house. For advice on home projects, you can find numerous sample projects and how-to articles at <http://www.doityourself.com/>. Local hardware stores, as well as chain retailers such as Lowe's and Home Depot, also typically offer weekend or weeknight classes or seminars for free or little cost. If you are exceptionally ambitious, some community centers offer extensive classes in topics such as reupholstery and frame making.

With budget cuts and hiring freezes, many local organizations need assistance. You can use the skills you used in your work life and share them with others now that you are retired. For a thorough list of volunteer and pro bono opportunities, please refer to "Your Second Season of Service Is Just Beginning" by Donna Bausch in the April 2008 *Virginia Lawyer* http://www.vsb.org/docs/valawyer/magazine/vl0408_vall.pdf. You don't have to limit your volunteerism to just your legal skills. If you have talents as a gardener, a yogi, or a pianist, you're certain to find a volunteer opportunity to use your skills or teach a new generation of potential enthusiasts. Animal shelters are especially in need of volunteers these days. Maybe you'll even find a furry friend to keep you company during your free time.

As Calvin from the comic strip *Calvin and Hobbes* observes, "There's never enough time to do all the nothing you want." Enjoy!

Federal Health Reform and Virginia

by Alan S. Goldberg

THE NEW PATIENT PROTECTION AND AFFORDABLE CARE ACT (PPACA) changes how health care will be delivered and paid for in the United States. Although attorneys general in several states, including Virginia, are challenging the act's constitutionality, pending litigation likely will not affect implementation and enforcement of the new law.

The PPACA will affect businesses in their capacities as employers, insurers in their capacities as payment and service providers, individuals as patients and employees, states as Medicaid program overseers, and Medicare and Medicaid providers as recipients of government reimbursements. Attorneys for these clients should be prepared to advise them on the law even before implementing regulations are in place. Attorneys should know the law's significant features and anticipate its implementation in drafting.

As its name indicates, the act is designed to protect patients and make health care affordable. Features of the PPACA that have received publicity include no lifetime or annual limits on health care insurance benefits, prohibition of rescissions, coverage of preventive health services, extension of dependent coverage, standardized definitions and explanations of coverage documents, elimination of discrimination based on salary, and quality-of-care standards.

Immediate actions required under the act include making insurance available for persons with preexisting conditions, providing reinsurance for early retirees, and providing information to help consumers identify affordable coverage options.

Information technology changes are a significant part of the PPACA; the legislation establishes standards and protocols that will expand the use of information technology in health care.

One longtime federal goal—set out in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended—is to establish a system through which health information can be exchanged electronically.

Before the enactment of HIPAA, there were no uniform federal standards for the many public and private health care claim- and payment-processing systems used by governments and others. HIPAA encourages and in some instances requires that electronic systems replace paper-based systems that are slow, not uniform, and inefficient. HIPAA requirements generally preempt standards set by states and others.

HIPAA requires that standardized electronic information be available for health claims, health plan enrollments, eligibility for a health plan, payment and remittances, premium payments, first reports of injury, status of claims, referral certification and authorization, and coordination of benefits.

However, health care providers are slow to adopt the practices, because they have found the process too variable, costly, and inefficient. The existing system of a combination of electronic and paper transactions with no uniform standards and few operating business rules delays payments, increases the likelihood of errors, and adds costs.

The Patient Protection and Affordable Care Act includes provisions to clear the roadblocks and provide business guidelines for complying with the HIPAA requirements.

The adoption of nationally observed business rules and guidelines for the electronic exchange of information surely will enhance the effectiveness of the established standards for health care transactions. New operating rules for electronic funds transfers and other transactions are to be adopted as well. With many more millions of individuals soon to be receiving health care benefits because of the PPACA, efficient claims processing and payment transactions will be more important than ever before.

Although these changes will be complex and require substantial time, effort, and money to implement, the standardized electronic information must be in place for the overall health reform initiative to meet its goals.

Membership Has Its Privileges?

