
VIRGINIA LAWYER REGISTER

The Official Publication of the Virginia State Bar | www.vsb.org

Vol. 60/No. 2 | August 2011

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The Virginia State Bar publishes the *Virginia Lawyer Register* five times annually. The *Register* is primarily a compilation of disciplinary actions against attorneys licensed to practice law in the commonwealth; administrative suspensions; legal ethics opinions; and proposed amendments to the Rules of the Virginia Supreme Court. All documents submitted to the state bar for inclusion in the *Register* are subject to alteration as to typography and formatting, in order to conform to the requirements of the *Register*, without changing the intent of any document.

DISCIPLINARY PROCEEDINGS

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Disciplinary Board

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*Respondent has noted an appeal with the Supreme Court of Virginia.

**Supreme Court granted stay of suspension pending appeal.

Impairment

Impairment	Effective Date
Kenneth Edward Hildebrand	Virginia Beach, VA June 8, 2011

Suspension—Failure to Pay Disciplinary Costs

Suspension—Failure to Pay Disciplinary Costs	Effective Date	Lifted
John Raymond Angus	Lake Kiowa, TX June 22, 2011	
Spencer Dean Ault	Lovettsville, VA June 23, 2011	
Richard Anthony Bednar	Farmington, UT May 24, 2011	
Martin Ray Johnson	Glen Allen, VA July 21, 2011	
Edward Allen Malone	Maywood, IL April 28, 2011	
Keh Soo Park	Fairfax, VA May 24, 2011	
Michael Raymond Thames	Arlington, VA April 28, 2011	
Carlotta Bernice Thompson	Richmond, VA July 12, 2011	
Karen Patricia Woolley	Southern Pines, NC May 6, 2011	

Suspension – Failure to Comply with Subpoena

Suspension – Failure to Comply with Subpoena	Effective Date	Lifted
Kathleene Anne Cipriano	Virginia Beach, VA May 17, 2011	June 16, 2011
Tracey Suzann Foughty-Deavers	Fairfax, VA April 22, 2011	
Sara Davis Harman	Glen Allen, VA April 5, 2011	
Martin Ray Johnson	Glen Allen, VA April 5, 2011	

Virginia Lawyer Register

The Official Publication of the Virginia State Bar

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Design & Production: Madonna G. Dersch

Virginia Lawyer (USPS 660-120, ISSN 0899-9473) is published ten times a year in alternating formats by the Virginia State Bar, Eighth & Main Building, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2800; telephone (804) 775-0500. Subscription Rates: \$18.00 per year for nonmembers.

POSTMASTER:

Send address changes to
Virginia State Bar Membership Department
Eighth & Main Building
707 East Main Street, Suite 1500
Richmond, Virginia 23219-2800

The following are summaries of disciplinary actions for violations of the Virginia Rules of Professional Conduct (RPC) (Rules of the Virginia Supreme Court Part 6, ¶ II, eff. Jan. 1, 2000) or another of the Supreme Court Rules.

Copies of disciplinary orders are available at the Web link provided with each summary or by contacting the Virginia State Bar Clerk's Office at (804) 775-0539 or clerk@vsb.org. VSB docket numbers are provided.

CIRCUIT COURTS

CURTIS TYRONE BROWN

Chesapeake, Virginia
08-021-072452

On December 1, 2010, a three-judge panel of the Circuit Court of the City of Norfolk reimposed a public reprimand with terms on Curtis Tyrone Brown after a finding that he had violated professional rules that govern disruption of the decorum of a tribunal and making false or reckless statements about the qualifications or integrity of a judge. The Norfolk court originally imposed the reprimand on December 15, 2009. The sanction was stayed pending Mr. Brown's appeals to the Supreme Court of Virginia. The appeals were dismissed. RPC 3.5(f); 8.2

Order of December 15, 2009: <http://www.vsb.org/docs/Brown-Memo-061611.pdf>

Order lifting the stay of sanction: <http://www.vsb.org/docs/Brown-Reprimand-061611.pdf>

