



VIRGINIA BEACH BAR ASSOCIATION

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PRESIDENT'S MESSAGE

THE GAUNTLET HAS BEEN THROWN DOWN

by William C. Bischoff, President

I know that we shouldn't care. The Virginian-Pilot (the "Norfolk Newspapers" as Phil Kellam would say) is always dumping on lawyers. The only print we get is when a lawyer is indicted or convicted or disbarred. That or when Kevin Martingayle or Andrew Sacks is hogging the front page. But this time Luzzatto and Company nailed us good. And deservedly so. We are not doing enough **LOCALLY** to make sure people have equal access to legal representation in our courts. That must change.

Reprinted in this newsletter in its entirety is the 4/30/10 editorial which took each of us to task. It sums up very accurately what Chief Justice Hassell has been saying and working on for some time: a lot of low income folks can't get legal representation in Virginia Beach and other Hampton Roads jurisdictions. Because of this, real human needs are not being met.

Is the editorial completely fair? Of course not. VBBA lawyers are already involved in a myriad of charitable activities and pro bono work. The Chief Justice and the paper are not aware of these individual, and usually thankless, efforts.

And of course we all thought we had Legal Aid to handle these cases. But the fact is that Legal Aid Society of Eastern Virginia simply does not have the resources or the range of expertise necessary to handle every case which comes in the door. They have to turn deserving people (those who cannot pay for an attorney to handle divorces, support hearings, domestic violence matters, and even real estate issues) away from their doors. Budgets are thin everywhere, and LASEVA is no exception. So real needs are going unmet. People are

being denied access to our judicial system. We as lawyers cannot tolerate this. We need to do more.

Many of you are already doing pro bono work and taking referrals from LASEVA. Thank you for carrying the rest of us. Now the VBBA as an organization needs to step up. I spoke to Ray Hartz, head of LASEVA, and he needs help in the following areas:

1. Bankruptcy
2. Divorces
3. Domestic matters
4. Real estate

Sure, it will be tough for all of us to help out in all of these areas. Bankruptcy is specialized and conflicts are a concern. You might not do domestic work. But what about real estate? Ray tells me that many times he has to turn away otherwise qualifying people in a partition suit or a civil suit with a real estate angle because his lawyers do not have experience in real estate. While maybe not all of us can take referrals from Ray, a lot of us can help. And here's how.

1. Sign up for the referral list on the VBBA website which will serve as a resource for LASEVA to call upon in times of need. When they call you, take the case.
2. "Encourage" your associates to get on the list and take a few cases each year. Great experience.

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3. Pay attention to the VBBA Legal Aid Assistance Request emails we will send out from time to time. If you can help out, please respond.
4. Are you a semi-retired lawyer or one who is winding down your practice? Consider helping out LASEVA. What a great way to stay active and do a good deed at the same time. They need your wisdom and experience.

5. Make a donation to LASEVA. They have lost \$459,000 in state funding for just THIS YEAR.

The newspaper has chastened us. The Chief Justice has encouraged us. Now is the time for us to respond. We have a responsibility to the legal profession and our community to see that no one is kept from getting legal help, yes, even justice, because of lack of funds. Please get involved. Even just a little bit.

Editorial is included below for your ease of reference.

A LAWYER'S DUTY TO VIRGINIA'S POOR

Originally published in the Virginian-Pilot; Source: <http://hamptonroads.com/2010/04/lawyers-duty-virginias-poor>

Much attention has been devoted to Virginia's inadequate system for ensuring that poor defendants facing criminal charges have meaningful legal representation.

While that problem requires much more effort, far less time has been devoted to the other legal problems that regularly confront men and women without the resources to hire an attorney: A domestic violence victim needs a protective order. A laid-off worker must file for bankruptcy. A low-income couple seeks a no-fault divorce. A father faces termination of his parental rights.

"A lot of people aren't going to lose sleep over that case, but I will," Virginia Supreme Court Chief Justice Leroy Hassell said Tuesday. "We have to ensure that everyone has access to the courts."

