

VIRGINIA BEACH BAR ASSOCIATION

Newsletter

Volume 13

April 2004

Number 2

PRESIDENT'S MESSAGE



“Freedom”

When Richie Havens sang out the word “Freedom” during the opening act at Woodstock in 1969, this country was mired in the Vietnam War and I was in college. On campus, there was much criticism of the war, the President and even our country. Freedom of speech, contained in the First Amendment to the Constitution, was alive and well at my school. The first Ten Amendments of the Constitution, as you probably know, are called the Bill of Rights and serve as the keystone of freedom for every citizen of the United States. The remainder of the Bill of Rights does not hold together without the guarantees of the First Amendment. It protects our freedom to criticize. Moreover, in a democratic society, it is a citizen’s right and duty to criticize governmental policies with which they disagree.

In 1969, my classmates and I disagreed vociferously with our government’s policies regarding Vietnam. Fortunately, my college’s administration was prepared to tolerate and even encourage the free exchange of ideas, opinions and information. As a result, we listened, engaged in debate, and formed our own opinions about the Vietnam War and our government’s policies. Some of us may have even explored other forms of government. However, the dialogue in which my classmates and I engaged during those times resulted ultimately for almost all of us in a better understanding of the importance of Patrick Henry’s famous words in the Virginia legislature: “Sir, I detest what you are saying, but I defend to the death your right to say it,” and a

deeper love for the freedom which our Constitution affords us.

The United States is in a different war now – the war against terrorism. Our preemptive strike against Iraq and the enactment of the Patriot Act provide new subjects worthy of debate. The events of September 11, 2001, have changed the lives of Americans, and the country has gone through a period of self-examination. We have begun to ask ourselves, “Why?” Why is there such hatred of the United States? Why would our values be perceived as a threat to the world? Why would anyone want to destroy the symbols of freedom?

One of those searching for answers was Justice Anthony Kennedy of the U.S. Supreme Court. He hit upon a method to challenge the youth of America to gain a better understanding about and to develop advocacy for such American values as freedom, due process, and the rule of law, and to explain to the world the “rightness and moral necessity” of our system. Justice Kennedy brought his ideas to the leadership of the American Bar Association and together a program was developed called “Dialogue on Freedom.” This program encompasses a hypothetical situation which is taken to high school classes, and using the Socratic method familiar to all lawyers, the class is challenged to learn about and become advocates for our country’s core values and its principles of freedom.

The hypothetical situation envisions a young high school student who has embarked on a journey to a wonderful vacation spot. Along the way, however, the student’s airplane experiences trouble and is forced to land for repairs at an airport in the mythical Nation of Quest. The Nation of Quest has a poor economy with high unemployment and low wages. It has a written constitution, but the enunciated principles are barely carried into practice. Elections are held, but they are not competitive. The leaders are the “old guard” and there is flagrant corruption in government. One of the leaders, a person called “Drummer,” preaches that the United States is evil and that the people must destroy America’s power and influence before it destroys the rest of the world. The young U.S. student in the scenario meets a young, attractive student in Quest who espouses some of the

teachings of Drummer and talks about the corrupting influence of America's morals and undue power over the rest of the world. Later, our U.S. student meets a person of about the same age who is engaged in long days of tedious, menial labor (rather than going to school) in order to help his family have shelter and food to survive. Our student is surprised to hear his counterpart express indifference for what has occurred in New York and Washington. The class is asked to respond to statements by the young Quest citizens critical of or indifferent to the United States.

The Virginia Beach Bar Association will soon have the opportunity to help take a class of students at First Colonial High School on a journey to the Nation of Quest. The program will take place on May 20th as part of the Law Day activities of the VBBA which will occur during the month of May. Carrollyn Cox, chairman of the VBBA's Law Day Committee, and Judith Rosenblatt are organizing the event and they were able to persuade the Honorable Leroy R. Hassell, Sr., Chief Justice of the Supreme Court of Virginia, to lead the dialogue and act as a facilitator to the ensuing discussions during the program. Hopefully, the First Colonial High School students who participate will start to think more deeply about their role as U.S. citizens and talk more about the core values of our democracy and our legal system after the discussions.

The Dialogue on Freedom program will be very helpful in teaching young people about the institutions of freedom, but I hope it doesn't stop there. Although our high school students are required to say the Pledge of Allegiance every day, they are not required to take courses on democracy, freedom, and our system of rights and responsibilities. Ask many high school students why we have freedom of speech, the presumption of innocence, the right to trial by jury, or the right to vote, and you might become more concerned about losing our freedoms some day than spreading the word of freedom to other nations. As Thomas Jefferson said, "Education is the rich soil of democracy. Without this rich soil, our democracy will not grow and there will be no harvest of freedom."