STACY F. GARRETT III

Midlothian, Virginia
09-032-079386, 10-032-081824

On April 20, 2011, a three-judge panel of the Chesterfield County Circuit Court suspended Stacy F. Garrett III's license to practice law for one year. The court found he had violated professional rules that govern competence, diligence, communication, fairness to opposing party and counsel, and failure to respond to a lawful demand for information from the bar. RPC 1.1; 1.3(a); 1.4(a); 3.4(d); 8.1(c)

<http://www.vsb.org/docs/Garrett-052711.pdf>

MARK MICHAEL KANTRO

Norfolk, Virginia
10-021-080833

On July 13, 2011, Mr. Kantro noted an appeal of the following revocation with the Supreme Court of Virginia

A three-judge panel of the Circuit Court of the City of Norfolk revoked Mark Michael Kantro's license to practice law effective June 11, 2011. The court found that he had violated professional rules that govern candor toward a tribunal, fairness to opposing party and counsel, and a criminal or deliberately wrongful act and other conduct involving dishonesty, fraud, deceit, or misrepresentation that reflect adversely on a lawyer's fitness to practice. RPC 3.3(a)(1),(4); 3.4(a),(c),(d); 8.4(a-c)

http://www.vsb.org/docs/Kantro_Final_7-14-2011.pdf

TINA ELIZABETH ORR

Norfolk, Virginia
09-021-076226, 09-021-077701, 10-021-081979, 10-021-083269

The City of Norfolk Circuit Court suspended Tina Elizabeth Orr's license to practice law for five years and imposed terms, effective May 31, 2011. The court found she violated professional rules that govern communication; fees; safekeeping property; declining or terminating representation; reasonable fees; unauthorized practice of law; knowingly making a false statement of material fact; and a criminal or deliberately wrongful act and other misconduct involving dishonesty, fraud, deceit, or misrepresentation that reflect adversely on a lawyer's fitness to practice. The court ordered Ms. Orr to refund a client \$37,000. This was an agreed disposition of misconduct charges. RPC 1.4(a); 1.5(a); 1.15(a)(1),(2), (b), (c)(3),(4), (e)(1)(i-v), (f)(1)(i), (5)(i-iii); 1.16(a)(1), (d); 5.5(c); 8.1(a); 8.4(a-c)

<http://www.vsb.org/docs/Orr-061611.pdf>

DISCIPLINARY BOARD

MARGARET LOUIS BASSETT

Black Mountain, North Carolina
12-000-088395

On July 11, 2011, the Virginia State Bar Disciplinary Board revoked Margaret Louis Bassett's license to practice law. In consenting to the revocation, Ms. Bassett acknowledged the truth of a pending bar proceeding and stated that she could not defend the proceeding. On June 6, 2011, Ms. Bassett pled guilty to felony driving under the influence — third DUI within ten years. Rules Part 6, § IV, ¶ 13-28

http://www.vsb.org/docs/Bassett_Consent-Revoc_7-11-11.pdf

JOHN ARTHUR ELMENDORF

Germantown, Maryland
11-000-086856

On March 25, 2011, the Virginia State Bar Disciplinary Board revoked John Arthur Elmendorf's license to practice law, based on his December 16, 2010, disbarment by the Maryland Court of Appeals. His Virginia license was summarily suspended on March 3, 2011. Rules Part 6, § IV, ¶ 13-24

