



VSB

Executive Committee & Council Meetings

Williamsburg
October 12-13, 2023

VIRGINIA STATE BAR
EXECUTIVE COMMITTEE

Williamsburg, Virginia
Thursday, October 12, 2023

AGENDA

12:30 p.m. Executive Committee Meeting
Williamsburg Lodge Piedmont Room, 310 S. England Street, Williamsburg

I. Reports and Information Items	Tab
A. President's report – Chidi I. James, President	1
B. Executive Director's report – Cameron M. Rountree, Executive Director	2
C. Financial reports – Crystal T. Hendrick, Finance/Procurement Director	3
D. Office of Bar Counsel report – Renu M. Brennan, Bar Counsel	4
E. Standing Committee on Access to Legal Services report – Joanna L. Suyes, chair	9
 II. Action Items	
A. Approval of the Minutes from the September 12, 2023 Meeting – Chidi I. James, President	10
B. Approval of Amendments to the Conference Bylaws – Janet P. Van Cuyk, Deputy Executive Director	11
1. Approval of Amendments Conference of Local & Specialty Bar Associations Bylaws and Removal of the Conference of Local & Specialty Bar Associations Constitution.	
2. Approval of Amendments to the Senior Lawyers Conference Bylaws.	
3. Approval of Amendments to the Young Lawyers Conference Bylaws.	
C. Approval of Amendments to the VSB Bylaws Relating to Quorum and VFOIA Requirements – Janet P. Van Cuyk, Deputy Executive Director	12
D. Approval of Access Committee Request to Authorize VSB Legislative Activity in Support of Virginia Child Dependency Legal Representation Workgroup Recommendations – Joanna L. Suyes, Standing Committee on Access to Legal Services, chair	13

The mission of the Virginia State Bar is (1) to protect the public, (2) to regulate the legal profession in Virginia, (3) to advance access to legal services, and (4) to assist in improving the legal profession and the judicial system.

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| E. Approval of Proposed LEO 1900, Death of a Client – Michael York,
Standing Committee on Legal Ethics, chair | 14 |
| F. Approval of Proposed Rule 8.4(f), Prohibiting Agreements Not to File
Bar Complaint – Michael York, Standing Committee on Legal Ethics,
chair | 15 |
| G. Approval of Appointment for Clients' Protection Fund Board Member –
Brian D. Lytle, Clients' Protection Fund Board, chair | 16 |
| H. Approval of Professionalism Course Extension Requests – Maureen D.
Stengel, Director of Bar Services | 17 |
| I. Approval of Resolution Honoring Mark D. Braley, Former Executive
Director of the Legal Services Corporation of Virginia – Cameron M.
Rountree, Executive Director | 18 |

III. Notice of Upcoming Meetings, Receptions & Dinners

6:30 p.m., Thursday, October 12, 2023, Bar Council Reception and Dinner

- Williamsburg Lodge Colony Room E and Tidewater Room, 310 S. England Street, Williamsburg

9:00 a.m., Friday, October 13, 2023, Bar Council meeting

- Williamsburg Lodge Tidewater Room, 310 S. England Street, Williamsburg

12 noon, Friday, February 23, 2024, Executive Committee meeting

- Virginia State Bar, Bank of America 3rd floor conference room, Richmond

6:30 p.m., Friday, February 23, 2024, Bar Council Reception and Dinner

- Virginia Museum of Fine Arts, 200 N. Arthur Ashe Boulevard, Richmond

9:00 a.m., Saturday, February 24, 2024, Bar Council meeting

- Omni Richmond Hotel, 100 S. 12th Street, Richmond

10:30 a.m., Wednesday, April 24, 2024, Executive Committee meeting

- Virginia State Bar, Bank of America 3rd floor conference room, Richmond

12 noon, Wednesday, May 29, 2024, Executive Committee meeting

- Hilton Garden Inn, 3315 Atlantic Avenue, Virginia Beach

6:30 p.m., Wednesday, May 29, 2024, Bar Council Reception and Dinner

- Hilton Garden Inn, 3315 Atlantic Avenue, Virginia Beach

9:00 a.m., Thursday, May 30, 2024, Bar Council meeting

- Hilton Garden Inn, 3315 Atlantic Avenue, Virginia Beach

VIRGINIA STATE BAR

COUNCIL

**Williamsburg, Virginia
Friday, October 13, 2023**

AGENDA

9:00 a.m. Council Meeting

Williamsburg Lodge Tidewater Room, 310 S. England Street, Williamsburg

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C. Financial reports – Crystal T. Hendrick, Finance/Procurement Director	3
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E. Conference of Local & Specialty Bar Associations report – Dillina W. Stickley, chair	5
F. Diversity Conference report – Candace A. Blydenburgh, chair	6
G. Senior Lawyer's Conference report – W. Carter Younger, chair	7
H. Young Lawyers Conference report – Craig E. Ellis, YLC President	8
I. Standing Committee on Access to Legal Services report – Joanna L. Suyes, chair	9
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3. Approval of Amendments to the Young Lawyers Conference Bylaws.
- C. Approval of Amendments to the VSB Bylaws Relating to Quorum and VFOIA Requirements – Janet P. Van Cuyk, Deputy Executive Director **12**
- D. Approval of Access Committee Request to Authorize VSB Legislative Activity in Support of Virginia Child Dependency Legal Representation Workgroup Recommendations – Joanna L. Suyes, Standing Committee on Access to Legal Services, chair **13**
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- F. Approval of Proposed Rule 8.4(f), Prohibiting Agreements Not to File Bar Complaint – Michael York, Standing Committee on Legal Ethics, chair **15**
- G. Approval of Appointment for Clients' Protection Fund Board Member – Brian D. Lytle, Clients' Protection Fund Board, chair **16**
- H. Approval of Resolution Honoring Mark D. Braley, Former Executive Director of the Legal Services Corporation of Virginia – Cameron M. Rountree, Executive Director **18**

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TAB 1



Virginia State Bar

1111 E. Main Street, Suite 700
Richmond, Virginia 23219-0026
Telephone: (804) 775-0500

To: Executive Committee
Bar Council

From: Chidi I. James
VSB President

Date: October 12, 2023

Re: President's Report for October 2023

Dear Executive Committee and Council Members,

In addition to the matters which I will address at the meetings on October 12 and October 13, in Williamsburg, please accept this as a report of my activities since my term began on July 1, 2023. I look forward to meeting with everyone in person and discussing these events and all matters on the meeting agendas.

