



VIRGINIA BEACH BAR ASSOCIATION

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THE PRESIDENT'S HOLIDAY MESSAGE

by William C. Bischoff, President

Twas the day before the Bar Banquet and all through our place
not an attorney was stirring and that's a disgrace.
For the files were all piled up as far as you could see,
just wait to be churned for exorbitant fees,
The inbox was overflowing, and pleadings were there,
not having been looked at since Garriott had hair.
The dust covered treatises were piles extraordinarily high,
"What was that Restatement of Torts for?" I repeatedly sighed.
The letters from clients who threatened and screamed,
were neatly stacked up for an answer when I deemed.
There were opinions from judges with their rulings explained,
with thinking quite foggy that boggled the brain.
Yes the work was around me, it filled me with dread,
yet visions of cocktails did dance in my head.
For that night was the bar dinner, a remarkable fete,
where lawyers got tipsy with judges just met.
A grand gay affair the lawyers' ball that night would be had,
with luck some of the women might leave scantily clad!
So there I sat dreaming of gaiety and booze,
and cared not a with about those cases I might lose.
When what to my wondrous eyes should appear,
but a curmudgeonly old goat bellowing shrieks I did fear.
He was a pale wispy shade with no hair and thin limbs,
for a moment I thought it was the lawyer named Sims!
But then I knew in a flash it was not that fine bloke,
when the old fossil did rise up and started to croak.
"What say you young lawyer? You are wasting your time,
when you should be billing those files and not pondering wine!"
Who are you?! yelled, while tripping backwards over Friend,
"I'm the Ghost of Billable Hours, your budget will not bend!"
"You must bill two hundred and two thousand before the year is anew,
payroll is waiting and malpractice policies soon renew!"
"You have rent and copiers and paralegals galore,
they demand vacations, and money and benefits, and more!"
"The credit line is bust, you'll have not a dollar,
unless you get cracking making your clients yelp and holler!"

"For their files they need billing and all sorts of things,
like motions and notices and things litigation brings."
"Like misery and sadness and frustration and strife,
but it is definitely worth it to get rid of your wife!"
"They need suing and deposing and affidavits to sign,
and discovery, a waste, yet to it we are resigned."
"And objections and exceptions and all sorts of mess,
to defeat the truth and justice, I honestly confess."
"And once we are done, the files will be ripe,
for settlement but not until a large check they will type."
"To us their defenders and advocates and counselors at law,
for we are paid by the word and we do so like to jaw."
"So get off your rump, and stop thinking of gin,
don't worry about victories, it is billing you must win."
I thought long and hard and realized he was right,
that the law is a mistress and against fun she does fight.
It was then that I decided that fun must come later,
and clients and judges and staff I must cater.
"Thanks you old goat, I appreciate your reminder,
that upon work I must focus, with unwavering blinders."
So off with a start that old geezer did fly,
right out the door and up to the sky.
Upon lawyers he rode, the best of the bunch,
they never took breaks and certainly not lunch.
"On Croshaw, on Slipow, on Inman and Fine,
this lawyer is set straight, he no longer thinks of wine!"
"On Stallings and Huff and you commissioners of accounts,
he'll be working all night before he gets his first ounce."
And I heard him exclaim as he rode out of my view,
"Tis Billable Hours that'll make you like new!"



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IN MEMORIAM



OWEN B. PICKETT

Former United States 2nd District Congressman and Virginia General Assembly Delegate Owen B. Pickett passed away peacefully after a full and rewarding life Oct. 27, 2010. A true son and servant of the Commonwealth, there are few if any Virginians who have not benefited from

Congressman Pickett's lifetime of dedicated and loyal service to his fellow citizens. Mr. Pickett received his undergraduate degree from Virginia Tech which was followed by a law degree from the University of Richmond's T.C. Williams School of Law. He was a member of the Virginia Beach, Virginia State and District of Columbia bars, and became a Virginia Certified Public