<http://www.vsb.org/docs/Elmendorf-040511.pdf>

Virginia Lawyer Register Online

For easier access to the documents cited in this magazine, the *Virginia Lawyer Register* is posted with live Internet links at

http://www.vsb.org/docs/valawyeremagazine/Register_2011-08.pdf

BRIAN GAY

Virginia Beach, Virginia

11-000-087465

On June 24, 2011, the Virginia State Bar Disciplinary Board revoked Brian Gay's license to practice law for failing to comply with a requirement that he notify clients of an administrative suspension imposed on September 24, 2010. Rules Part 6, § IV, ¶ 13-29

http://www.vsb.org/docs/Gay_Brian-Revoc_7-29-11.pdf

JOSHUA JESSE ROBERT GESSLER

McLean, Virginia

11-000-085193

On June 10, 2011, the Virginia State Bar Disciplinary Board revoked Joshua Jesse Robert Gessler's license to practice law. In agreeing to the revocation, Mr. Gessler admitted that he was convicted of multiple felony counts of possession of child pornography, and that he could not defend any VSB charges based on the convictions. Mr. Gessler's license has been summarily suspended since May 24. He pled guilty and was convicted on March 28 in the Fairfax County Circuit Court. Rules Part 6, § IV, ¶ 13-28

<http://www.vsb.org/docs/Gessler-061011.pdf>

BRUCE HOWARD GOULD

Norfolk, Virginia

05-021-3010

On April 13, 2011, the Virginia State Bar Disciplinary Board imposed a public reprimand on Bruce Howard Gould for violating professional rules that govern competence, diligence, and conflict of interest. This was an agreed disposition of misconduct charges. RPC 1.1; 1.3(a); 1.7(a)(1),(2)

<http://www.vsb.org/docs/Gould-Bruce-042911.pdf>

MARTIN RAY JOHNSON

Glen Allen, Virginia

11-032-086381

On April 21, 2011, the Virginia State Bar Disciplinary Board revoked Martin Ray Johnson's license to practice law. In consenting to the revocation, Mr. Johnson acknowledged the material facts of a disciplinary case pending against him and that he could not successfully defend against prosecution of the case. Rules Part 6, § IV, ¶ 13-28

<http://www.vsb.org/docs/Johnson-050511.pdf>

JAMES BERKLEY PRIEST

South Boston, Virginia

11-000-086613

On June 24, 2011, the Virginia State Bar Disciplinary Board suspended James Berkley Priest's license to practice law for twelve months based on his felony conviction in Halifax County Circuit Court of driving while intoxicated, third or subsequent offense in five years. Mr. Priest's law license has been summarily suspended since January 20, 2011, pending a show cause hearing. Rules Part 6, § IV, ¶ 13-22

http://www.vsb.org/docs/Priest_Final_7-14-2011.pdf

JESSE SCOTT SHELOR

Vinton, Virginia

09-080-077349, 09-080-079109

On February 18, 2011, the Virginia State Bar Disciplinary Board revoked Jesse Scott Shelor's license to practice law for violating professional rules that govern diligence, communication, safekeeping property, terminating representation, failing to respond to a lawful demand for information from the bar, and committing a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness to practice. 1.3(a),(b); 1.4(a); 1.15(c)(3),(4); 1.16(d),(e); 8.1(c); 8.4(b),(c)

<http://www.vsb.org/docs/Shelor-022411.pdf>

ROBERT HENRY SMALLENBERG

Ashland, Virginia

09-032-075885, 09-032-076648

On June 28, 2011, the Supreme Court of Virginia granted a stay pending an appeal of the suspension described below.

On June 24, 2011, the Virginia State Bar Disciplinary Board suspended Robert Henry Smallenberg's license to practice law for ten days for violating a professional rule that governs communication. A second case was dismissed. RPC 1.4(a)

http://www.vsb.org/docs/Smallenberg_Final_7-14-2011.pdf

WILLIAM ORR SMITH

Richmond, Virginia

11-033-087083

On June 13, 2011, the Virginia State Bar Disciplinary Board revoked William Orr Smith's license to practice law. In agreeing to the revocation, Mr. Smith acknowledged the material facts of pending disciplinary allegations and that he could not successfully defend if they were prosecuted. Rules Part 6, § IV, ¶ 13-28