Appointments/Travel/Events

07/14/23	VSB Hill Tucker Institute – Spoke with High School Students Participating in the Program. Stephanie gave the main address.
07/19-21/23	VBA Annual Meeting at the Homestead – Attended on behalf of VSB.
08/03-04/23	VSB Disciplinary Conference in Richmond – Gave an address to the attendees on behalf of the VSB.
08/09-10/23	VSB Professionalism Course in Roanoke – Attended the faculty dinner and sponsored wine using the President's Fund. Gave an address to the attendees during the opening session.
08/16/23	VSB All Staff Meeting in Richmond – Attended the staff meeting and gave a brief address and thanked the VSB Staff.
08/24/23	Virginia Law Foundation – Attended the 2023 Grant Recipient Luncheon.

- 08/24-25/23 Northern Virginia Black Attorneys' Association - 40th Anniversary Convention Speaker.
- 08/30-31/23 VSB Professionalism Course in Richmond - Attended the faculty dinner and sponsored wine using the President's Fund. Gave an address to the attendees during the opening session.
- 09/12/23 Executive Committee meeting, Richmond – Presided over regular meeting.
- 09/13/23 VSB Section, Conference and Committee Chairs meeting in Richmond – Provided an overview of important issues and facilitated a breakout session with the board and committee chairs.
- 09/15/23 Virginia Judges & Lawyer's Assistance Program in Lynchburg – Speaker for a Panel Discussion on Advancing Diversity, Equity and Inclusion to Build a Stronger Legal Profession at the 19th Annual Fall Retreat.
- 09/17-18/23 Solo & Small-Firm Practitioner Forum in Onancock/Melfa, Virginia – Attended the speaker's dinner and forum sponsored by the CLSBA at Eastern Shore Community College.
- 09/20-21/23 Appalachian School of Law visit in Grundy – Invitation received from the ASL President.
- 09/22/23 Southwestern Virginia Regional Bench/Bar Conference in Abingdon, Virginia – Attended and gave opening remarks on behalf of the VSB.
- 09/30/23 Legal Services of Northern Virginia in Vienna – Opening remarks at Fall Gala.
- 10/03/23 YLC Women & Minorities Bench-Bar dinner in Richmond – Attended dinner at Virginia Union University to provide opening remarks and introduce keynote speaker.

In Memoriam

Halford I. Hayes, Esq. (August 1932-July 2023); Halford I. Hayes, PC, Chesterfield County

Susan Wolff McMakin, Esq. (December 1962-September 2023); Banner & Witcoff, Washington, DC

Judge Thomas Ogburn Bondurant, Jr. of Henrico died on July 26, 2023, at the age of 74. Judge Bondurant was a proud Richmond Spider, where he was an English major and a two-time All-Southern Conference first baseman. He was inducted to the University of Richmond Athletic Hall of Fame in 2018. He was also a University of Richmond law school graduate (and coached on the baseball team while in law school).

Judge Bondurant served for decades as a substitute judge, 11 years as a county attorney for Westmoreland County, and also as a Commissioner in Chancery for Henrico County. He was a founding member of the Henrico County Bar Association and served on the VSB Disciplinary Board and also on the Board of Lawyers Helping Lawyers. He taught trial advocacy as an adjunct professor at the University of Richmond for 10 years.

After more than 4 decades of practicing law, his legal career culminated with his appointment to the General District Court of Henrico County, where he served with distinction until his retirement in 2022. Judge Bondurant mentored countless lawyers and was recognized for his leadership by the Bar Association for the City of Richmond for his outstanding service and unfailing devotion to the rule of law.

He was the brother of Judge B. Elliott Bondurant of the New Kent Circuit Court.

Judge Bondurant's service was held on Saturday, September 9th at the University of Richmond Chapel.

Judge Victor Blake McKinney of Abingdon died on September 22, 2023. Judge McKinney (referred to as "Blake" by his friends) was born to Samuel David McKinney and Phyllis Boone McKinney on July 23, 1961, in Lawton, Oklahoma. He lived in Abingdon most of his life and graduated from Abingdon High School in 1979. During his junior year, Blake set a school record for most passes caught in a season and was interviewed by a writer for the Virginia Football League. Blake's photo, printed with that article, included a subheading that read in part, "*Ambition includes law and eventually becoming a judge.*" Blake pursued his ambition by studying political science and obtaining his Bachelor of Arts from Emory and Henry College, in 1983, and his Juris Doctor from the Walter F. George School of Law at Mercer University, in 1987. After passing the Virginia bar exam, Blake's career began in collections with attorney, John Bagwell. Soon thereafter, he worked as a part-time prosecutor with his dear friend, the Honorable Mike Moore, in Russell County, and together they opened the law firm McKinney & Moore in 1990. In May 1996, Blake became the sole practitioner at V. Blake McKinney, P.C., where he continued to build on and, for over 20 years, maintaining a very successful law practice in Abingdon. In July 2012, he achieved his ultimate goal and began serving his community as a General District Court Judge for the 28th District until illness forced his retirement in August 2021.

Judge McKinney is survived by his loving wife, Suzanne McKinney, his daughter, Katie Pelger and her husband, Markus, of Knoxville, TN, Lynsey Massie and her husband, Ross, of Abingdon, VA, and Alex Hall and his wife, Tabitha, of Bluff City, TN, along with his dearly beloved grandchildren, Bentley, Bailee, Morgan, Hadley Blake and Hayden.

At his request, private services will be held for family members only. In lieu of flowers, Judge McKinney requested that memorial contributions be made to: Victory Baptist Church, ATTN: Youth Programs, 11101 Island Road, Bristol, VA 24202, or to the Coach Buchanan Legacy of Excellence Scholarship, 955 West Main Street, Abingdon, VA 24210.

Virginia Lawyer Referral Service

The Virginia Lawyer Referral Service is in dire need of attorneys to become part of the panel. The commitment is modest (simply agree to 30-minute telephone consultations). If you decide to take the case, simply send a 10% referral fee to the VSB (if your fee is greater than \$500). This is an easy way to do your small part to help close the civil justice gap in Virginia.

Bar Council Mentors

We have twelve new Bar Council members, who have never served on Bar Council before. As a welcome, and to help them get acclimated we have asked experienced bar members in or near their districts to serve as informal bar council mentors.