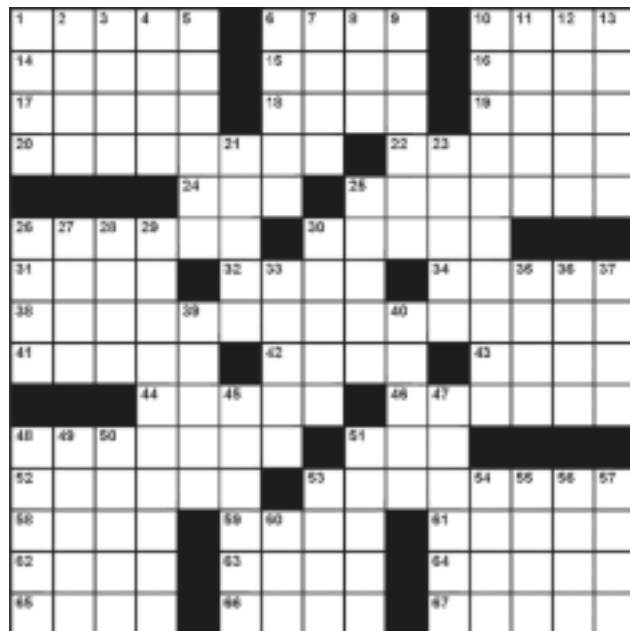
by Brett A. Spain

Across

1. Hall of Fame coach Hank
6. Banjo ace Fleck
10. Beaver Cleaver “expletive”
14. *The Power of Positive Thinking* author
15. Miners’ Sch.
16. Singer James
17. Excited
18. Half-pipe, e.g.
19. Demonstrative pronoun
20. Happy hour and ladies’ night (or personal injury damages)
22. Concur
24. Wail
25. Word after food or pet
26. National park in Maine
30. First day of school purchase
31. South African settler
32. Reproduced
34. Trigger a response
38. Places to discuss 20A, 53A, 10D, and 29D (and the theme of this puzzle)
41. Soaring
42. Implement
43. Caricature target, often
44. Claw
46. Handel opera
48. Queen Victoria’s House
51. CSI evidence
52. Became accustomed (to)
53. Boilermakers (or booking photos)
58. Connecticut senator
59. Thug
61. Purple Rose locale
62. Brink
63. Endor inhabitant
64. “Dynamite” charge
65. Prophet
66. Beatty film
67. Drops, as a tail

Down

1. Mineral springs
2. Sub
3. Crime committed upon Pope’s lock
4. Steve’s Oscar co-host
5. Powerful Italian family
6. Brawny
7. O’Hare info.
8. Moonward veh.
9. Disgust
10. Be waited on (or establish jurisdiction personally)
11. Common multiple choice answer
12. Gordon Sumner’s stagename
13. Hurried
21. Egyptians, mostly
23. Wintry mix element
25. Home theater component
26. “Take a Chance on Me” group
27. Brat’s Christmas present
28. Space leader
29. Budweiser, perhaps (or submission following a hearing)
30. Scout’s mission



Crossword answers on following page

33. Helicopter blade
35. Expresses delight
36. Needle around
37. Serf
39. Barrel section
40. With
45. General, e.g.
47. Alfalfa, for one
48. Pelts
49. Negative terminal
50. Elbow a bit
51. Submerges
53. Ellington’s “Indigo”
54. Popular Xbox game
55. Lubes
56. Family or Christmas, e.g.
57. Men, once
60. Be indebted

This legal crossword was created by Brett A. Spain, a partner in the commercial litigation section of Willcox & Savage PC in Norfolk. He can be reached at (757) 628-5500 or at bspain@wilsav.com.

Crossword answers.