<http://www.vsb.org/docs/Smith-062111.pdf>

GREGORY ALLEN THOMAS

Colonial Heights, Virginia

09-060-077778

On April 11, 2011, the Virginia State Bar Disciplinary Board revoked Gregory Allen Thomas's license to practice law for violating professional rules governing misconduct that reflects adversely on the lawyer's honesty, trustworthiness, or fitness to practice. This was an agreed disposition of disciplinary charges. RPC 8.4(b),(c)

<http://www.vsb.org/docs/Thomas-042511.pdf>

BRADLEY DOUGLAS WEIN

Richmond, Virginia

11-000-088058

On June 24, 2011, the Virginia State Bar Disciplinary Board revoked Bradley Douglas Wein's license to practice law for failing to notify his clients of suspensions imposed on September 24, 2010. Rules Part 6, § IV, ¶ 13-29

<http://www.vsb.org/docs/Wein-070811.pdf>

KATINA C. WHITFIELD

Petersburg, Virginia

11-031-085051

On May 9, 2011, the Virginia State Bar Disciplinary Board issued a public reprimand with terms to Katina C. Whitfield for violating professional rules that govern reasonable fees and safekeeping property. RPC 1.5(a)(1-8); 1.15(a)(2), (c)(3), (d)(1)(i), (e)(1)(i-iv),(2)(i-iii)

<http://www.vsb.org/docs/Whitfield-070811.pdf>

DAVID REDD YOUNG JR.

Leesburg, Virginia

10-070-082366, 11-070-085556, 11-070-086436, 11-000-085412

On May 20, 2011, the Virginia State Bar Disciplinary Board suspended David Redd Young Jr.'s license to practice law for five years. The board found that he violated professional rules that govern duties of a suspended attorney; declining or terminating representation; unauthorized practice of law; bar admission and disciplinary matters; and misconduct. Rules Part 6, § IV, ¶ 13-29; RPC 1.16(a)(1); 5.5(c); 8.1(c); 8.4(b),(c)

<http://www.vsb.org/docs/Young-070811.pdf>

DISTRICT COMMITTEES

SANDY YEH CHANG

Rockville, Maryland

10-042-080416

On July 6, 2011, a Virginia State Bar Fourth District Subcommittee issued a public reprimand to Sandy Yeh Chang for violating professional rules that govern competence and knowingly making a false statement of fact or law to a tribunal. This was an agreed disposition of misconduct charges. RPC 1.1; 3.3(a)(1)

http://www.vsb.org/docs/Chang_PR_Determ_7-14-2011.pdf

MONICA MARIE GOODLING

Woodbridge, Virginia

07-042-070763

On March 25, 2011, a Virginia State Bar Fourth District-Section II Subcommittee issued a public reprimand to Monica Marie Goodling for violating a professional rule that governs commission of a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness to practice. This was an agreed disposition of misconduct charges. RPC 8.4(a),(b)

<http://www.vsb.org/docs/Goodling-050511.pdf>

PHILLIP STONE GRIFFIN II

Winchester, Virginia

10-070-080544

On June 9, 2011, a Virginia State Bar Seventh District Subcommittee issued a public admonition with terms to Phillip Stone Griffin II for violating a professional rule that governs failing to respond to a lawful demand for information from the bar. This was an agreed disposition of misconduct charges. RPC 8.1(c)

<http://www.vsb.org/docs/Griffin-070811.pdf>

JAMES PATRICK HODGES

Leesburg, Virginia

09-070-076748

On May 27, 2011, a Virginia State Bar Seventh District Subcommittee issued a public reprimand to James Patrick Hodges after finding he had violated disciplinary rules that govern diligence, communication, safekeeping property, protecting a client's interests and returning the client's file when terminating representation, and failure to respond to a lawful demand for information from the bar. This was an agreed disposition of misconduct charges. RPC 1.3(a); 1.4(a); 1.15(a), (c)(3),(4); 1.16(d),(e); 8.1(c)

<http://www.vsb.org/docs/Hodges-061611.pdf>

DAVID COLIN JONES JR.