Strategic Planning Retreat

Immediate Past President Stephanie Grana is chairing the strategic planning retreat. It will be held April 24-26, 2024. The retreat will be hosted and moderated by Chris Newbold from ALPS, the legal insurance company. He has done this for other state Bar Associations but had to limit the number of participants. It will be composed of half VSB Staff and half VSB volunteers. The volunteers selected to participate are:

- Craig Ellis
- Brett Marston
- Chip Nunley
- Sue Tarley
- Nia Vidal
- Veronica Meade
- Alicia Johnson
- Bruce Russell
- Kevin Martingayle

If we could have put the entire Bar Council on the committee, we would have; unfortunately, we only had a limited number of spaces. If you have thoughts or suggestions, please let any of these folks know. You can also talk to Stephanie, Mike, or me.

Annual Meeting

The Annual Meeting date for 2024 has been moved to May 30 – June 1, 2024. The usual date (Fathers' Day weekend) was not available. Other dates and locations were considered, including the potential of moving the location out of Virginia Beach. Better Annual Meeting committee co-chairs noted that in a recently performed survey the Virginia Beach location was by far the preferred location, even if the date had to be altered.

I have asked BAM and the bar staff to review what led to the loss of the Fathers' Day date for our usual Virginia Beach location and determine as soon as possible if we will be able to return to the Virginia Beach location for 2025 on our usual weekend.

TAB 2

Executive Director's Report

(Cameron Rountree)

October 2023

I. Fiscal Year close

June 30th marked the end of the VSB fiscal year (FY). Notably, the VSB was required to utilize approximately 10% of our cash reserves, or roughly the same amount that was contributed to the account the year prior. This was substantially due to expenses pertaining to the implementation of our two new software systems. Also contributing to the deficit was the General Assembly's authorization for a 5% raise for commonwealth employees. While these expenses were somewhat anomalous, they occurred against a backdrop of flat revenue. In fact, a string of recent statutory raises, although greatly appreciated, occurred without concomitant increases in revenue because VSB dues are capped statutorily. Va. Code Section 54.1-3912; see also R. Sup. Ct. Va. Pt. 6, Sec. IV. Para. 11 (prohibiting dues increase unless cash reserves are less than 15% of the prior year's operating expenditures). This year (FY 24) we anticipate less, though still some, one-off expenses. These will occur due to the reconfiguration of underutilized space in the VSB office that is being converted into a hearing/multi-purpose room. (As the pandemic instructed, having available space to conduct hearings or large meetings without requiring the permission of other state and local agencies (or renting space) is very important.) Despite these concerns, the short-term (~3 years) financial projection is solid, and we will not near the 15% threshold required by the Court to raise dues. I am, however, paying exacting attention to the mid-range financial projection (~5 years) to determine if/when the VSB will have to broach the topic of raising dues. This has not occurred since 2001 and, according to the Bureau of Labor Statistics, today's inflation adjusted value of \$250 dues for active practice would be more than \$425. Alternative revenue generation is also being considered via the VSB's second greatest income source, MCLE course application fees. These, too, have not been raised in several years, and the current flat fee model does not adequately take into account the staff time to review courses based on the number of credit hours sought. In the long run, we cannot realistically expect revenue to remain stable *if*, as has been witnessed in recent years, bar admission stagnates or declines. Accordingly, it is important to contemplate changes now.

II. Showcase events

The VSB held our Annual Meeting June 14th-17th at the Virginia Beach Oceanfront Hilton. The event was a rousing success and attended by over 350 members and guests. Chidi James was sworn in as the 85th President of the VSB and Mike York was sworn in as the president-elect. Unfortunately, even though the event was well attended and highly complimented, we will have to **reschedule next year's meeting**. An extreme sporting event (i.e., rock climbing, base jumping, BMX and skateboarding) known as the Jackalope Festival conflicts with our traditional dates during the Father's Day weekend. The Jackalope Festival brings thousands of spectators and includes a base jumping platform on the roof of the Hilton VB. Consequently, our event must move to May 29th to June 1st.

We learned later this summer that the Jackalope Festival signed a three-year contract with Virginia Beach and 2024 will be the second year of that agreement. After the expiration, if the Jackalopes migrate away from Virginia Beach, we can explore returning to our normal dates.

The VSB also held our annual Disciplinary Conference August 2nd to 4th at the Virginia Crossings in Glen Allen. The multi-day event brought together hundreds of volunteers involved in the disciplinary system to provide training and legal updates and build camaraderie between members of the Committee on Lawyer Discipline, the Disciplinary Board, members of disciplinary district committees and staff. Much time and effort went into planning this legally substantive event and it was commended for its contributions to improving the disciplinary system and providing remarkable transparency.

III. Software upgrades

I'm pleased to report that we are now live with both of our once-in-a-generation software upgrades, iMIS and Litify. iMIS went live in April, and at the end of July we went live with Litify. I cannot overstate the amount of work that went into implementing these two transformational systems. Our entire IT staff (through significant staff turnover), our Information and Records Manager, Courtney Noctor, and the Communications Department staff, especially Kaylin Bowen, were instrumental in the implementation. There was also significant support from the Clerk's Office, the Regulatory Compliance staff and the Discipline staff. There are still kinks to work out, but a major milestone was achieved when we completed the dues renewal season using the new website and database (albeit with online payment gateway vendor hiccups). Next year, **we expect to complete the entire dues season electronically**, and we will phase out a paper copy of the annual dues form (we anticipate sending some sort of mailed paper *reminder*). Litify is also bringing foundational change to how we track and handle disciplinary cases. Using a tailored commercial product, we anticipate being able to provide greater ease of use for the staff and the public in a package that is upgradable and more in line with industry standards compared with our previous in-house, custom-built, software.

As stated above, these technology upgrades were not cheap. It is worth noting, however, that in comparison to our previous system, IBIS, that handled both the database and case management systems, they represent significant savings. IBIS was custom built and during the span of its implementation, the VSB spent \$2.2M from 2004-2007. Accounting for inflation, that would be roughly \$3.3M today. This is to say nothing of the fact that if we replicated that modality, the VSB would be responsible for the ongoing cost of maintenance, upgrades, repair and security, which are now borne overwhelmingly (if not entirely) by the two software vendors. Despite the initial sticker shock, the VSB believes these products are reflective of the broader trends in technology and the right decision for the organization.

IV. Strategic Planning Retreat

The VSB's strategic plan was last reviewed and updated in 2018 for the period 2019-2024. As we approach that date, we have planned a new opportunity to review the strategic plan, in April 2024, during a strategic planning retreat. Participants will include the Officers of the VSB, nine volunteer designees selected by the president, president-elect and immediate past president, and the VSB senior staff. The event will take place **April 24th-26th in Winchester**. The retreat will be guided by ALPS Corporation executive vice president, Chris Newbold, who has performed this service for several similar organizations and is providing it free of charge to the VSB.