Hassell is doing more than just worrying. Last year in his State of the Judiciary address he asked the Virginia Bar Association to help create a plan for encouraging attorneys to donate legal services to the poor. This week, Hassell presided over a "Pro Bono Summit" to assess the progress and share success strategies.

It must be distressing to Hassell, a Norfolk native, to see the unmet needs in the region he once called home. Less than 2 percent of lawyers in Hampton Roads participate in Legal Aid pro bono programs, the lowest rate in the state. In comparison, the Harrisonburg Rockingham Bar Association brags a 30 percent participation rate.

"And we still turned away twice as many people as we helped last year," said John Whitfield, executive director of Blue Ridge Legal Services.

While bar associations occasionally help out with phone banks, the greater need in Hampton Roads and

across the state is for attorneys with expertise in bankruptcies, estates and other civil issues to provide a backup to overworked and underfinanced legal aid groups.

The situation has grown dire during the recession. The Legal Aid Society of Eastern Virginia faces \$460,000 in state budget cuts next year and is already operating with two fewer attorneys than it had this time last year, said executive director Raymond Hartz.

Recruiting volunteers has been a challenge across the state. U.S. Magistrate Judge Michael Urbanski posted a notice seeking volunteer attorneys on his court's website. "For four years, I got not one response," he reported.

Petula Metzler of the Prince William County Bar Association summed it up when she said the challenge is "to make pro bono cool."

Among the ideas for accomplishing that goal: recruiting more retired and semi-retired attorneys as volunteers, recognizing pro bono services through awards and banquets and even designating a prime parking space at courthouses for lawyers who donate the most time to helping the poor.

Attorneys who gathered at the summit this week agreed that pro bono work will grow if and when law firms, judges and bar associations all make it clear that they value this vital public service. That's a challenge to every attorney in the state, and it's coming straight from the top.

"Constitutional rights are of no value if there is no way or no method to vindicate those rights," Hassell said.



- GET TO KNOW YOUR LOCAL JUDGES
- MEET OTHER YOUNG ATTORNEYS IN VIRGINIA BEACH
- LEARN ABOUT THE VIRGINIA BEACH BAR ASSOCIATION!

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SHORT CIRCUITS PRACTICE TIPS FROM THE CIRCUIT COURT

THE SMORGASBORD EDITION: *Changes to the Duty Judge and other dockets; Twittering by the court; Criminal fee cap waivers; Condemnation pretrial order; Transferring documents between files; and Legislative update*

By Amy H. Jones, Staff Attorney

DOCKET CHANGES EFFECTIVE JUNE 1

The court will be making a number of changes to its dockets to accommodate the extended vacancy created by the retirement of Judge Canada and the absence of a replacement appointment. Effective June 1, the Duty Judge Docket will only be available from 2:00-5:00 p.m. Monday through Thursday. Uncontested divorces will be heard on Tuesdays and Wednesdays from 2:00-3:00 p.m.; this change will also be reflected on the Scheduling Notice. The Friday Duty Judge Docket schedule will remain unchanged, and DC's will continue to be heard at their current days and times. These changes are being made so that the Duty Judge can take a morning trial docket during the week. In addition, the number of cases scheduled per day on the civil trial docket has been reduced, again to accommodate the shortage of judges.

COURT JOINS THE TWITTER GENERATION

The court will begin using Twitter for special announcements, including court closings. A link to the court's Twitter account will be provided on the home page for the court at www.vb.gov/courts. Look under "Related Links" on the right hand side.

NO MORE MONEY FOR COURT APPOINTED COUNSEL CRIMINAL FEE WAIVERS UNTIL JULY 1, 2010

Funds appropriated for the payment of waivers of the statutory fee cap for court appointed counsel in criminal cases have been exhausted. Funding will again be available for these waivers effective July 1, 2010, but will only be payable for services rendered after that date.

NEW PRETRIAL ORDER FOR CONDEMNATION CASES

The court has adopted a Uniform Condemnation Scheduling Order, developed by a work group of attorneys who frequently handle eminent domain cases. The order is available on the court's web site, and must be used for condemnation cases.

QUESTION OF THE MONTH: HOW DO I TRANSFER DOCUMENTS FROM ONE FILE TO ANOTHER?