Fairfax, Virginia

09-051-079309

On June 20, 2011, a Virginia State Bar Fifth District-Section I Subcommittee issued a public reprimand with terms to David Colin Jones Jr. for violating a professional rule that governs diligence. This was an agreed disposition of misconduct charges. RPC 1.3(a)

<http://www.vsb.org/docs/Jones-070811.pdf>

GEORGE G. JOYNER III

Portsmouth, Virginia

10-010-082732

On April 15, 2011, a Virginia State Bar First District Subcommittee issued a public dismissal de minimis sanction to George G. Joyner III for violating a professional rule that governs safekeeping property. This was an agreed disposition of misconduct charges. RPC 1.15(c)(4)

<http://www.vsb.org/docs/Joyner-051311.pdf>

EDWARD ALLEN MALONE

Maywood, Illinois

07-041-1222, 07-041-071135

On February 28, 2011, a panel of the Fourth District Committee, Section I, issued a public reprimand with terms to Edward Allen Malone for violating professional rules that govern diligence, declining or terminating representation, and failing to respond to a lawful demand for information from a disciplinary authority. RPC 1.3(a); 1.16(d); 8.1(c)

<http://www.vsb.org/docs/Malone-051311.pdf>

PAUL ANDREW MURPHY

Falls Church, Virginia

09-053-076132

On June 20, 2011, a Virginia State Bar Fifth District-Section III Subcommittee issued a public admonition with terms to Paul Andrew Murphy for violating professional rules that require fees to be adequately explained to a client. This was an agreed disposition of misconduct charges. RPC 1.5(b)

<http://www.vsb.org/docs/Murphy-070811.pdf>

ALFRED LINCOLN ROBERTSON JR.

Fairfax, Virginia
09-052-076428

On June 10, 2011, a Virginia State Bar Fifth District-Section II Subcommittee issued a public reprimand with terms to Alfred Lincoln Robertson Jr. for violating professional rules that govern diligence, communication, failing to respond to a lawful demand for information from a disciplinary authority, and declining or terminating representation. This was an agreed disposition of misconduct charges. RPC 1.3(a); 1.4(a),(c); 8.1(c); 1.16(d)

<http://www.vsb.org/docs/Robertson-076428-070811.pdf>

ALFRED LINCOLN ROBERTSON JR.

Fairfax, Virginia
08-052-073790

On June 10, 2011, a Virginia State Bar Fifth District-Section II Subcommittee issued a public reprimand to Alfred Lincoln Robertson Jr. for violating professional rules that govern diligence, communication, and failing to respond to the bar’s lawful demand for information. This was an agreed disposition of misconduct charges. RPC 1.3(a); 1.4(a),(c); 8.1(c)

<http://www.vsb.org/docs/Robertson-073790-070811.pdf>

CHARLES JAMES SWEDISH

Vienna, Virginia
09-051-078734, 09-051-077371, 09-051-079194

On June 9, 2011, a Virginia State Bar Fifth District-Section I Subcommittee imposed a public reprimand with terms on Charles James Swedish for violating professional rules that govern diligence, communication, and safekeeping property. This was an agreed disposition of misconduct charges. RPC 1.3(a); 1.4(a),(b); 1.15(a)(1),(2), (c)(3), (e)(1)(i-v), (2)(i-iii)

<http://www.vsb.org/docs/Swedish-070811.pdf>

**OCTOBER COUNCIL
PROPOSALS FOR PUBLIC COMMENT**

The Virginia State Bar seeks public comment on the following proposed rule changes. Comments should be submitted in writing to Karen A. Gould, Executive Director, Virginia State Bar, 707 E. Main Street, Suite 1500, Richmond, VA 23219, no later than end of business on the date of deadline.

**RULES OF THE VIRGINIA SUPREME COURT
PROPOSED AMENDMENTS TO
RULE 1A:3, REVOCATION OF CERTIFICATES ISSUED
TO FOREIGN ATTORNEYS ADMITTED ON MOTION,
PARAGRAPH 13-6(F), JURISDICTION**

Deadline for comment: October 3, 2011

The Supreme Court of Virginia asked the Virginia State Bar to study and suggest language to change the current procedure for revoking certificates issued to those admitted to practice under the reciprocity rule. These proposed amendments address that request.