V. Office location

The VSB expects to renew its lease to remain at the **Bank of America (BOA)** building (1111 E. Main Street) in Richmond through 2031. The VSB has received tenant improvement allowances to convert underutilized space into a hearing/multi-purpose room as well as add four new offices by converting storage space and adding modest additional rentable square footage.

VI. Judicial Candidate Evaluation Committee (JCEC)

In mid-July, Virginia's U.S. Senators Mark R. Warner and Tim Kaine announced that they were accepting applications for a forthcoming judicial vacancy to be created when the Hon. Michael F. Urbanski, of the **United States District Court** for the Western District of Virginia, assumes senior status on July 4, 2024. Applications were due by August 14, 2023. The JCEC will review applications and interview qualified individuals. The senators will use those recommendations, as well as input from experts, practitioners, and bar associations from around the Commonwealth, as they consider potential nominees to recommend to the President. The White House will nominate a candidate whose nomination is subject to confirmation by the full Senate.

Additionally, the VSB has been asked by Senator R. Creigh Deeds, co-chair of the Judiciary Committee of the Senate of Virginia, to evaluate candidates for a vacancy on the **Court of Appeals of Virginia** due to the pending retirement of the Honorable Robert J. Humphreys. Candidates wishing to be evaluated by the VSB must submit a résumé, a brief writing sample, and responses to a questionnaire on or before 4:00 p.m. on October 20, 2023.

VII. Rule changes, regulations and other information

- All VSB action items from the June Council meeting, including Paragraph 13 revisions and UPL Opinion 219 were submitted to the Supreme Court at the beginning of August for consideration at its August 30th business meeting. By the middle of September, we were notified that all items were approved by the Court.

- The Auditor of Public Accounts concluded its **audit** of the VSB in June. On September 20th the VSB submitted its Management Representation letter and was in the process of scheduling the exit interview.
- Volunteers Sought for **VSB Disciplinary Board 2024**. Three volunteer attorneys and one lay member are needed to serve on the Virginia State Bar Disciplinary Board beginning on July 1, 2024. Please visit the VSB website for more information on how to apply.
- Volunteers Sought for **Medical Malpractice Review Panels**. There are three lawyer vacancies with terms available immediately, and six lawyer vacancies available July 1, 2024, as of August 29. We anticipate additional vacancies, and as they become available, future vacancies during the fiscal year will be filled by this applicant pool. Please visit the VSB website for more information on how to apply.
- As a reminder, notice of **all VSB current and upcoming volunteer opportunities** can be found at the VSB website: hover over the “Lawyers” tab on the homepage, → scroll to “Voluntary Bar Service Opportunities,” → and click “List of Vacancies” in the second paragraph. You can also click [here](#).

VII. Upcoming VSB Events

October 2023

10/12 Executive Committee Meeting
10/12 Bar Council Reception and Dinner
10/13 Bar Council Meeting
10/27 Disciplinary Board Hearings

November 2023

11/17 Disciplinary Board Hearings

December 2023

12/15 Disciplinary Board Hearings

January 2024

1/9 Construction Law Section Board of Governors Meeting
1/17 Budget and Finance Committee Meeting
1/19 Clients' Protection Fund Board Meeting
1/19 Real Property Section Meeting
1/24 Committee on Lawyer Discipline (COLD) Meetings

February 2024

- 2/2 54th Annual Criminal Law Seminar
- 2/3 Young Lawyers Conference Board Meeting
- 2/9 54th Annual Criminal Law Seminar
- 2/15 Lawyer Insurance Committee Meeting
- 2/23 Executive Committee Meeting
- 2/23 Bar Council Reception and Dinner

TAB 3

Chidi I. James, President
Blankingship & Keith, P. C.
4020 University Drive, Suite 300
Fairfax, VA 22030
Telephone: (703) 691-1235

Michael M. York, President-elect
Wehner & York, P.C.
11860 Sunrise Valley Drive, Suite 100
Reston, VA 20191
Telephone: (703) 476-8000

Stephanie E. Grana, Immediate Past President
Cantor Grana Buckner Bucci, P.C.
7130 Glen Forest Drive, Suite 400
Richmond, VA 23226
Telephone: (804) 343-4372



Cameron M. Rountree
Executive Director and
Chief Operating Officer

Janet Van Cuyk
Deputy Executive Director

Renu M. Brennan
Bar Counsel

Virginia State Bar

Bank of America Building
1111 E. Main Street, Suite 700
Richmond, Virginia 23219-0026
Telephone: (804) 775-0500

MEMORANDUM

TO: Executive Committee and Council

FROM: Crystal Hendrick

DATE: September 15, 2023

SUBJECT: Financial Report for the Year Ended June 30, 2023

For the year ended June 30, 2023, approximately \$13.9 million was received in revenue, which exceeded the projected revenue of \$13.5 million. Expenditures and cash transfers for the year totaled approximately \$14.7 million, which was approximately \$1.0 million under budget.

FY 2023 expenditures and transfers exceeded revenue which reduced the operating reserve balance by approximately \$807,000. The decrease in the operating reserve was primarily due to IMIS and Litify implementation costs. Cash with the Treasurer of Virginia on June 30, 2023 was approximately \$7.1 million.

The Administration and Finance Account ended the fiscal year with a cash balance of approximately \$268,000. The cash balance in the Clients' Protection Fund (CPF) on June 30, 2023, was approximately \$10.9 million. The CPF received approximately \$162,000 from the annual \$5 assessment. The fund earned approximately \$105,000 in interest during the fiscal year, received approximately \$3,400 in reimbursements, and paid claims totaling approximately \$273,000.

The long-range projections as of June 30, 2023, follow this memo. The report is used as a planning tool to project future revenue, expenditures, and cash balances.

Please let me know if you have questions concerning the financial report for the year ended June 30, 2023 or the long-range projections. I can be reached at (804) 775-0523 or hendrick@vsb.org.