Accountant in 1955. Prior to entering politics, Mr. Pickett was a founder and principal partner of several Virginia Beach law firms, including the firm of Pickett, Lyle, Siegel, Drescher and Croshaw. He served as President of the Virginia Beach Bar Association in 1972. He was elected to the Virginia House of Delegates in 1971 where he served eight consecutive two-year terms. In 1987 he was elected to the United States House of Representatives where he served as Virginia's Second District Congressman for fourteen years. Thereafter, he became "Of Counsel" with the firm of Troutman Sanders, LLP and a member of the prestigious Fourth Circuit Judicial Conference. He was a gentleman, a statesman and a lawyer's lawyer.

He will be sorely missed by all.

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Hon. Westbrook J. Parker (Ret.)

Retired Chief Judge,
City of Suffolk Circuit Court

After a broad civil litigation career and twenty-four exemplary years on the bench, Judge Parker has recently retired. He will continue his lifetime of service to the citizens of Southeast Virginia as the Executive Director of the Camp Foundation, but now also joins The McCammon Group to serve the mediation, arbitration, judge pro tempore, and special master needs of lawyers and litigants throughout the Commonwealth.

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RECENT VIRGINIA BEACH CIRCUIT COURT OPINIONS

NOTE: Copies of these opinions may be obtained from the Clerk's Office.

DEBBIE CABRAL v.
JULIO CABRAL,

CL07-2087 (JUDGE LILLEY, 9/24/10)

Wife sought to enforce her right to \$580,000 property distribution payment by deed of trust on certain real estate, and by an assignment of certain business proceeds. The parties' agreement provided that "if Husband fails to pay the full sum...on the due date,...Husband agrees that wife may place a lien against any property owned by him or any of his business assets." The issue before the court was whether this language gave the wife the right to require husband to execute a deed of trust on real property, or in the case of income producing assets, to require him to execute an assignment of the proceeds of such property. The court found that requiring the husband to execute a deed of trust on certain real property and to execute assignments of proceeds from income producing properties exceeded the position of a lien holder. Unlike a deed of trust, a lien does not grant the lien holder an interest or estate in the real estate. Likewise, the right to lien is distinguishable from an assignment, for an assignment includes the right to control the property at issue, while a lien does not. Wife's motion was denied.

WILLIAM J. SUMMS v.

MARGARET G. SUMMS,

CL08-2976 (JUDGE SHOCKLEY, 9/13/10)

The parties' agreement required husband to transfer property owned by his company to wife in a "newly formed entity for Wife's benefit in such a manner as to eliminate or mitigate any resulting tax consequences arising from such a transfer to either party." This was subsequently discovered to be inappropriate under the tax regulations. In an effort to effectuate the parties' intent, the court ordered husband to transfer the property directly to wife. Husband moved to reconsider, based upon the tax impact on him. The court granted the motion and reversed its prior ruling, finding that it could not reform the parties' agreement because the mistake was one of law, and there were no "extraordinary circumstances" that would permit reformation.

EMI (YASUNO) MORRIS v.

TYSHIWON LAZAR MORRIS, SR.,

CL08-4744 (JUDGE CANADA, 10/18/10)

In this contested divorce, the issues were grounds, equitable distribution, child and spousal support, and attorneys' fees. The divorce was granted on one year separation grounds. Apart from agreed-upon items, the court distributed property 50-50. Wife was awarded \$1,000.00 a month in spousal support, reviewable within 60 days of entry of the final decree. The award was based upon a finding that husband had greater financial resources than wife, and was earning approximately \$80,000 annually at his job in Alabama, although the job was temporary. Wife's earning abilities were limited by her weak English speaking skills, since she is originally from Japan. The parties were married for a lengthy amount of time, 15 years, which weighed in favor of an order of support. Child support was ordered to continue at the amount previously ordered by the court on October 2, 2009, and the parties could seek review of this award 60 days from the entry of the final decree. Finally, Husband was ordered to pay Wife \$5,000 in attorney's fees.

DAWN BLACK v.