S	T	R	A	M		B	E	L	A		G	O	S	H			
P	E	A	L	E		U	T	E	R		E	T	T	A			
A	M	P	E	D		R	A	M	P		T	H	I	S			
S	P	E	C	I	A	L	S		A	S	S	E	N	T			
						C	R	Y		A	L	L	E	R	G	Y	
A	C	A	D	I	A		R	U	L	E	R						
B	O	E	R			B	R	E	D		E	V	O	K	E		
B	A	R	A	S	S	O	C	I	A	T	I	O	N	S			
A	L	O	F	T		T	O	O	L		C	H	I	N			
						T	A	L	O	N		O	R	E	S	T	E
H	A	N	O	V	E	R		D	N	A							
I	N	U	R	E	D		M	U	G	S	H	O	T	S			
D	O	D	D			G	O	O	N		C	A	I	R	O		
E	D	G	E			E	W	O	K		A	L	L	E	N		
S	E	E	R			R	E	D	S		L	O	S	E	S		

Judge Recounts Courtroom Foibles and Shenanigans

by Dawn Chase

WHY JUDGES WEAR ROBES, by Judge J. Samuel Johnston. Warwick House Publishers, Lynchburg, Virginia. \$20 plus postage and tax. Copies can be ordered at Jural Jollity LLC, 1514 Arrow Street, Lynchburg, Virginia 24503.

Defendants, to paraphrase Art Linkletter, do the darndest things.

So apparently do plaintiffs, witnesses, lawyers, jurors, law enforcement officers, drunks, uneducated people, shrewish women, feuding couples, and the judge's secretary. And even, sometimes, the judge.

A courtroom through some eyes is a theater where stories amusing and bemusing, silly and poignant, humorously disconcerting and heartwrenching, unfold on a regular basis.

Retired circuit judge J. Samuel Johnston, who sat on the bench in

Campbell County near Lynchburg for more than thirty years, has collected his favorite courtroom stories in *Why Judges Wear Robes* (Warwick House Publishers, Lynchburg, Virginia 2009).

Many in Virginia legal circles know Johnston through his research on juries and his speaking engagements before bar groups, including the Virginia Trial Lawyers Association, which gave him its distinguished service award in 2007, just before his retirement.

On the cover of his book is a painting of Dixie, his yellow Labrador retriever, decked out in judicial vestments and holding a gavel. The picture

sets a tone for the stories, which might have been told to hunting buddies over campfires, as well as clusters of lawyers at conferences, over the years.

Warning: do not send this book to anyone, particularly your grandmother, without reading it first. There is profanity in it. Many of the stories would not pass a test for political correctness.

But if you're one of Judge Johnston's many fans, or if you want a winking glimpse into one rural courtroom at the turn of the twenty-first century, you might enjoy *Why Judges Wear Robes*.



The following pages contain a preliminary schedule of events for the Virginia State Bar 72nd Annual Meeting June 17–20, 2010, in Virginia Beach.

Annual Meeting brochures were mailed in early April. Complete Annual Meeting information, including registration forms and hotel information, is available on the Virginia State Bar's website at <http://www.vsb.org>. If you have not received a brochure and/or need more specific information, please contact the Virginia State Bar, Bar Services Department at (804) 775-9400 or annualmeeting@vsb.org. All information on the following pages is tentative and subject to change. Please refer to the VSB website for updates. Online registration for the meeting and hotel links are available at <http://www.vsb.org>.

Schedule of Events

WEDNESDAY, JUNE 16

- Noon Executive Committee Meeting
- 6:30 p.m. Council Reception & Dinner
Sponsor: Cavalier Hotels

THURSDAY, JUNE 17

- 8:30 a.m. VSB Registration
- 9:00 a.m. Council Meeting Holiday Inn
- 9:00 a.m.–5:00 p.m. 36th Recent Developments Seminar (separate registration with Virginia CLE)
- 11:30 a.m. Golf Outing — Signature West Neck
- 3:00 p.m. VADA Executive Committee
- 4:00 p.m.–6:00 p.m. Lawyers Expo Opening & Reception
Sponsors: Pearl Insurance and Cavalier Hotels
- 4:30 p.m. Access to Legal Services Committee Meeting & Reception
- 5:30 p.m. Bill W. Meeting
- 6:30 p.m. Reception on the Hill
Sponsor: VSB Members Insurance Center

FRIDAY, JUNE 18

- 7:00 a.m. Beach Yoga with Studio Bamboo Institute of Yoga
- 7:30 a.m. Conference of Local Bar Associations Annual Meeting & Breakfast
- 7:45 a.m. Registration
- 8:00 a.m. "Run in the Sun" Boardwalk
Sponsor: Virginia Lawyers Media
- 8:30 a.m. VADA Board of Directors Meeting