This issue comes up frequently and in a variety of circumstances, although most often in divorces. If you need to move a document (not a pleading or order), such as a separation agreement, it must be done by court order. The order should be submitted for entry in the file currently containing the document. It should order the clerk to transfer the document from CL[number of the file it is in now] to CL[destination file] and to substitute copies of the document in CL[number of the file it is in now]. Significantly, *you* must provide the copies to be substituted. Also, please provide a good description of the document so that there is no confusion over what is to be transferred.

LEGISLATIVE UPDATE OF STATUTORY CHANGES EFFECTIVE JULY 1

First, the good news: there were no changes to § 20-60.3. The only caveat to this statement is that a little-known provision included in § 20-60.3 by cross-reference was repealed. Subsection 8(b) of § 20-60.3 contains a reference to the definition of "cash medical support" in § 63.2-1900. Until this year's change, that cross-reference meant that the parent of a child covered by Medicaid or FAMIS had to pay 2.5% of his or her gross income to the state. That provision was repealed, so that absent some other agreement, those parents simply have to pay unreimbursed medical expenses as stated in § 20-108.2(D). Since very few cases in circuit court involve Medicaid or FAMIS coverage for children, this change should not have a big impact. However, one change that will likely have a big impact is the new availability of vocational evaluations in support proceedings. Effective July 1, pursuant to an amendment to § 20-108.1, the court may now order a vocational evaluation of a party for good cause shown.

The General Assembly reorganized and rewrote the provisions regarding post-adoption contact and communication agreements between adoptive and birth parents. The existing provisions were repealed, and the new provisions are set forth in §§ 63.2-1220.2 through 63.2-1220.4. Any such contract will now have to be filed with the circuit court whether or not it is incorporated into the final order of adoption, pursuant to § 63.2-1220.2(B). Also, the requirement of agency input regarding the agreement will be waived if neither an agency nor a guardian ad litem for the child is involved in the placement. § 63.2-1220.3(A)(3). There





is much more to the provisions that these snippets, so if you have a case involving a post-adoption contact agreement, you should take a look at the full statutes.

There will now be code provisions limiting the waiver of the attorney-client privilege and work product protection in cases of inadvertent or partial disclosure. Subsection A of new § 8.01-420.7 will address when a disclosure of information will waive protection for undisclosed information. Inadvertent disclosures will be handled under subsection B, and protection will not be waived if reasonable steps are taken to prevent disclosure

in the first place, and to correct the error once disclosure occurs. Of course, this new code section will probably provide plenty of opportunities for the creation of new law in Virginia, as courts will need to interpret what is “reasonable,” among other issues.

Finally, Virginia enacted a Uniform Power of Attorney Act, creating new §§ 26-71.01 *et seq.* This will create a number of changes in Virginia law, even affecting the procedures for revoking a power of attorney in a guardian/conservator proceeding. Be sure you check these new provisions if you face issues regarding a power of attorney.

NEWS FROM THE BAR

STATE AND LOCAL BAR ASSOCIATION NEWS



RESULTS OF VIRGINIA STATE BAR 2010 COUNCIL ELECTIONS – George W. Shanks was unopposed and will be formally elected as the Virginia State Bar’s next President-elect during the June annual meeting in Virginia Beach. Other results of the 2010 Council Election were:

1. Three members were reelected at a meeting in the following circuits:
 - William H. Riddick, III of the 5th Judicial Circuit
 - Mark B. Holland of the 22nd Judicial Circuit
 - C. Eugene Compton of the 29th Judicial Circuit
2. Two new members were elected at a meeting in the following circuits:
 - Peter D. Eliades of the 6th Judicial Circuit to succeed Steven B. Novey
 - Theodore J. Craddock of the 24th Judicial Circuit to succeed Aubrey J. Rosser, Jr.
3. Reelected without opposition in the following circuits were:

2 nd Circuit	Kevin E. Martingayle
3 rd Circuit	George M. Willson
13 th Circuit	Brian L. Buniva
16 th Circuit	Ronald R. Tweel
19 th Circuit	Sharon D. Nelson
19 th Circuit	Edward L. Weiner
20 th Circuit	Peter C. Burnett
4. In addition, newly elected without opposition were:
 - 4th Circuit (to succeed John Y. Richardson, Jr.): David W. Lannetti
 - 19th Circuit (to succeed Leslie W. Hoffman): Sean P. Kelly
 - 23rd Circuit (to succeed Christopher W. Stevens): Mark K. Cathey
 - 27th Circuit (to succeed Michael J. Barbour): Richard L. Chidester
5. The results of the five contested mail ballot elections

are as follows (winners denoted in bold):

17th Circuit	Mark D. Cummings	184
(three seats)	Gregory T. Hunter	152
	Raymond B. Benzinger	144
	Timothy B. Beason	122
31st Circuit	Gifford R. Hampshire	110
(one seat)	Mary Grace A. O’Malley	90

Congratulations again to Mr. Shanks and welcome to all of these reelected and newly-elected members of Council.

VBBA AWARDS – The Virginia Beach Bar Association is happy to announce the winners of VBBA Awards presented at the Beach Party on May 22, 2010.

- 1) VBBA COMMUNITY SERVICE AWARD – Kamala Lannetti received this award given to a member of the VBBA who has given of his or her time and talents in community service activities or who has distinguished themselves in pro-bono activities that are a service to the community.
- 2) VBBA BAR SERVICE AWARD – Robert M. Tata received this award given to a member of the VBBA who has distinguished himself or herself through the active participation in State and/or local bar activities either within the VBBA or on its behalf.
- 3) JOSEPH L. LYLE, JR. PROFESSIONALISM AWARD – James A. Gorry received this award 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 himself or herself in their day-to-day practice of law.
- 4) BRYDGES-RUSSO DISTINGUISHED SERVICE AWARD – Robert G. Winters received this award, given periodically to a current or past member of the VBBA who has enjoyed a long and distinguished career as a member of the bench and/or bar for a period of 25 years or more and who has demonstrated the highest character and qualities during that career.





TECH TIPS FEATURED TOOL

It seems like just about everybody uses Google. But did you know that there's a lot more to Google than just the search engine? One Google resource useful in researching a legal topic is the *Google Web Directory* - www.google.com/dirhp?hl=en. This site organizes websites by topic so you can easily find information targeted to your needs. To see legal information, select 'Society' and then 'Law.'

FEATURED SITES

The trend today is towards free access to legal information online, and many sites are working to make that happen. Sites to check out for codes and cases online include:

The Public Library of Law: www.plol.org/Pages/Search.aspx

Legal Information Institute (Cornell): www.law.cornell.edu/

Justia: www.justia.com/

And finally, don't forget to check out the offerings on the Wahab Self Help Page. Go to www.VBgov.com/dept/library/law and select 'Self Help.'

ELECTRONIC LEGAL RESEARCH is available at the Wahab Public Law Library. The computers available for public use at the law library provide access to three major electronic research systems:

- LexisNexis
- Westlaw
- CaseFinder

These resources contain a variety of Virginia, State, and Federal material (such as cases and codes) in databases that can be searched in a variety of different ways (such as title, citation, and content).

ONLINE INFORMATION about the Virginia and Federal courts and court systems (including links to other court websites) is available online through the following websites:

Virginia Courts:

www.courts.state.va.us/courts/home.html

Federal Courts:

www.uscourts.gov/courtlinks/

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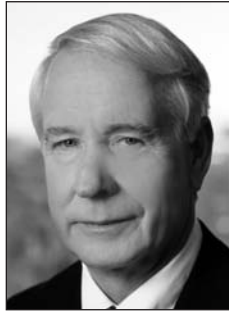
ANNOUNCEMENTS



KAUFMAN & CANOLES, P.C. is pleased to announce that the following attorneys were selected as the top attorneys in real estate for inclusion in *Virginia Super Lawyers, Corporate Counsel Edition 2010*:



MICHAEL E. BARNEY
Real Estate



ROBERT E. FARMER III
Real Estate

Super Lawyers, Corporate Counsel Edition is an annual listing of outstanding lawyers who have attained a high degree of peer recognition and professional achievement within the corporate counsel area of law. Both attorneys work in the Virginia Beach office.