ESTER MAE GORDON,

CL10-4103 (JUDGE O'BRIEN, 10/27/10)

In this personal injury case, plaintiff's prior counsel allegedly settled the case with the insurer without plaintiff's authorization. The insurer filed a plea in bar based upon the settlement, and issued a subpoena and subpoena duces tecum to plaintiff's prior counsel. Prior counsel moved to quash, asserting the attorney-client privilege. The court sustained the motion, finding that only the client may waive the attorney-client privilege, and that the insurer failed to produce any evidence of such a waiver.



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OPPORTUNITIES AT WAHAB

The Law Library is looking for attorneys who are interested in participating in our Lunch n' Learn programs. These are one hour sessions held over the lunch hour where an attorney presents general information on a legal topic. You wouldn't be providing legal advice, just giving an overview of the law. Topics that have been covered in the past include special needs trusts, advance medical directives and estate planning. If you are interested in sharing your expertise on divorce, bankruptcy, wills, or any other area of law with a small group of citizens, please let us know by calling 385-4419 or email llstaff@vbgov.com.

This is a great opportunity for outreach, as well as a chance to serve the community through education. We look forward to hearing from you!

Need private space to meet with clients or open space for larger meetings?

The Wahab Public Law Library has meeting spaces to accommodate your needs!

Located on the ground floor of Building 10B Court Support at the Virginia Beach Judicial Center, the Law Library has a private conference room space that has a 32-inch flat screen TV and seats 4-6 and also has an open program area / classroom space that has a 52-inch flat screen TV and seats 10-15. Both spaces are available for meetings scheduled in advance or if the rooms are available, last minute conferences with clients or others. Free wireless access is available and laptops are welcome! For scheduling or further information, please contact the Law Library staff at 385-4419 or email llstaff@vbgov.com.

NEW AND UPDATED LEGAL RESOURCES

Automobile Fraud: Odometer, Salvage, and Lemon Laundering Fraud, Title Abuses and Yo-Yo Sales
National Consumer Law Center, 2010 Supplement

Collection Actions: Defending Consumers and Their Assets
National Consumer Law Center, 2010 Supplement

Consumer Banking and Payments Law: Credit, Debit & Stored Value Cards; Checks; Money Orders; E-sign; Electronic Banking and Benefit Payments
National Consumer Law Center, 2010 Supplement

Consumer Class Actions
National Consumer Law Center, 7th Edition

Consumer Warranty Law: Lemon Law, Magnuson-Moss, UCC, Manufactured Home and Other Warranty Statutes
National Consumer Law Center, 4th Edition

Fair Debt Collection
National Consumer Law Center, 2010 Supplement

Federal Civil Judicial Procedure and Rules
West, 2010 Edition

Hate Crimes Law
West, 2010

Law of Defamation in Virginia
Virginia CLE, 3rd Edition

Foreclosures: Defenses, Workouts and Mortgage Servicing
National Consumer Law Center, 3rd Edition

Principles of the Law of Family Dissolution: Analysis and Recommendations
American Law Institute, 2002

Tort and Personal Injury Law (Virginia Practice Series)
West, 2010 Edition

Virginia Criminal and Traffic Law Manual
LexisNexis, 2010 Edition

Virginia School Law Deskbook
LexisNexis, 2010-2011 School Year Edition





EXCITING UPDATES FOR THE JUVENILE DETENTION ALTERNATIVES INITIATIVE (JDAI)

For someone who does not enjoy air travel, I was ambivalent about the request that I received from Olymphina Perkins, the Director of the Court Service Unit for the Virginia Beach Juvenile and Domestic Relations District Court, to attend the Juvenile Detention Alternatives Initiative Inter-Site Conference in Kansas City, Missouri on October 4-6, 2010. After putting aside thoughts about the anxiety and inconvenience typically experienced in air travel today, I responded that I was always interested in being educated. The JDAI conference was well worth the trip!