FRIDAY, JUNE 18

- 9:00 a.m. VSB Intellectual Property Section CLE
- 9:00 a.m. Lawyers Helping Lawyers Board of Directors Meeting
- 9:30 a.m.–5:00 p.m. Lawyers Expo
- 10:00 a.m. Virginia Legal Aid Project Directors Meeting
- 11:00 a.m.–12:30 p.m. VSB Section CLE Workshops & Meetings
 - *Construction Law/Real Property/Taxation Sections*
 - *Corporate Counsel Section*
 - *Criminal Law Section*
 - *Family Law Section*
 - *Senior Lawyers Conference/General Practice/Trusts & Estates Section*
 - *Young Lawyers Conference/Health Law Section*
 - *Virginia ADR Joint Committee/Litigation Section*
- 11:00 a.m. Virginia Law Foundation Finance Committee
- Noon Virginia Law Foundation Board Meeting & Lunch
- 12:30 p.m. Beach Break Reception
Sponsor: The McCammon Group
- 12:30 p.m. Young Lawyers Conference Reception & Meeting
- 12:30 p.m. Legal Aid & Pro Bono Awards Luncheon (ticketed event) *Sponsor: ALPS*

8:45 a.m.–10:45 a.m. **Showcase CLE**
Chasing the Internet—Is the Law Keeping Up?
Sponsors: Litigation Section/Bench-Bar Relations Committee

Schedule of Events

FRIDAY, JUNE 18

- 12:45 p.m. American Academy of Matrimonial Lawyers Luncheon Meeting
- 1:00 p.m. Military Law Section Business Meeting & Luncheon

2:00 p.m. **The Paper Chase of the 21st Century**
— A Town Hall Meeting
Sponsor: Section on the Education of Lawyers in Virginia

2:00 p.m.–3:30 p.m. VSB Section CLE Workshops & Meetings

- *Administrative/Environmental/Local Gov't Sections*
- *Bankruptcy Law Section*
- *Health Law Section/Access to Legal Services Committee*
- *VSB Technology & Practice of Law Committee*
- *Lawyers Helping Lawyers*

2:30 p.m. Virginia Women Attorneys Association Annual Meeting & Program

3:00 p.m.–4:00 p.m. **Family Bingo** in the Expo Hall
Sponsor: Glover & Dahnk

4:00 p.m.–5:00 p.m. Expo Reception
Sponsor: Cavalier Hotels

4:15 p.m.–5:00 p.m. Reception Cavalier Beach Club
Sponsor: VWAA

5:30 p.m. YLC Pool-Side Reception
Sponsors: Young Lawyers Conference; Paul, Hastings, Janofsky & Walker, LLP

5:30 p.m. Bill W. Meeting

6:00 p.m. President's Reception

6:00 p.m. Children's Dinner (*ticketed event*)

7:00 p.m. Banquet & Installation of President (*ticketed event*)
Sponsor: Cavalier Hotels

9:00 p.m. Tunes Under the Stars
Sponsor: Senior Lawyers Conference

SATURDAY, JUNE 19

7:00 a.m. Beach Yoga with Studio Bamboo Institute of Yoga

7:45 a.m. Registration

8:00 a.m. Law School Alumni Breakfasts (*ticketed event*)

SATURDAY, JUNE 19

8:30 a.m. Lawyers Expo

9:00 a.m. General Session & Awards Continental Breakfast Buffet

9:30 a.m. Sand Castle Contest
Sponsor: Minnesota Mutual Lawyers Insurance Company

9:45 a.m. Senior Lawyers Conference Brunch for 50-Year Award Recipients

10:00 a.m. 2010–2011 VWAA Board Meeting

12:15 p.m. Expo Reception/Raffle Drawing Cash Bar Reception

1:00 p.m. Tennis Tournament
Sponsor: Michie, Hamlett, Lowry, Rasmussen & Tweel

1:00 p.m. David T. Stitt Memorial Volleyball Tournament
Sponsors: Chicago Title Insurance Company; The Maddox Law Firm, PC; and Young Lawyers Conference

2010 Boardwalk Art Show & Festival

This year our meeting coincides with the 55th Annual Boardwalk Art Show! For more information, visit <http://www.cacv.org/events/boardwalk.asp>. Virginia Beach offers so much to explore that it's hard to fit it all into one visit. Go to www.vbfun.com to discover all the things to do in the area!