Amended Rule 1A:3 would place responsibility with the Virginia State Bar for the proceedings for revocations of “foreign” lawyers — non-Virginia lawyers who are licensed outside Virginia and permitted to practice here under Rules 1A:1 and 1A:2. Amended Rule 1A:3 also would include a process for appealing an adverse decision to the Supreme Court.

Amended Paragraph 13-6(F) would extend the jurisdiction of the Virginia State Bar Disciplinary Board to adjudicate revocation hearings under Rule 1A:3.

Proposed amended Rule 1A:3:
http://www.vsb.org/docs/Amendment_Rule_1A-3.pdf

Current Rule 1A:3:
<http://www.courts.state.va.us/courts/scv/rulesofcourt.pdf>

Proposed amended ¶ 13-6(F):
[http://www.vsb.org/docs/Par13-6\(f\)_change.pdf](http://www.vsb.org/docs/Par13-6(f)_change.pdf)

MCLE PROPOSALS FOR PUBLIC COMMENT

MCLE OPINION 16

*COURSES PROVIDED BY
DISTANCE LEARNING METHODS*

MCLE OPINION 16

LAW OFFICE PRACTICE MANAGEMENT PROGRAMS

The Mandatory Continuing Legal Education Board is seeking comments on the following proposals, which it will consider at its October meeting. Comments should be submitted in writing to MCLE Board, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219, or to Cartwright@vsb.org.

Deadline for comment: October 1, 2011

The proposals are:

- Opinion 16 — proposed amendments to provide more comprehensive information on the standards for approval of distance learning programs presented in live or prerecorded formats, and
- Opinion 17 — proposed amendments to provide more comprehensive information on the standards for approval of law practice management programs.

Draft opinions: <http://www.vsb.org/site/members/comments-mcle-proposals-2011-07>

HAVE YOU MOVED?

KEEPING IN TOUCH WITH THE VSB

To check or change your address of record with the Virginia State Bar, take the following steps:

Go to the VSB Member Login at <https://member.vsb.org/vsbportal/>. Go to “Membership Information,” where your current address of record is listed. To change, go to “Edit Official Address of Record,” click the appropriate box, then click “next.” You can type your new address, phone numbers, and e-mail address on the form.

Contact the VSB Membership Department at membership@vsb.org or (804) 775-0530 with questions.

APPROVED RULE CHANGES

RULES OF PROFESSIONAL CONDUCT
 RULE 1.15, *SAFEKEEPING PROPERTY*
 RULES OF THE VIRGINIA SUPREME COURT
 PART 6, § IV, ¶ 20

*MAINTENANCE OF TRUST ACCOUNTS: NOTICE OF
 ELECTION REQUIREMENTS*

Effective: June 21, 2011

The Supreme Court of Virginia approved amendments to Rule 1.15 that restructure and simplify record-keeping requirements for Virginia lawyers. The new rule now includes language that requires client consent or direction of a tribunal for disbursement, conversion, or use of certain funds or property by a lawyer. Amendments to ¶ 20 define Virginia State Bar-approved financial institutions, outline requirements they must follow, and clarify the types of trust accounts that can be opened by attorneys.

Details: http://www.vsb.org/pro-guidelines/index.php/rule_changes/item/rule-115-of-rules-of-professional-conduct-and-paragraph-20-of-part-6-iv/

RULES OF PROFESSIONAL CONDUCT
 RULE 1.18, *DUTIES TO PROSPECTIVE CLIENTS*

Effective: June 21, 2011

The Supreme Court approved new Rule 1.18, which defines a prospective client to whom the duty of confidentiality is owed and distinguishes a prospective client from someone who unilaterally communicates with a lawyer with no reasonable expectation of forming an attorney-client relationship. The rule allows a law firm to screen the lawyer who discussed the possibility of employment by a prospective client to avoid imputation of a conflict to other lawyers in the firm.