JDAI is has been an initiative of the Annie E. Casey Foundation since 1992. The core objectives of the initiative are to eliminate the inappropriate or unnecessary use of secure detention (i.e., to find alternatives to secure detention for non-violent offenders); to minimize re-arrest and failure to appear rates pending adjudication; to ensure appropriate conditions of confinement in secure facilities; to redirect public finances to sustain juvenile justice reforms; and to reduce racial and ethnic disparities. JDAI site participants include judges, prosecutors, defense attorneys, probation officers, elected officials, and community representatives. JDAI has grown from the 5 original sites in 1992 to approximately 120 sites from 25 states and the District of Columbia. Almost 600 people attended this year's conference.

Statistics support the need for JDAI. Research has shown that juvenile detention has critical, long lasting consequences. Youth who are detained are more likely to be adjudicated delinquent and committed to an institution; will work fewer hours for less money for years to come; will more likely re-offend than youth who have never been detained; and will have disrupted educational and family connections. In addition, detention disproportionately impacts minorities. Approximately two-thirds of those detained are minorities; a significant amount of the increased usage of detention in the past twenty years is due to greatly increased detention rates for African-American and Latino youth.

The JDAI has improved public safety in its model sites (a 47% average reduction in juvenile crime in four model sites); has resulted in a substantial reduction in detained youth (a 55% average reduction in four model sites); has saved tax dollars by the usage of alternative approaches to detention (\$17 million was redeployed over a ten-year period at one model site); and has reduced disproportionate minority confinement by the usage of objective screening instruments and the establishment of community-based programs (a 58% reduction over a ten-year period in one model site). In the Virginia Beach Juvenile and Domestic Relations District Court, which became a JDAI site in 2009, our secure detention rate has significantly decreased (on 11/10/10, we had 39 youth detained in a facility with a 90-bed capacity). In addition, our disproportionate minority impact indicators improved in the areas of judge ordered pre-dispositional detention, misdemeanor diversions, and misdemeanor petitions filed.

There is still much work to be done. However, with the Juvenile Detention Alternatives Initiative, we are one step closer to a model juvenile justice system!

Sources: Annie E. Casey Foundation, *Juvenile Detention Alternatives Initiative-A Successful Approach to Comprehensive Reform* (2007); www.aecf.org

JUDGE RAMONA D. TAYLOR
Virginia Beach Juvenile and Domestic Relations District Court