Athletic Events

Golf Outing — Thursday, June 17, The Signature at West Neck Golf Club — tee times begin at 11:30 a.m.

29th Annual Run in the Sun — Friday, June 18, 8:00 a.m. on the Virginia Beach Boardwalk — **Sponsors: Virginia Lawyers Media and Young Lawyers Conference**

8th Annual Tennis Tournament — Saturday, June 19, 1:00 p.m. at the Original Cavalier — **Sponsor: Michie, Hamlett, Lowry, Rasmussen & Tweel**

26th Annual David T. Stitt Memorial Volleyball Tournament — Saturday, June 19, 1:00 p.m. on the Beachfront, Cavalier Oceanfront Hotel — **Sponsors: Chicago Title Insurance Company; The Maddox Law Firm, PC; and Young Lawyers Conference**

NEW THIS YEAR!

Morning Beach Yoga with Studio Bamboo Institute of Yoga Friday, June 18, and Saturday, June 19, 7:00 a.m.

Visit the Virginia State Bar's website for more details and registration at <http://www.vsb.org>

9:45 a.m.–11:00 a.m. **Special Saturday Program:**
Law and (dis)Order! Help for the Organizationally Challenged

Maximum Available MCLE CREDIT 5.0 Hours • Maximum Available ETHICS CREDIT 3.5 Hours (pending)

According to their bylaws, sections are also required to conduct annual business meetings which will be scheduled either immediately preceding or following the corresponding section workshop. The annual business meetings are open to all members of the section.

23rd Annual Lawyers Expo

The General Practice Section will sponsor the 23rd Annual Lawyers Expo Thursday–Saturday. The Expo will feature vendors offering the latest in law office technology as well as a variety of specialty exhibitors. Daily refreshments will be provided for attendees, in addition to several sponsored events and raffles during the course of the meeting. The Expo will be open during the following hours:

- Thursday, June 17 4:00 p.m.–6:00 p.m.
- Friday, June 18 9:30 a.m.–5:00 p.m.
- Saturday, June 19 8:30 a.m.–11:30 a.m.

An Opening Wine & Cheese Reception will be sponsored by **Pearl & Associates** and the **Cavalier Hotels** in the Expo Hall on Thursday afternoon, June 17.

On Friday afternoon, June 18, the **Cavalier Hotels** will sponsor a Wine & Cheese Reception in the Expo Hall from 4:00 p.m. to 5:00 p.m. Be sure to register on site for the raffle drawing for an LCD TV which will be awarded during this reception.

Grand Prize Raffle

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November 4–12, 2010

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DRAWING:

**Saturday, June 19 • 12:30 p.m.
Cavalier Beach Club**

You must be present at the Raffle drawing to win the trip

Preregistered Exhibitors

- Access to Justice Book & Arts Fair
- ALPS
- Aon Attorneys' Advantage
- Arbitration Associates, Inc.
- Broughton Associates, Inc.
- Cannon's Estate Consignments, Inc.
- FREEDSTUDIO
- Jody's Gourmet Popcorn
- Juridical Solutions, PLC
- Lawyer's Staffing, Inc.
- Lawyers Helping Lawyers
- LexisNexis
- Minnesota Lawyers Mutual Insurance Company
- Pearl Insurance
- Periwinkle South
- Sensei Enterprises, Inc.
- SoftPro
- Thomson Reuters
(Onesource Trust & Estate Administration)
- VADER
- Virginia Law Foundation
- Virginia Lawyers Media
- Virginia State Bar
- Virginia State Bar Members' Insurance Center