We lawyers are uniquely positioned to share the principles of freedom and the core values of our country with young Americans. If you would like the opportunity to serve as an evangelist for the rule of law, and to spread the good news about our freedoms and the role of our justice system in preserving our democracy, then log onto the ABA website and check out "Dialogue on Freedom." The entire program, together with a variety of background materials and resources, is available online. The materials include the specific guidelines, hypotheticals and details of the program, as

well as a road map to assist lawyers in arranging the dialogue with their local high school. Then call the principal or head of the history or social sciences department at your local high school, get into the classroom, and have a dialogue on freedom with a bunch of teenagers. Call us as well at the VBBA. We can help. Who knows, together we might even help instill in a whole generation of Virginia Beach youth a new appreciation for freedom and our legal system which helps protect it. Peace.

~ Mark Slaughter



COMPUTER COMMITTEE NEEDS MEMBERS

Looking for an opportunity to participate in the VBBA? The Computer Committee is seeking members interested in helping the local bar improve its online presence and communication. The committee is responsible for overseeing updates and upgrades to the VBBA's web site and facilitating online communication among VBBA members. No experience or technical background is necessary to join the committee, although interested members should be comfortable using the Internet and communicating online (*i.e.*, by using e-mail, instant messaging, chat rooms, etc.). This is an excellent opportunity for new lawyers to become involved in a highly visible and practical bar project. Please contact Joel Ankney (Committee Chair) at 216-4578 or joel@rjalawfirm.com if you are interested in becoming a committee member or want more information.

VBBA PROFESSIONALISM AWARD – The VBBA Executive Committee has unanimously approved the motion of several members to rename the Professionalism Award to the "Joseph L. Lyle, Jr. Professionalism Award." As many of our members know, Joe Lyle was past president of VBBA and the first recipient of the professionalism award. This Award is to be given to a member of the VBBA who exemplifies the concept of professionalism – one who can be held up to the other members of the VBBA as a role model for the way in which that attorney conducts themselves in their day-to-day practice of law. Past recipients include Hunter W. Sims, Jr., (2003) and Joseph L. Lyle, Jr. (2004).

LIBERTY BELL AWARD – *Annual Award Recognizes Non-Attorney's Efforts to Support Law, Improve Justice System* – VBBA is seeking nominees for its Liberty Bell Award. This award is to honor a deserving private individual or a community group. Judges, lawyers and elected and appointed members of the legislative and executive branches of the government are not eligible. The Liberty Bell Award recognizes outstanding service and activities that:

1. Promote a better understanding of our form of government;

2. Encourage greater respect for the law and the courts;
3. Stimulate a deeper sense of individual responsibility to the end that citizens recognize their duties as well as their rights;
4. Contribute to the effective functioning of our institutions of government; and/or
5. Convey a better understanding and appreciation of the rule of law.

Nominations should include a statement or other information as to why that person (or persons) should be considered for the 2004 Liberty Bell Award. If you have any questions or concerns, please contact Richard Beale either by Telephone: 687-7787; Fax: 687-1511, or e-mail: richard.beale@troutmansanders.com. Nominations packages are due on or before May 1, 2004.

Court News



SHORT CIRCUITS

Practice tips from the Circuit Court

By: Amy H. Jones

Staff Attorney



COUNSEL OF RECORD FOR BOND APPEALS

There have been increasing problems recently with determining who is acting as counsel for a criminal defendant when an attorney seeks to make a “special appearance” for a bond appeal for a defendant. Therefore, only “counsel of record” for the defendant will be permitted to represent the defendant on a bond appeal.

Be sure to check future Short Circuits for updates on statutory changes, and for changes to the divorce dockets.

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Court’s Web Site: *Short Circuits* articles are available on the Courts’ Web site at www.vbgov.com/courts. Select *Circuit Court* from the side bar, then select *Bar News*.



Wahab Law Library

A NEW TOOL TO FIND SUPERSEDED STATE LAWS

By Pat Jones

Wahab Public Law Library

Regularly attorneys visit the Law Library seeking the verbiage from Virginia statutes of years past, typically to assist a client who was charged and punished under the

precise language of that time. Using the information contained in the parenthetical reference printed at the bottom of each section of the Virginia Code, law library staff can trace the history of legislative changes. Once the attorney identifies which year they need, the staff can choose either the Virginia Acts of Assembly by the year and chapter (the pages will reveal added and deleted language), or locate a superseded hardback or pocket part for the appropriate volume of the Code of Virginia (which will provide the new language for that year, with a note in the annotations concerning any amendments). The law library collection contains Virginia Acts of Assembly volumes back to the 1800’s and superseded volumes and supplements of the Code of Virginia back to 1949.