ROBERT V. TIMMS, JR., a partner in the law firm of Stokes, Timms, Bell & Vaiden, P.C., was recognized as a “Virginia Super Lawyer” in 2010 in the areas of Estate Planning and Probate. Further in 2009 Mr. Timms was named as one of Virginia’s “Legal Elite” in Virginia Business magazine in the category of Taxes/Estates/Trusts/Elder Law.



KAUFMAN & CANOLES, P.C. is pleased to announce that STEPHEN E. NOONA has become a Fellow of the American College of Trial Lawyers, one of the premier legal associations in America. Founded in 1950, the College is composed of the best of the trial bar from the United States and Canada. Fellowship in the College is extended by invitation only

and after careful investigation, to those experienced trial lawyers who have mastered the art of advocacy and whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility, and collegiality. Lawyers must have a minimum of 15 years trial experience before they can be considered for Fellowship. Membership in the College cannot exceed one percent of the total lawyer population of any state or province.

Mr. Noona is a partner in the firm’s Norfolk office. He is the

head of the Litigation Section and Chair of the Intellectual Property & Franchising Practice Group. Mr. Noona has spent nearly 25 years trying complex cases involving intellectual property and technology law across the country. The newly inducted Fellow is a graduate of both the University of Virginia School of Law and the University of Virginia.

The law firm of SHAPIRO, COOPER, LEWIS & APPLETON, P.C. is pleased to announce that one of its members, EMILY MAPP BRANNON, is now licensed in Florida. We welcome co-counsel relationships.



MICHAEL L. GOODOVE, a partner in the Norfolk law firm of RABINOWITZ, SWARTZ, TALIAFERRO, SWARTZ & GOODOVE, P.C., was recognized as a “Virginia Super Lawyer” in 2010 in the area of personal injury law by the Virginia Super Lawyers Magazine and Richmond Magazine. The top 5% of all Virginia attorneys are selected by their peers for this honor. Mr. Goodove specializes in personal injury law.

THE HAMPTON ROADS ASSOCIATION OF LEGAL ADMINISTRATORS is pleased to announce the newly elected Board for 2010-2011: Kim Pici, President; Diana White, Past-President; Rob Sadler, President-Elect; Linda Merrick, Vice-President; Shirley Beacham, Treasurer; and Pam Deming, Secretary. For more information regarding the HRALA, contact Pam Deming, HRALA Secretary.

NOTICE FROM THE SUPREME COURT OF VIRGINIA

On April 30, 2010 this Court entered a rule amending Part Five, The Supreme Court, and Part Five A, The Court of Appeals, of the Rules of the Supreme Court of Virginia, to be effective July 1, 2010. These amendments make significant changes to appellate procedures in both the Supreme Court and Court of Appeals of Virginia and can be found on the Supreme Court website, www.courts.state.va.us, under Supreme Court of Virginia, Rules of the Supreme Court of Virginia.





GENERAL DISTRICT COURT LIAISON COMMITTEE

The General District Court Liaison Committee met with the GDC judges to discuss concerns from the Bar and the Court. Notes from that meeting are offered for your consideration. We appreciate the open dialogue and good rapport we enjoy with the judges and thank them for their participation.

CRIMINAL

Issues raised by the Committee:

1. On busy traffic court days, attorneys asking for a continuance are sometimes waiting for a very long period to make the request as certain judges call the cases alphabetically by the police officer's last name.

RESPONSE: Chief Judge Woolard advised the committee that he would speak with the judges about taking lawyer continuances first.

2. When a person goes to the clerk's office to obtain a certified copy of a prior conviction, they have been told that the request must be in writing and that it would take several days for the response.

RESPONSE: All of the judges present were unaware of this practice by the clerk's office. Chief Judge Woolard stated he would look into the matter and try to rectify the problem.