Annual Meeting Sponsors

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- Chicago Title Insurance Company
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- The Maddox Law Firm, PC
- The McCammon Group
- Michie, Hamlett, Lowry, Rasmussen & Tweel
- Minnesota Lawyers Mutual Insurance Company
- ParisBlank, LLP
- Paul, Hastings, Janofsky & Walker LLP
- Pearl Insurance
- SoftPro
- Senior Lawyers Conference
- Stewart Title Guaranty Company
- Tour Plan International, Inc.
- Virginia Lawyers Media
- Virginia State Bar Members' Insurance Center
- Young Lawyers Conference

We gratefully acknowledge these sponsors of the 2010 Annual Meeting for their contributions in hosting a variety of activities and special events for our members and their guests.

Jackson Lewis LLP has added three partners: **John M. Barr**, who practices in the Richmond office, and **Kelvin L. Newsome** and **Thomas M. Lucas**, who work in Norfolk. All practice labor and employment law.

Kevin M. Drucker, a Virginia-licensed patent attorney, has joined intellectual property firm Mendelsohn & Associates PC as a shareholder, and the firm is now **Mendelsohn, Drucker, & Associates PC**. The firm is in Philadelphia. Drucker has a law degree from the University of Virginia and a master of laws degree in intellectual property and technology transfer from Franklin Pierce Law Center.

Assistant U.S. Attorney **Michael S. Dry** has been named corporate and securities fraud coordinator in the U.S. attorney's office for the Eastern District of Virginia. He is a faculty member of the American Bar Association's National Institute on Securities Fraud. He will work in the Richmond office. Assisting Dry will be **Brian J. Samuels** in the Newport News division. Also, the Eastern District's fraud unit in Alexandria has been renamed the Financial Crimes and Public Corruption Unit. Neil H. MacBride, U.S. attorney for the Eastern District of Virginia, said the unit will prosecute fraud involving corporations, mortgages, the U.S. Recovery Act and

Troubled Asset Relief Program, and financial discrimination.

H. Clay Gravely IV has opened **H. Clay Gravely IV PLC**, a general practice firm with a focus on criminal defense, civil litigation, and commercial matters. Gravely previously was an assistant commonwealth's attorney for Martinsville. Firm address: 22 East Church Street, Suite 302, Martinsville, VA 24112; phone (276) 632-0628.

Robert J. Grey Jr. has been appointed by the U.S. Senate to the Legal Services Corporation Board of Directors. He was nominated by President Obama. Grey is a partner with Hunton & Williams LLP and practices in its Richmond and Washington, D.C., offices. He is a former president of the American Bar Association. LSC is a nonprofit corporation funded by Congress, and is the largest provider of civil legal assistance to the poor in the United States.

Brian S. Kelly has been promoted to shareholder at Tatusko Kennedy PC in Fairfax. His practice focuses on commercial real estate, acquisitions; formations and transactions involving corporations, partnerships, and limited liability companies; and environmental law related to wetland and stream mitigation and estate planning.

E-mail your news to chase@vsb.org for publication in *Virginia Lawyer*. All professional notices are free to VSB members and may be edited for length and clarity.

John G. Kelly has joined the Arlington-based firm Bean, Kinney & Korman as counsel. He has a national practice representing lenders and developers in real estate investments. He previously practiced at Reed Smith LLP, Holland & Knight LLP, and Willcox and Savage PC.

Brian L. Klock has been named managing partner of the Washington, D.C., office of Fitzpatrick, Cella, Harper & Scinto. He practices in the areas of patent litigation and prosecution.

Caroline D. LaForge has joined Aoun & Stanford PC in Fairfax, with a practice in family law, wills and estate planning, and civil litigation. She holds a law degree from Creighton University.

Yvonne C. McGhee, executive director of the Fairfax Bar Association, has earned the certified association executive credential awarded by the American Society of Association Executives. The credential is the highest in the association industry.

Ryan L. Nuzzo of Roanoke has joined the estate planning and elder law practice of Anderson, Desimone & Green PC, with offices in Roanoke, Blacksburg, and Moneta.

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