Details:
<http://www.vsb.org/docs/Rule1-18-SCV-order-062111.pdf>

RULES OF PROFESSIONAL CONDUCT
 PROPOSED AMENDMENTS TO RULE 7.1–7.5
INFORMATION ABOUT LEGAL SERVICES

Deadline for comment: September 16, 2011

Proposed changes to Rules 7.1, 7.3, and 7.5 were revised in response to comments received after the proposal was first published in March 2010. In addition, the committee presents a new proposal to eliminate Rules 7.2 and 7.4.

Rules 7.1–7.5 regulate lawyer advertising and solicitation. Overall, the committee's proposed amendments make these rules more general in their application by removing the specific examples of lawyer advertising statements or claims from the body of the rules to the comment section. Specifically, the proposed amendments to Rule 7.1 would delete the terms "fraudulent" and "deceptive." If a lawyer's advertising is "fraudulent" or "deceptive," it would therefore be "false" or "misleading." The committee believes that statements in lawyer advertising that are "false" or "misleading" violate Rule 7.1 regardless of any intent by the lawyer to deceive the public or defraud a consumer.

The committee's new proposal to delete Rule 7.2 is based on the conclusion that the rule is largely a repetition of Rules 7.1 and 7.3. Relevant parts of Rule 7.2 regarding lawyer advertising are incorporated within Rule 7.1, as "Communications" covers all lawyer advertising; relevant parts of Rule 7.2 regarding paying others to recommend a lawyer have been incorporated within Rule 7.3.

The proposed amendments to Rule 7.3 would both broaden and narrow the scope of the prohibition against in-person solicitation. The amendments would broaden the scope of the prohibition by applying the rule to cover all types of matters, not only personal injury and wrongful death cases. As the last sentence in proposed Comment [1] explains, "A person in need of legal services for a divorce, bankruptcy, or criminal defense may be just as overwhelmed and vulnerable to suggestion as a person in need of legal services in cases involving personal injury or wrongful death." In response to the comments regarding this rule, the committee's revised proposal would narrow the scope of the prohibition against in-person solicitation by requiring harassment, coercion, duress, compulsion, intimidation, threats, or unwarranted promises of benefits, taking into consideration the prospective client's sophistication and other circumstances.

Rule 7.3 maintains the requirement that advertisements targeted to a potential client known to be in need of particular legal services be labeled "ADVERTISING MATERIAL," but clarifies and expands the exceptions to that requirement. The rule includes a new subsection which provides that a communication from a lawyer to a recipient who had prior contact with the lawyer is exempt from the labeling requirement.

The committee's proposal to delete Rule 7.4 in its entirety is based on the committee's conclusion that any claim or statement of specialization should be measured by the "false" or "misleading" standard used in Rule 7.1 and that a specific rule for a particular type of statement or claim is both unnecessary and redundant. If a lawyer communicates a specialty certification, the lawyer's communication will be evaluated under Rule 7.1's requirement that any advertising regarding a lawyer's specialty certification cannot be misleading and must be truthful. The committee makes this point in Rule 7.1, new Comment [4].

The proposed amendments to Rule 7.5 would add a new Comment [3] clarifying that lawyers should practice using the official name under which the lawyer is licensed or seek an appropriate and legal change of name from the Supreme Court of Virginia.

Proposed amended rules:
http://www.vsb.org/docs/Proposed_7_1-7_5.pdf

Current rules:
<http://www.vsb.org/pro-guidelines/index.php/rules/information-about-legal-services/>

THE VSB E-NEWS

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FINAL ETHICS OPINIONS

LEGAL ETHICS OPINION 1857

MAY A PROSECUTOR OFFER, AND MAY A CRIMINAL DEFENSE LAWYER ADVISE HIS CLIENT TO ACCEPT, A PLEA AGREEMENT THAT REQUIRES A WAIVER OF THE RIGHT TO LATER CLAIM INEFFECTIVE ASSISTANCE OF COUNSEL?