November 23, 2010

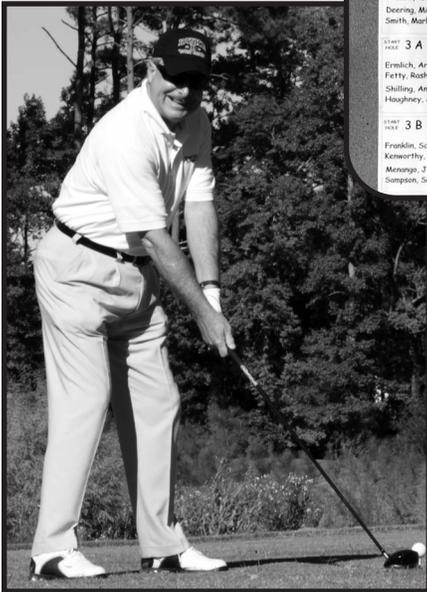


12TH ANNUAL DICK BRYDGES COURTHOUSE CLASSIC GOLF TOURNAMENT

OCTOBER 8, 2010 – REDWING GOLF COURSE

Pictures taken by:
AMBER CASTLE
Virginia Beach Circuit
Court Probate Office

12 TH ANNUAL DICK BRYDGES COURTHOUSE CLASSIC		TOURNAMENT RESULTS	
THIS WILL BE DECIDED BY A CARD PLAYOFF STARTING ON HOLE # 18 AND GOING BACK.			
THANK YOU FOR PLAYING AND RETURNING SCORES!			
START HOLE 1A Ferguson, Ryan Thompson, Brett Ufkes, Gordie Letourneau, Steve 61	START HOLE 4A Holcomb, Rocky Lowe, Hon. Fred Schooler, Gordy Vogels, Tom 58	START HOLE 7B Marecock, Bob Booth, Ed Woodward, Larry Atkey, Rick 68	START HOLE 9A Bryant, Harvey Burdin, Corey Dinomo, Joe Laird, David 75
START HOLE 1B Aubrey Herb Cutrone, Chip Formet, Cliff #16 Williams, Keith 56	START HOLE 5B Benson, Hon. Gerrit Blow, Hon. Randall Powers, Paul Karpov, Anton 69	START HOLE 6A Gallo, Eric Giordano, Greg Harst, Scott Slaughter, Mark 67	START HOLE 9B Briggs, Gary Hunter, Scott Kraft, Matt Whitaker, Doug 58
START HOLE 2A Christie, George A Ousano, Peter V. Doering, Michael Smith, Mark S. DNF	START HOLE 6B Hodges, Lisa Pace, Michael Picus, Charlie Quick, Tim 66	START HOLE 8A Connolly, Pat DeDuca, Mark Hollowell, Phil Vachris, Scott 59	START HOLE 10A Good, David Parke, Kellam Pfeifer, Stephen Swayer, John 71
START HOLE 3A Ermlich, Arthur Fetty, Rosalinde Shilling, Andy Hoaghey, Jeff 57	START HOLE 5A Dickerson, David Hedrick, Chris Simpwell, Todd Volz, Nathan 56	START HOLE 7A Brunick, Tim Garnatt, Rich Turpin, Greg Ziegler, Brandon 90	START HOLE 10B Denton, Teremiah Olivieri, Vinise Tharmon, Jim Hagans, Robert 70
START HOLE 3B Franklin, Scott Kenworthy, Brian Munings, Jeff Sampson, Sandra 69			START HOLE 11A Duffon, Kevin Huelberg, Trey Layne, Chris Kotchmark, Michael 70
			START HOLE 11B Andrews, Mark Gerse, Ken Mushin, Mark O'Brien, Happy 62
			START HOLE 12A Gontas, Anthony Pierce, David Thornton, Jon Cromwell, Rich 64
			START HOLE 12B Whitus, Jim Deane, David Jungensen, E. J. May, Mike 65



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ANNOUNCEMENTS



JOHN S. NORRIS, JR.

NORRIS, ST. CLAIR & LOTKIN, a Virginia Beach civil litigation firm, is pleased to announce that its principal member, JOHN S. NORRIS, JR., has been selected for inclusion in the 2011 edition of *"The Best Lawyers in America"* in the specialty of construction law. Mr. Norris has received this honor two years in a row. Norris also

has previously been named by his peers through a pole conducted by Virginia Business Magazine as one of the state's "Legal Elite" in the field of construction law. Mr. Norris is a graduate of the College of William and Mary and the Washington and Lee University School of Law. In addition to construction law, his practice includes eminent domain, securities arbitration and complex commercial litigation.



ADAM H. LOTKIN

In addition, NORRIS, ST. CLAIR & LOTKIN is pleased to announce that ADAM H. LOTKIN has been recognized by Virginia Super Lawyers Magazine in its Rising Star edition in the area of "personal injury" for 2010 for the third time. More than 18,000 Virginia lawyers are invited to participate in the nomination

process. Only 2.5% of the total lawyers in Virginia are selected as *Rising Stars*. Mr. Lotkin practices personal injury law, criminal defense, business litigation and all aspects of general trial practice.

NORRIS, ST. CLAIR & LOTKIN invites the public to view its new website at NorrisStClair.com in order to learn more about the Firm and the scope of its practice.

BENNETT AND ZYDRON, P.C. is pleased to announce that CARLTON F. BENNETT has been selected by his peers for inclusion in *The Best Lawyers in America*, 2011 Edition, CARLTON F. BENNETT, Traumatic Brain Injury and Nursing Home Malpractice Cases.