This process works wonderfully for the Virginia statutes, but what if your client was charged under a superseded law from another state? In the past we relied upon the helpful assistance of the law library staffs or legislative divisions for that state to provide the content via a telephone or e-mail request, but the fax delivery service could be expensive and the time involved may not meet the immediate need. Also, if the attorney was not able to provide an exact cite, sometimes no research assistance would be available in the other state to find the needed information. We now offer a new resource that has proven itself valuable for this particular situation – Westlaw Patron Access. This electronic resource is available (free) for your research use on one workstation in the Public Computer Room; the only cost would be printing any results you may want to take with you for .15/page.

The law library staff will guide you through the steps to access by selecting:

- Directory tab
- All State Statutes
- Individual State Historical Statutes Annotated
- Select state from alphabetical list
- Select year from list (most of the databases appear to begin with content from 1986-1987, but the scope of coverage and searching tips are available once you click on the lower case i enclosed in a green circle)

These historical databases can be searched by using either the “Terms and Connectors” or the “Natural Language” templates, familiar operations for Westlaw products. In addition to superseded statutory content, Westlaw Patron Access is also a convenient resource to use for current codes from other states, often providing much better access than the web version the states have posted, and more convenient than a trip to an academic law library. The next time you stop by the law library, be sure to ask for an introduction to Westlaw Patron Access!



What's New?
Legal Reference Materials
 March, 2004
 By Rebecca Day

- 📖 *Bankruptcy Practice In Virginia*
Virginia CLE, 2004
- 📖 *31st Annual Criminal Law Seminar*
Virginia CLE, 2004
- 📖 *West's Tax Law Dictionary*
Thomson West, 2004 Edition
- 📖 *Land Use Law in Virginia*
Virginia CLE, 2004
- 📖 *Annual Divorce Practice Seminar: Impact and Strategies: Bankruptcy, Fault, Estate Planning, Taxes*
Virginia CLE 2004



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VBBA JUDICIAL ENDORSEMENT PANEL MEETS AND MAKES RECOMMENDATIONS

On February 23, 2003, the Virginia Beach Bar Association Judicial Endorsement Panel was convened and interviewed candidates for openings in the General District Court and Juvenile & Domestic Relations Court in a conference room provided by Williams Mullen. Members of the panel included Bobby Davis (Chairman); Jim McKenry; Carlton Bennett; Susan Goldsticker; Henry E. Howell, III; and Donald H. Clark. The panel interviewed 19 candidates for the Juvenile & Domestic Relations Court and 17 candidates for the General District Court. Both of the Judges appointed by the General Assembly were among the candidates found to be qualified by the VBBA panel.



NOTICES AND ANNOUNCEMENTS

MONROE KELLY, III has joined the Virginia Beach office of Williams Mullen as a partner in the firm's Financial Services Section. He has more than 25 years of experience in the representation of commercial banks and other financial institutions. Mr. Kelly's practice includes commercial and real estate loan documentation; asset based lending; automotive dealer finance; letters of credit; problem loan workouts; creditors' rights; bankruptcies; reorganizations; lender liability litigation; bank operations; and deposit and collection procedures. He also has extensive experience in commercial real estate development, including public-private project financing and golf course acquisition, operation and financing. Mr. Kelly has been named as one of Virginia's "Legal Elite" by *Virginia Business* magazine. Mr. Kelly received his bachelor of science degree from the United States Naval Academy and his Juris doctor degree from the University of Virginia School of Law.



SARA L. BERG has joined the Virginia Beach office of Williams Mullen as an associate in the Labor & Employment Section. Her practice focuses on labor and employment law, including the representation of management in wrongful termination litigation. Ms. Berg counsels employers in connection with compliance with Title VII of the Civil Rights Act of 1964, as amended, the Fair Labor Standards Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act and various other federal and state laws. Ms. Berg received her bachelor of arts degree, *magna cum laude*, from the University of Pennsylvania and her master of arts degree in English from Tufts University. She received her Juris doctor degree from the University of Virginia School of Law.