**VIRGINIA STATE BAR
LONG RANGE PROJECTIONS
OPERATING PLAN SUMMARY
AS OF JUNE 30, 2023**

	2020/2021 ACTUAL	2021/2022 ACTUAL	2022/2023 ACTUAL	2023/2024 PROJECTED	2024/2025 PROJECTED	2025/2026 PROJECTED	2026/2027 PROJECTED
Operating Revenue (1)	13,220,617	13,778,275	13,705,753	13,785,000	13,785,000	13,785,000	13,785,000
Less: Operating Expenditures (1)	12,265,449	12,846,137	14,512,629	14,420,000	14,420,000	14,435,000	14,455,000
Contributions To/(From) Operating Reserve	955,168	932,138	(806,876)	(635,000)	(635,000)	(650,000)	(670,000)
Add: Beginning Operating Reserve Balance	6,055,154	7,010,322	7,942,460	7,135,584	6,500,584	5,865,584	5,215,584
Ending Operating Reserve Balance (2)	7,010,322	7,942,460	7,135,584	6,500,584	5,865,584	5,215,584	4,545,584
Ending A&F Reserve Balance	214,174	269,318	268,054	270,000	270,000	270,000	270,000
Total Reserve Balance	7,224,496	8,211,778	7,403,638	6,770,584	6,135,584	5,485,584	4,815,584
Reserve as a % of the preceding year's Operating Expenditures (3)	58.90%	63.92%	51.02%	46.95%	42.55%	38.00%	33.31%

NOTES:

Note 1: The Clients' Protection Fund assessment collected pursuant to Paragraph 16 of the Rules of the Supreme Court regarding Organization & Government of the VSB has been deducted from both the Operating Revenue and Operating Expenditures. The net impact is \$0.

Attorney Wellness revenue is a revenue reduction when transferred to the Supreme Court of Virginia. The net impact is \$0.

The Operating Revenue and Operating Expenditures are based on anticipated actual results and may not agree with budgeted totals.

Note 2: The total Operating Reserve balance as of 6/30/2023 includes the Professionalism Course Reserve of \$181,896.

Note 3: Paragraph 11 of the Rules of the Supreme Court regarding Organization & Government of the VSB provides that "No increase in the annual dues above \$250 for active and \$125 for associate members will be authorized by the Court whenever the total combined cash balances of the State Bar Fund and the VSB A&F Account shall exceed 15% of the total annual operating expenditures of the bar for the year preceding the year in which the dues increase is sought."



Report ID: VGLR001

Commonwealth of Virginia
CARDINAL TRIAL BALANCE REPORT

Run Date: 07/12/2023

Run Time: 02:55 00

Page No. 1 of 2

Business Unit : 11700 Virginia State Bar
Fiscal Year : 2023 Accounting Period : 12
Account Details : Summary Ledger Selection : ACTUALS
ChartField Selection : By BU,Fund Adj. Period :

<u>Business Unit</u>	<u>Fund Code</u>	<u>Account</u>	<u>Description</u>	<u>Beginning Balance</u>	<u>Net Activity</u>	<u>Ending Balance</u>
11700	09117	101010	Cash With The Treasurer Of VA	8,508,068.05	1,557,846.33	10,065,914.38
		131030	Petty Cash Advances	0.00	0.00	0.00
Asset Total :				<u>8,508,068.05</u>	<u>1,557,846.33</u>	<u>10,065,914.38</u>
		205025	Accts Payable-AP/EX Accruals	(156,014.39)	61,633.53	(94,380.86)
		22051404	Pay Susp-DOA Admin Fee	0.00	0.00	0.00
		22051406	Pay Susp-CoVA Care	0.00	0.00	0.00
		22051407	Pay Susp-CoVA Health Aware	0.00	0.00	0.00
		22051408	Pay Susp-CoVA High Ded	0.00	0.00	0.00
		22051424	Pay Susp-VRS Contributions	0.00	0.00	0.00
		22051426	Pay Susp-HlthCare Prem Reward	0.00	0.00	0.00
		22051427	Pay Susp-Group Life-VRS	0.00	0.00	0.00
		22051428	Pay Susp-VSDP/LTD-VRS	0.00	0.00	0.00
		22051429	Pay Susp-RetireeHlthCred-VRS	0.00	0.00	0.00
		22051442	Pay Susp-CVC Deductions	158.34	(158.34)	0.00
		22051443	Pay Susp-Optional Group Life	918.06	(918.06)	0.00
		22051444	Pay Susp-3rd Party Admin	226.18	(226.18)	0.00
		22051446	Pay Susp-Deferred Comp	0.00	0.00	0.00
		22051447	Pay Susp-Hybrid Retirement	0.00	0.00	0.00
		22051448	Pay Susp-VRS Hybrid MDB Retire	0.00	0.00	0.00
		22051450	Pay Susp-Agy Parking	0.00	0.00	0.00
		22051454	Pay Susp-Flex Reimb Dependent	0.00	0.00	0.00
		22051455	Pay Susp-Flex Reimb Medical	0.00	0.00	0.00
		22051456	Pay Susp-Flex Reimb Admin	0.00	0.00	0.00
		22051461	Pay Susp-Deferred Comp EE	0.00	0.00	0.00
		22051462	Pay Susp-Hybrid Retire EE	0.00	0.00	0.00
		22055803	Pay Susp VA State Tax	0.00	0.00	0.00
		2402101	Def Rev-Businss/Professnal Lic	0.00	(70,215.00)	(70,215.00)
		2402433	Def Rev-Client Protectn Fd Fee	0.00	(39,695.00)	(39,695.00)
		2402440	Def Rev-Attorney Wellness Fund	0.00	(238,170.00)	(238,170.00)
		2402618	Def Rev-Atty Registration Fee	0.00	(2,487,870.00)	(2,487,870.00)
Liability Total :				<u>(154,711.81)</u>	<u>(2,775,619.05)</u>	<u>(2,930,330.86)</u>

<u>Business Unit</u>	<u>Fund Code</u>	<u>Account</u>	<u>Description</u>	<u>Beginning Balance</u>	<u>Net Activity</u>	<u>Ending Balance</u>
		308000	Fund Balance	(7,942,460.04)	0.00	(7,942,460.04)
Equity Total :				(7,942,460.04)	0.00	(7,942,460.04)
Revenue Total :			Revenue Accounts	(13,685,059.96)	(186,628.98)	(13,871,688.94)
Expense Total :			Expense Accounts	13,274,033.76	1,404,401.70	14,678,435.46
Transfers Total :		609830	Cash Transfer Out - Non-GF	130.00	0.00	130.00
				130.00	0.00	130.00
Total for Fund :	09117		Dedicated Special Revenue-VSB	0.00	0.00	0.00
Total for BU :	11700		Virginia State Bar	0.00	0.00	0.00



Commonwealth of Virginia
REVENUE STATUS REPORT

Run Date: 07/12/2023
Run Time: 02:56 00

Page No. 1 of 2

Business Unit: 11700 : Virginia State Bar
Revenue Budget Ledger: CC REVEST
Fiscal Year: 2023
Accounting Period To: 12