JOYVÁN L. MALBON has joined the Virginia Beach law firm of BULLOCK & COOPER, P.C. as an associate. She will concentrate her practice in personal injury, family law and traffic matters.



STEPHANIE SMITH

VIRGINIA BEACH – October 18, 2010 – At the 38th Annual Bosses' Appreciation Night held at the Sheraton Oceanfront Hotel, the Virginia Beach Legal Staff Association honored STEPHANIE SMITH from HUFF, POOLE & MAHONEY, P.C. as Boss of the Year.

CAROLINE ADLER, PLS also from HUFF, POOLE & MAHONEY, P.C. was honored as Member of the Year.

THE HONORABLE LESLIE L. LILLEY from Virginia Beach Circuit Court, TINA E. SINNEN, Clerk, Virginia Beach Circuit Court, and SETH SAUNDERS, President of South University served as judges for this year's awards.

The Virginia Beach Legal Staff Association is organized for the purpose of providing education to those engaged in the legal services profession.



SHORT CIRCUITS

Practice tips from the Circuit Court

By: Amy H. Jones
Staff Attorney

REMINDER: CASES SET ON THE DUTY DOCKET MUST BE BY ACTUAL AGREEMENT AS TO THE DATE AND TIME

The key prerequisite to having any case set on the duty docket is the agreement of all counsel and/or pro se parties to the date and time. Recently, the court has been receiving and increasing number of requests to place a matter on the duty docket accompanied by the statement, "there is no opposing counsel." Typically, it turns out that "there is no opposing counsel" because either the pleading has not been served yet, or notice of the hearing needs to be served. A frequent example involves petitions seeking relief regarding trusts or estates, where beneficiaries need to be given notice of the proceedings. As a reminder, a case generally is not appropriate for the duty judge docket if there is not an actual agreement as to the date and time by those involved in the matter (with the possible exception of an uncontested guardian or conservatorship). Conversely, if everyone has agreed to an order a hearing usually is not required, but if a hearing is required because someone needs to be noticed, then the Friday docket is the appropriate venue.





THE VBBA BOARD NEEDS YOUR HELP:

The VBBA Board needs your assistance in identifying those attorneys who might be deserving of recognition for the following four awards. The awards will be made at the Annual VBBA Banquet in January and the Board is asking you to provide them with information concerning potential worthy recipients. Particularly as it relates to the community service award, we would like those of you who are active to submit information about yourselves. The individual who submits information about himself or herself or someone else will remain anonymous from the VBBA Board and its Awards Committee. Names and information should be submitted by January 5, 2011 directly to the attention of the VBBA Executive Director, Jean Keary by mail 2425 Nimmo Parkway, Municipal Center, Virginia Beach, VA 23456, fax 385-2156, or by email vbba@verizon.net.

The four awards are as follows:

1. VBBA THOMAS S. SHADRICK
COMMUNITY SERVICE AWARD

An annual award to be 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

An annual award to be 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. VBBA JOSEPH L. LYLE JR.
PROFESSIONALISM AWARD

An annual award 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 himself or herself in their day-to-day practice of law.

4. VBBA BRYDGES/RUSSO
DISTINGUISHED SERVICE AWARD

An annual award to be 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.