Details: <http://www.vacle.org/opinions/1857.htm>

LEGAL ETHICS OPINION 1858

MAY A LAWYER AGREE TO INDEMNIFY AN INSURANCE COMPANY AS A CONDITION OF SETTLEMENT?

Details: <http://www.vacle.org/opinions/1858.htm>

NOTICES TO MEMBERS

MCLE LIVE PROGRAMMING REQUIREMENT STARTS NEXT YEAR

Mandatory Continuing Legal Education course requirements have not changed for the current year that ends October 31, 2011. However, starting in the next compliance year that ends October 31, 2012, active attorneys must attend at least four credit hours of live interactive programming to meet their annual MCLE requirements.

For definitions of “live interactive” and other frequently asked questions, see

<http://www.vsb.org/site/members/faqs-2012-mcle-reg-changes>.

MCLE ADMINISTRATIVE SUSPENSIONS

Attorneys who have been administratively suspended for failing to comply with Mandatory Continuing Legal Education requirements for 2010 have been listed at [VSB.org](http://www.vsb.org). The VSB has been unable to contact some of these attorneys. The bar requests that members report the location and practice status of any person on the list by contacting the MCLE Department at (804) 775-0577 or MCLE@vsb.org. The posted list is current as of July 22, 2011. To determine whether a listed attorney has fulfilled MCLE obligations after that date, contact the MCLE Department.

List: <http://www.vsb.org/site/members/administrative-suspensions#MCLE>

FOR MCLE “LIVE PROGRAMMING” FAQ,
GO TO

<http://www.vsb.org/site/members/faqs-2012-mcle-reg-changes>

REQUIREMENT GOES INTO EFFECT
OCTOBER 1, 2011.

NOMINATIONS SOUGHT FOR DISCIPLINARY BOARD, MCLE BOARD, AND COUNCIL MEMBERS AT LARGE

Deadline for nominations: September 7, 2011

Volunteers are needed to serve on the Virginia State Bar Council, Disciplinary Board, and Mandatory Continuing Legal Education Board. The Nominating Committee will refer nominees to the VSB Council for consideration at its October meeting.

Vacancies in 2012 are listed below. All appointments or elections will be for the terms specified, beginning July 1, 2012.

Council Members at Large: 3 vacancies (of which 2 incumbents are eligible for reappointment to a second term). May serve 2 consecutive 3-year terms.

Disciplinary Board: 5 lawyer vacancies and 1 lay member vacancy (of which 3 lawyer members are eligible for reappointment to a second 3-year term, 2 lawyer members are not eligible for reappointment, and 1 lay member is not eligible for reappointment to a second 3-year term). District committee service is preferred. May serve 2 consecutive 3-year terms.

Mandatory Continuing Legal Education Board: 4 lawyer vacancies (of which 4 current members are eligible for reappointment to a second term). May serve 2 consecutive 3-year terms.

Nominations, along with a brief résumé, should be sent to Irving M. Blank, Chair, VSB Nominating Committee, Virginia State Bar, 707 E. Main St., Suite 1500, Richmond, VA 23219, or emailed to nominations@vsb.org.

ATTORNEY NAME CHANGES

To change your name of record with the Virginia Supreme Court and the Virginia State Bar, do the following:

- Fill out an “Attorney Name Change” petition. The petitions — one for name change by circuit court order and another for name change by marriage — are posted at <http://www.courts.state.va.us/courts/scv/forms.html>.
- Send to the Supreme Court with a copy of the certificate of marriage or court order. The address is at the bottom of the forms.
- Include a check for \$14 if you want a new certificate of qualification, or \$10 if you do not want a certificate.

Name changes take about a month to process.

Questions should be addressed to the Supreme Court Clerk’s Office at 786-2251.