Bus Unit	Fund	Account	Description	Estimated Revenue	Year to Date Current Year	Year to Date Last Year	Month - 12 Current Year	Month - 12 Last Year
11700	02354	4008123	Legal Aid Filing Fees	0.00	5,251,413.68	4,334,224.14	460,557.50	402,599.00
			Total for Fund 02354	\$ 0.00	\$ 5,251,413.68	\$ 4,334,224.14	\$ 460,557.50	\$ 402,599.00
09117	4002100		Licenses & Permits	0.00	35,550.00	26,550.00	2,400.00	3,000.00
	4002101		Business & Professnal Licenses	380,435.00	379,013.00	385,145.00	95.00	0.00
	4002199		Misc Licenses, Permits & Fees	42,000.00	51,037.50	43,500.00	2,962.00	5,136.00
	4002306		Corp Registered Name Fees	143,000.00	130,550.00	131,900.00	7,750.00	11,400.00
	4002404		Real Estate Sttlmt Agt Reg Fee	25,000.00	22,822.85	18,109.98	1,640.00	1,400.00
	4002433		Clients Protection Fund Fee	178,000.00	165,935.51	252,046.42	610.82	(11,630.93)
	4002440		Attorney Wellness Fund Fee	0.00	0.00	30.00	(6,995.00)	(7,195.00)
	4002452		Miscellaneous Regulatory Fees	0.00	13,604.00	63,480.96	130.00	130.00
	4002501		Admission Receipts	205,500.00	175,050.00	182,975.00	12,625.00	27,975.00
	4002618		Attorneys Registration Fees	10,049,000.00	9,953,042.50	9,990,976.50	3,750.00	6,000.00
	4003002		State Publications Sales	0.00	0.00	126.00	0.00	0.00
	4005046		Other Business Fees	388,650.00	515,970.66	428,649.29	32,920.22	56,778.51
	4006103		Other Edu Gifts/Grants-Private	0.00	5,000.00	0.00	0.00	0.00
	4008000		Fine/Fort/Court Fee/Cst/Penlty	110,000.00	104,324.87	133,402.27	9,400.66	18,682.94
	4008316		Pnlty/Past Dues-Attorneys Reg	357,500.00	613,327.50	443,867.53	(660.00)	5,850.00
	4009000		Other Revenue	1,350,000.00	1,477,371.50	1,690,390.00	84,875.00	67,500.00
	4009004		Reg Fees For Workshops/Classes	70,000.00	93,660.00	75,370.00	26,770.00	23,605.00
	4009060		Miscellaneous Revenues	182,950.00	121,631.36	149,897.77	8,355.28	12,230.68
	4009084		Refund-Exp/Misc Disburse Pr Yr	0.00	13,797.69	13,934.66	0.00	(300.00)
			Total for Fund 09117	\$ 13,482,035.00	\$ 13,871,688.94	\$ 14,030,351.38	\$ 186,628.98	\$ 220,562.20
09880	4009999		Proceeds From Sale Of Surplus	0.00	0.00	970.84	0.00	0.00
			Total for Fund 09880	\$ 0.00	\$ 0.00	\$ 970.84	\$ 0.00	\$ 0.00
			Total for Business Unit 11700	\$ 13,482,035.00	\$ 19,123,102.62	\$ 18,365,546.36	\$ 647,186.48	\$ 623,161.20



Report ID: RGL010

June 2023 Section Revenue

Run Date: 07/12/2023

Run Time: 02:26 00

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Business Unit: 11700 Virginia State Bar
Ledger: ACTUALS
Fiscal Year: 2023 Period: 1 to 12
Source: All
Account Type: R
Adjustment Period:

<u>Cost Center</u>	<u>Description</u>	<u>Account</u>	<u>Description</u>	<u>Task</u>	<u>Description</u>	<u>AMOUNT</u>
R2101	Section Revenue	4002101	Business & Professnal Licenses	R705	Administrative Law SRev	(10,600.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R710	Antitrust Law SRev	(1,830.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R712	Bankruptcy Law SRev	(11,680.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R715	Business Law SRev	(17,320.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R720	Construction Law SRev	(14,460.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R722	Corporate Counsel SRev	(31,235.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R725	Criminal Law SRev	(36,820.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R727	Education of Lawyers SRev	(3,080.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R730	Environmental Law SRev	(7,320.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R735	Family Law SRev	(48,310.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R740	General Practice SRev	(12,670.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R745	Health Law SRev	(11,860.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R750	International Practice SRev	(3,605.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R755	Litigation SRev	(45,650.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R760	Local Government SRev	(13,725.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R762	Military Law Rev	(4,640.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R765	Intellectual Property Law SRev	(26,260.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R770	Real Property SRev	(47,445.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R775	Taxation SRev	(10,555.00)
R2101	Section Revenue	4002101	Business & Professnal Licenses	R780	Trust & Estates SRev	(19,948.00)
Total						\$ (379,013.00)

End of Report



Report ID: RGL010

June 2023 Miscellaneous Revenue

Run Date: 07/17/2023

Run Time: 02:59 00

Page No. 1 of 1

Business Unit: 11700 Virginia State Bar
Ledger: ACTUALS
Fiscal Year: 2023 Period: 1 to 12
Source: All
Account Type: R
Adjustment Period:

<u>Cost Center</u>	<u>Description</u>	<u>Account</u>	<u>Description</u>	<u>Task</u>	<u>Description</u>	<u>AMOUNT</u>
R9060	Seminars & Miscellaneous Rev	4009060	Miscellaneous Revenues			(300.00)
R9060	Seminars & Miscellaneous Rev	4009060	Miscellaneous Revenues	RS049	Tech Show Revenue	(30,000.00)
R9060	Seminars & Miscellaneous Rev	4009060	Miscellaneous Revenues	RS188	Disciplinary Conference Rev	(476.00)
R9060	Seminars & Miscellaneous Rev	4009060	Miscellaneous Revenues	RS560	Labels Revenue	(2,161.80)
R9060	Seminars & Miscellaneous Rev	4009060	Miscellaneous Revenues	RS575	Replacement Bar Cards Revenue	(2,471.00)
R9060	Seminars & Miscellaneous Rev	4009060	Miscellaneous Revenues	RS580	Membership Bad Check Revenue	(385.00)
R9060	Seminars & Miscellaneous Rev	4009060	Miscellaneous Revenues	RS595	Letters of Good Stand Revenue	(45,465.00)
R9060	Seminars & Miscellaneous Rev	4009060	Miscellaneous Revenues	RS640	Personal Insurance for Mem Rev	(28,699.56)
R9060	Seminars & Miscellaneous Rev	4009060	Miscellaneous Revenues	RS727	Education of Lawyers Misc Rev	(1,000.00)
R9060	Seminars & Miscellaneous Rev	4009060	Miscellaneous Revenues	RS762	Military Law Revenue	(3,015.00)
R9060	Seminars & Miscellaneous Rev	4009060	Miscellaneous Revenues	RS790	Young Lawyers Conf Misc Rev	(2,990.00)
R9060	Seminars & Miscellaneous Rev	4009060	Miscellaneous Revenues	RS896	Pro Bono Conference Revenue	(510.00)
R9060	Seminars & Miscellaneous Rev	4009060	Miscellaneous Revenues	RS990	FOIA Request Fees	(4,158.00)
Total						\$ (121,631.36)