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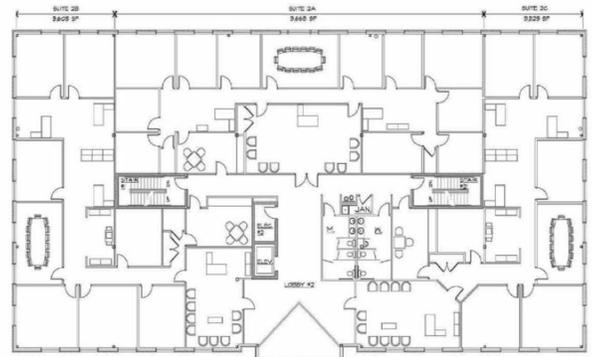
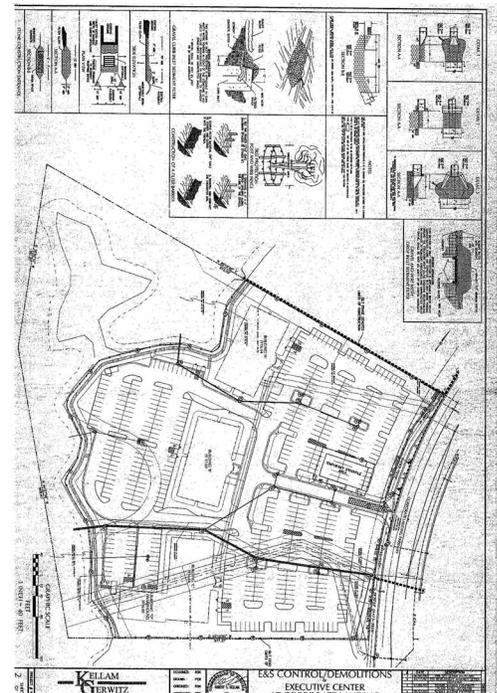
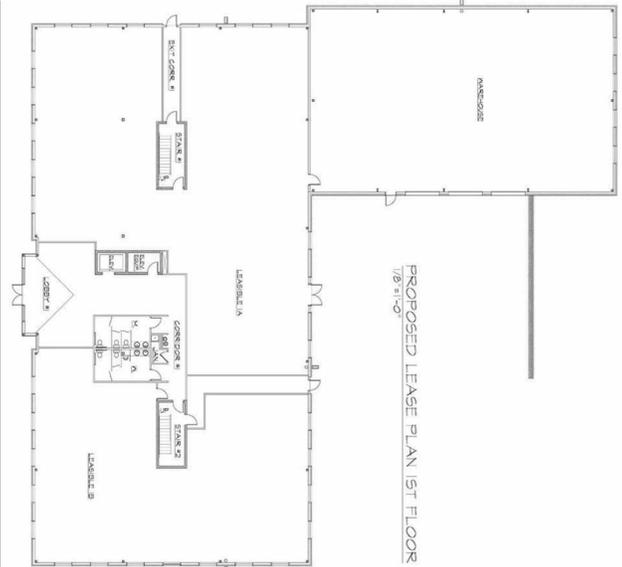
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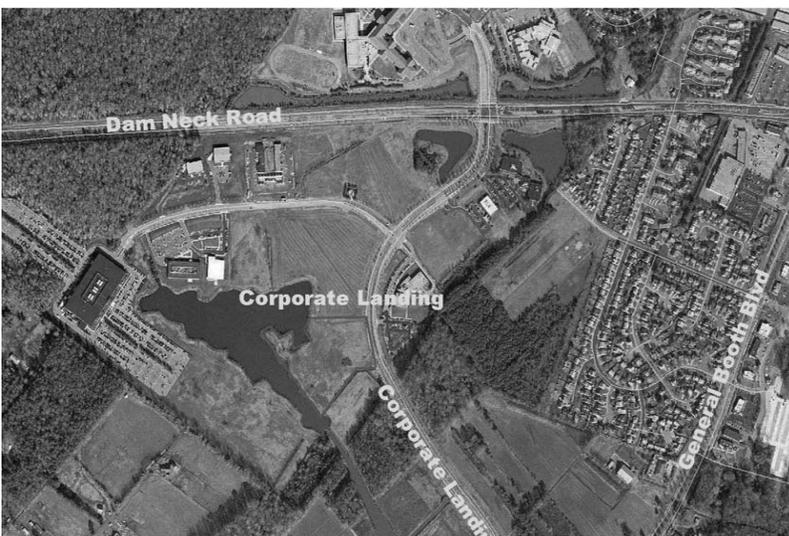
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Virginia Beach Circuit Court
2425 Nimmo Parkway, Building 10B
Virginia Beach, Virginia 23456
Wk (757) 385-8817
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tsinnen@courts.state.va.us



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