Issues raised by the Judges:

1. The Court is trying to separate traffic cases on certain days with the VA State trooper cases in one court and the VBPD cases in another. Chief Judge Woolard stated that this has just been put into place and so far it is working well.
2. RE: Preliminary Hearings--The Court would like cases ready to go at 9 AM. They would like fewer

delays in starting and completing the docket.

3. The Court would like attorneys to be reminded that if their case is to be called next and their client is in lock-up, the bailiff needs to be advised to have the inmate ready to go.

CIVIL

The judges and committee members discussed ways to make the civil docket run faster and free up more dates on which to set contested cases.

- As of now, only a certain number of contested cases are set at 10:00 each day. It was suggested that if a case has been set on the contested docket then settles in advance of the court date, counsel should advise the court as quickly as possible to create an opening.
- As of now, dismissal and non-suit orders for matters on the 8:30 docket are not presented to a judge in advance of the court date, so the matter remains on the docket. If those orders sent to the court were presented to a judge by the clerk prior to the court date, the order could be entered and the matter removed from the docket in advance.
- A discussion was held regarding the Court's willingness to stagger docketing of contested cases instead of lumping them at 10 AM. Comments regarding this have been mixed. For now, the process will remain unchanged but the suggestion is open for discussion.
- As former Chief Judge Cochran offered previously, contested cases expecting to take more than an hour can be given an afternoon time without waiting.



VBBA NEW MEMBERS

ELLIOTT HAWES DEJARNETTE, V
Office of the Commonwealth's Attorney

SHANNON LEE HADEED
Stallings & Bischoff, P.C.

BONNIE M. WHEELER
Medical Legal Consultants of Virginia

ESTER D. LINK
licensed April 2010

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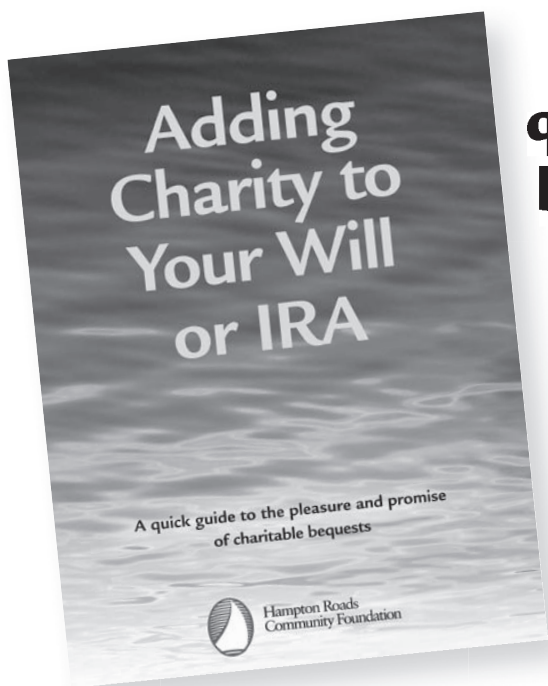
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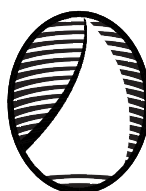
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1/3 Page (horizontal or vertical)	\$100.00
1/6 Page	\$60.00
Mailing Labels of the Membership	\$100.00
Classified Ad (6 lines)	\$35.00

* The VBBA offers a 10% discount on half-year Advertisements (3 issues) and a 20% discount on Annual advertisements (6 issues). Classified ads and Notices are free to members. Contact Glenn Croshaw at gcroshaw@wilsav.com

**2425 Nimmo Parkway
Virginia Beach, Virginia 23456**

**Tel: 757-385-2155
Fax: 757-385-2156**

Email: vbba@verizon.net

DEADLINE

Deadline for information and ads for the next newsletter:

July 15, 2010



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Web Site: www.vbbarassoc.com

CHANGE SERVICE REQUESTED

V B B A C A L E N D A R
PLEASE MAKE NOTE

SEPTEMBER 28, 2010
Bench-Bar Conference

OCTOBER 7, 2010
Ethics CLE

OCTOBER 8, 2010
Dick Brydges Annual Courthouse
Classic Golf Tournament

DECEMBER 3, 2010
Annual Meeting/Holiday Party

FEBRUARY 5, 2011
Annual Banquet