WILLIAMS MULLEN attorneys **Bradford D. Bimson** and **M. Nicole Williams** have been named partners in the firm. Mr. Bimson and Ms. Williams practice out of the firm's Virginia Beach office.



TROUTMAN SANDERS LLP is pleased to announce that **Mike Gardner** has joined the firm as a partner in its Norfolk and Virginia Beach offices. Mr. Gardner will be a member of the Transportation Practice Group and will concentrate his practice in the government contracts and maritime industries. He serves as Chairman of the Government Contracts Committee of the South Tidewater Association of Ship Repairers and Chairman of the Shipbuilding and Repair Committee of the Hampton Roads Maritime Association. He is rated AV by

Martindale-Hubbell, certified as a Proctor in Admiralty by the Maritime Law Association of the United States, and listed by Best Lawyers in America in the field of Maritime Law. Mr. Gardner is an honors graduate of the U.S. Coast Guard Academy and served as a member of the Law Review at the William and Mary School of Law.



INMAN & STRICKLER PLC is pleased to announce that **Jeanne S. Lauer** has become a member of the firm. A Tidewater native, Ms. Lauer practices in the areas of general trial and appellate litigation, community association law and commercial litigation. She also provides representation in the areas of domestic relations, adoption, and guardian/conservator appointments.



J. BRYAN PLUMLEE has been promoted to Shareholder with Huff, Poole & Mahoney, P.C., where he will continue to concentrate his practice on civil litigation with an emphasis on business, products liability, and land use. Mr. Plumlee earned his bachelor's degree from North Carolina State University in 1991. He received his law degree from the University of North Carolina at Chapel Hill in 1996. Mr. Plumlee has been an attorney with Huff, Poole & Mahoney since 1999.



KEVIN B. RACK has been named to the Board of Directors of Senior Services of Southeastern Virginia (formerly known as SEVAMP) by the Virginia Beach City Council. Mr. Rack is an attorney with Midget & Rack and his practice includes the representation of seniors and their families in matters involving guardianships, estate planning, and Medicaid eligibility planning for long-term health care arrangements. Mr. Rack previously served as Chairman of the Mayor's Committee on Aging in Virginia Beach and as a member of the Governor's Advisory Board on Aging under Governor Allen. He recently completed his term as Vice-President of the Board of Directors of the Alzheimer's Association, Southeastern Virginia Chapter.



MADLINE H. STARK has become an associated with Huff, Poole & Mahoney, P.C., where she will concentrate her practice in the areas of general litigation, health care law and the defense of medical malpractice claims. She earned her Bachelor of Arts Degree from Purdue University in 1998. She received her law degree from The University of Richmond, T.C. Williams School of Law in 2001.



J. BARBOUR RIXEY is pleased to announce the relocation of his office effective February 1, 2004. from

3330 Pacific Avenue, Suite 400, Virginia Beach, Virginia, to Reflections IV, Suite 130, 2901 S. Lynnhaven Road, Virginia Beach, Virginia, Telephone Number 463-5001.



KAUFMAN & CANOLES is pleased to announce that John W. Richardson has been named Managing Partner of the firm's Virginia Beach office and will now oversee daily office operations. Mr. Richardson represents clients in business matters and in commercial and real estate transactions and has been practicing law in Virginia Beach for over 20 years.



The Young Lawyers Section of Virginia Beach is organizing its committee for 2004 and your participation is needed!

If you are admitted to practice in Virginia, are under age 35 or have been admitted to practice law for fewer than five years, then you qualify to be a part of this elite group.

The Young Lawyers Section is an opportunity in which young lawyers can serve the legal profession and the public as well as participate in Virginia State Bar activities. It offers activities and programs designed for the professional development of young lawyers, as well as providing many opportunities for fellowship and fun.

The YLS provides possibilities for networking and expanding your friendships with other Young Lawyers in the area and to meet people who practice in different areas of law. It also presents opportunities to do something more than just practice law by giving back to the community through various service projects.

If you are interested in participating in the Young Lawyers committee, please contact Bradley D. Goldizen, by email at wv2dc@aol.com or telephone, 490-1151. Please provide your name, place of employment, areas of legal practice and point of contact information.