End of Report

VIRGINIA STATE BAR

REVENUE CROSSWALK

Account	Cardinal Description	VSB Description
4002100	Licenses & Permits	Dues – Corporate Counsel Reg
4002101	Business & Professional Licenses	Sections
4002199	Misc Licenses, Permits & Fees	Virginia Lawyer Revenue
4002306	Corp Registered Name Fees	Professional Corporation
4002404	Real Estate Settlement Agt Reg Fee	CRESPA Registration Fees
4002433	Clients Protection Fund Fee	Clients Protection Fund Receipts
4002452	Miscellaneous Regulatory Fees	Dues - Over/Under Payments
4002501	Admission Receipts	Professionalism Course Fees
4002618	Attorney Registration Fees	Dues - Attorney Dues
4003002	State Publication Sales	Pamphlet Sales
4005046	Other Business Fees	Lawyer Referral Revenue
4006103	Other Edu Gifts/Grants-Private	Grants
4008000	Fines/Fort/Court Fee/Cst/Penlty	Cost Assessment
4008316	Pnlty/Past Dues-Attorney Reg	Past & Penalty Dues
4009000	Other Revenue	MCLE Fees
4009004	Reg Fees for Workshops/Classes	A&F Account Receipts
4009060	Miscellaneous Revenue	Seminar & Miscellaneous
4009084	Refund-Exp/Misc Disburse Pr Yr	Expenditure Refunds Prior Year



Commonwealth of Virginia

June 2023 Expenditure Summary

Report ID: RGL035
Layout ID: VGLR0035
Period Ending: 2023-06-30

Run Date: July 28, 2023
Run Time: 10:05:37 AM

Business Unit: 11700 Virginia State Bar

Cost Center	Description	Budget	2023-12	Current Year Expenditures	(Over) Under Budget	% of Budget Remaining
(None)	(None)	0.00	0.00	0.00	0.00	0%
6000	Salaries	10,907,255.00	849,697.18	9,939,153.00	968,102.00	9%
6020	Benefits	0.00	7,335.00	96,795.86	(96,795.86)	0%
6040	Wages & Professional Services	0.00	618.25	8,164.35	(8,164.35)	0%
6060	Receiverships	175,000.00	20,012.19	98,714.88	76,285.12	44%
6080	Dues & Subscriptions	54,060.00	2,432.59	42,173.68	11,886.32	22%
6100	Rent: Office Space	640,000.00	54,336.95	640,694.37	(694.37)	(0%)
6103	Grants	0.00	0.00	17,696.91	(17,696.91)	0%
6120	Rent: Office Equipment	13,000.00	994.97	11,901.26	1,098.74	8%
6140	Office Supplies	33,575.00	1,027.85	24,980.39	8,594.61	26%
6160	Stationery & Forms	6,200.00	390.00	4,392.54	1,807.46	29%
6180	Office Furniture & Equipment	10,000.00	0.00	12,086.52	(2,086.52)	(21%)
6200	Staff Travel	166,475.00	11,389.88	75,098.84	91,376.16	55%
6220	Office Insurance	15,300.00	0.00	9,615.00	5,685.00	37%
6240	Repairs and Maintenance	23,500.00	1,992.43	26,286.04	(2,786.04)	(12%)
6260	Printing & Copying	216,900.00	23,636.69	181,369.69	35,530.31	16%
6280	Postage	161,600.00	20,271.75	181,982.99	(20,382.99)	(13%)
6300	Communication Technology	44,100.00	(60,498.10)	82,435.64	(38,335.64)	(87%)
6320	Advertising	20,000.00	2,673.06	20,598.86	(598.86)	(3%)
6340	Other Contractual Services	360,050.00	6,386.47	472,177.03	(112,127.03)	(31%)
6360	Computer Operating	619,010.00	340,561.99	1,032,509.37	(413,499.37)	(67%)
6380	Other Technology Projects	450,000.00	19,237.54	400,164.98	49,835.02	11%
6400	Professionalism Course-Trav	110,000.00	849.71	113,482.61	(3,482.61)	(3%)
6420	Professionalism Course-Misc	18,700.00	0.00	10,286.29	8,413.71	45%
6440	Council, Comm, Boards-Trav	481,150.00	11,274.29	281,129.73	200,020.27	42%
6460	Council, Comm, Boards-Misc	192,385.00	6,700.41	128,260.67	64,124.33	33%
6480	Sections-Trav	124,302.00	2,426.00	95,047.89	29,254.11	24%
6500	Sections-Print	26,390.00	0.00	16,294.44	10,095.56	38%
6520	Sections-Comm	23,970.00	37.08	10,311.61	13,658.39	57%
6540	Sections-Other	150,231.00	24,893.37	100,321.63	49,909.37	33%
6560	Senior Lawyers Conf-Trav	10,800.00	282.96	10,714.77	85.23	1%
6580	Senior Lawyers Conf-Print	3,000.00	5,000.00	5,016.00	(2,016.00)	(67%)