THE MAGICAL MYSTERY TOUR

A Benefit "Beatles" Party
For Virginia Beach CASA

VIRGINIA BEACH CASA, INC. is having a Benefit "Beatles" Party Friday May 14, 2004 at the Navy Officer's Beach Club, 67th Street- Oceanfront starting at 7 P.M. The proceeds of the event will go directly to Virginia Beach CASA, Inc. The Beatles Party offers a unique opportunity to meet your friends at the Beach, enjoy music by The Janitors, sumptuous food stations and open bar. Tickets are \$40.00. For more information call: **Virginia Beach Court Appointed Special Advocates, Inc. 426-5616.**

CLASSIFIED

Office Space Available – 320 S. Witchduck Road. Office space for attorney available in Virginia Beach beginning in January. High visibility area near the corner of Witchduck and Princess Anne Roads, affords great access to Norfolk and Virginia Beach Courts and easy access to I-64. Well landscaped property holds beautiful building inviting for clients. For more information call Phil Russo at 499-6020.

Office Space Available – in Colonial style office building at 708 S. Rosemont Road: 1,400 square foot suite, 7 rooms (including conference room, master office with separate entrance, and fireplace), plus kitchenette and 2 baths. New carpet, ample parking. Can be divided into 2 suites. Available immediately. Please call 431-0000.

Space Available: 120 South Lynnhaven Road in Virginia Beach - one block off of I-264. Several units available ranging from two room units to multiple room units. Call John Zydron @ 486-5454.

Kempsville Office Opportunity: Existing fully equipped law office, with secretary - prime established location - would consider sharing space, and eventual sale of practice. Write Occupant, 3301 Rosebriar Court, Virginia Beach, VA 23452.


GOT DEADLINES? Don't spend value billable hours sweating over citations and shepardizing. If you have a brief or legal memorandum due and want to ensure a timely and professional quality submission, call Beverly Rebar at 572-1169. My writing skills are excellent and rates are reasonable.

The VBBA accepts block and text advertising in its Newsletter. Ads are accepted for law-related products or services. The cost of advertising/ mailing labels for membership are as follows:

<u>Page</u>	<u>Cost/Issue*</u>
Full page insert.....	\$550.00
Full	265.00
1/2.....	135.00
1/3 (horizontal or vertical)	100.00
1/6.....	50.00
Mailing Labels of the membership	275.00
Classified Ad (6 lines).....	35.00


*The VBBA offers a 10% discount on half-year advertisements (3 issues) and a 20% discount on annual advertisements (6 issues).

If you would like your ad published in the Newsletter, please forward your ad or text and block size desired with a check payable to Virginia Beach Bar Association to: Jean Keary, Executive Director, Virginia Beach Bar Association, 2425 Nimmo Parkway - Room C0037, Municipal Center, Virginia Beach, VA 23456. Professional notices and small ads for VBBA members are free of charge.

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Glen A. Huff	Director
Timothy S. Brunick	Director

Deadline – The deadline for the next Newsletter is May 15, 2004. Please forward your submissions, to Robert M. Tata, VBBA Secretary, c/o Lorraine P. Johnson, either by e-mail (ljohnson@hunton.com), mail (P. O. Box 3889, Norfolk, VA 23514-3889), or by fax (625-7720). For further information please call 640-5334.

VIRGINIA BEACH BAR ASSOCIATION
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* * * DELTA AIRLINES * * *

Friday, May 14

Depart Norfolk	7:00 a.m.
Arrive Atlanta	8:57 a.m.
Depart Atlanta	10:05 a.m.
Arrive San Antonio	11:38 a.m.

Monday, May 17

Depart San Antonio	3:20 p.m.
Arrive Atlanta	6:38 p.m.
Depart Atlanta	8:13 p.m.
Arrive Norfolk	9:45 p.m.

San Antonio is 2 hours behind Norfolk time

* * * PACKAGE COST * * *

Double Occupancy:	\$1,888.00 per room
Single Occupancy:	\$1,555.00 per room

* * * PAYMENTS * * *

Full payment is due by March 15, 2004

* * * CANCELLATION RESTRICTIONS * * *

<u>Cancellations Received</u>	<u>Cancellation Penalty</u>
March 16 and beyond	No Refund

RESERVATION FORM

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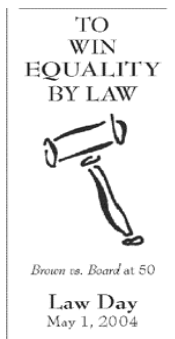
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Law Day 2004 at Wahab Public Law Library

The American Bar Association has established a web page full of information concerning Law Day at <http://www.abanet.org/publiced/lawday/>.

We will celebrate this event on Monday, May 3, 2004 from 9 a.m. until noon, so mark your calendar now with a note to visit the Law Library. We hope to see you there for good food, fun, a chance to enter a drawing, an opportunity to gain legal information from an attorney (for free), and most importantly, to celebrate our freedom.