6600	Senior Lawyers Conf-Comm	16,200.00	21.40	17,346.87	(1,146.87)	(7%)
6620	Senior Lawyers Conf-Misc	7,000.00	825.99	6,903.28	96.72	1%
6640	Young Lawyers Conf-Program	63,000.00	11,688.92	39,039.85	23,960.15	38%
6660	Young Lawyers Conf-Print	3,500.00	0.63	322.92	3,177.08	91%
6680	Young Lawyers Conf-Travel	32,700.00	0.00	33,904.82	(1,204.82)	(4%)
6700	Young Lawyers Conf-Misc	300.00	841.60	2,261.12	(1,961.12)	(654%)
6702	Diversity Conference - Program	41,150.00	(3.30)	27,358.81	13,791.19	34%
6704	Diversity Conference - Print	1,800.00	0.00	213.69	1,586.31	88%
6706	Diversity Conference - Travel	10,700.00	6,499.15	28,257.01	(17,557.01)	(164%)
6708	Diversity Conference - Misc	2,400.00	398.62	2,192.51	207.49	9%
6710	CLSBA-Travel	11,800.00	836.41	13,812.42	(2,012.42)	(17%)
6715	CLSBA-Print	9,500.00	0.00	5,992.00	3,508.00	37%
6725	CLSBA-Communications	500.00	0.00	34.34	465.66	93%
6730	CLSBA-Other	4,100.00	1,004.09	5,565.61	(1,465.61)	(36%)
6760	Attorney General Costs	50,000.00	(2,643.14)	(558.14)	50,558.14	101%
6780	A&F Trans	70,000.00	30,370.00	95,425.00	(25,425.00)	(36%)
6800	Clients' Protection Fund Trans	178,000.00	600.82	165,905.51	12,094.49	7%
6820	Online Legal Research	85,000.00	0.00	84,600.00	400.00	0%
	All Cost Centers	\$15,644,603.00	\$1,404,401.70	\$14,678,435.46	\$966,167.54	6%

**VIRGINIA STATE BAR
ADMINISTRATION & FINANCE ACCOUNT
AS OF June 30, 2023**

Cash Balance as of July 1, 2022	\$ 269,318.30
Year-to-Date Revenue through June 30, 2023	95,440.08
Year-to-Date Expenses through June 30, 2023	<u>(96,704.33)</u>
Cash Balance as of June 30, 2023	<u>\$ 268,054.05</u>

LEDGER

**BALANCE
6/30/2023**

Annual Meeting	\$ 228,449.73
Midyear Seminar	43,193.64
Council, Committees, etc.	-
Other	<u>(3,589.32)</u>
Total Ledger Balance	<u>\$ 268,054.05</u>

**VIRGINIA STATE BAR
ADMINISTRATION & FINANCE ACCOUNT
MONTHLY STATEMENT OF REVENUE & EXPENSES
FOR JUNE 2023**

	BALANCE 6/1/2023	JUNE 2023 ACTIVITY	BALANCE 6/30/2023
Revenue:			
Annual Meeting	\$ 65,055.00	\$ 30,370.00	\$ 95,425.00
Money Market Account Interest	13.84	1.24	15.08
Total Revenue	65,068.84	30,371.24	95,440.08
Expenses:			
Annual Meeting	68,925.78	24,174.15	93,099.93
National Meetings and Miscellaneous	0.00	0.00	0.00
Employee Recognition	1,302.60	1,982.60	3,285.20
Bank Service Charges	292.60	26.60	319.20
Expenses to be Reimbursed	0.00	0.00	0.00
Total Expenses	70,520.98	26,183.35	96,704.33
Total Revenue Over/(Under) Expenses	\$ (5,452.14)	\$ 4,187.89	\$ (1,264.25)

**VIRGINIA STATE BAR
CLIENTS' PROTECTION FUND
CASH BALANCE
AS OF JUNE 30, 2023**

Cash Balance as of July 1, 2022	\$ 10,955,223.19
Year-to-Date Revenue through June 30, 2023	270,510.37
Year-to-Date Expenses through June 30, 2023	<u>(289,593.72)</u>
Cash Balance as of June 30, 2023	<u>\$ 10,936,139.84</u>
Liability for claims approved but not paid:	<u>12,825.00</u>
Available Cash Balance as of June 30, 2023:	<u>\$ 10,923,314.84</u>

Funds Invested/Maintained as Follows:

Truist Business Checking Account	419,473.18
Federal Home Loan Bank	5,816,666.66
Federal Home Loan Mortgage Corp.	1,500,000.00
Federal National Mortgage Association	200,000.00
Federal Farm Credit Bank	<u>3,000,000.00</u>
Total Cash and Investments	<u>\$ 10,936,139.84</u>

**VIRGINIA STATE BAR
CLIENTS' PROTECTION FUND
MONTHLY STATEMENT OF REVENUE & EXPENSES
FOR JUNE 2023**

	BALANCE 6/1/2023	JUNE 2023 ACTIVITY	BALANCE 6/30/2023
REVENUE			
INTEREST:			
Investment Interest	\$ 89,004.47	\$ 15,600.39	\$ 104,604.86
REIMBURSEMENT FROM ATTORNEYS:			
AG's Collections	-		0.00
Debt Set-Off Receipts	-	505.82	505.82
Individual Restitution	2,874.69	55.00	2,929.69
TRANSFERS:			
CPF Assessment	162,430.00	40.00	162,470.00
Total Revenue:	\$ 254,309.16	\$ 16,201.21	\$ 270,510.37
EXPENSES			
Bank Service Charges	-	0.00	0.00
Attorney General's Fees	-	0.00	0.00
CPF Board Expenses - Oper. Acct. Reim.	-	11,554.36	11,554.36
Receivership Reimbursement	5,043.60	0.00	5,043.60
Payments to Clients	97,110.00	175,885.76	272,995.76
Total Expenses:	\$ 102,153.60	\$ 187,440.12	\$ 289,593.72
Total Revenue Over/(Under) Expenses	\$ 152,155.56	\$ (171,238.91)	\$ (19,083.35)

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Cameron M. Rountree
Executive Director and
Chief Operating Officer

Janet Van Cuyk
Deputy Executive Director

Renu M. Brennan
Bar Counsel

Virginia State Bar

Bank of America Building
1111 E. Main Street, Suite 700
Richmond, Virginia 23219-0026
Telephone: (804) 775-0500

MEMORANDUM

TO: Executive Committee and Council

FROM: Crystal Hendrick

DATE: September 15, 2023

SUBJECT: Financial Report as of August 31, 2023

The August 2023 financial report is attached for your review. The revenue detail is on page 3. As of August 31, we have collected approximately \$11.4 million. The total received for bar dues, the largest source of revenue, was approximately \$9.5 million.

The expenditure data is summarized on pages 5 and 6. As of August 31, total expenditures were approximately \$2.8 million.

The Administration and Finance Account is reflected on pages 7 and 8. This account manages the receipts and expenses for the annual meeting. The cash balance as of August 31 was approximately \$269,000.

The Clients' Protection Fund (CPF) is reflected on pages 9 and 10. The CPF board makes monetary awards to people who have suffered financial losses because of the dishonest conduct of Virginia lawyers. As of August 31, the fund balance was approximately \$11.1 million.

Please contact me if you have questions concerning the financial data. I can be reached at (804) 775-0523 or hendrick@vsb.org.



Report ID: VGLR001

Commonwealth of Virginia
CARDINAL TRIAL BALANCE REPORT

Run Date: 09/15/2023
Run Time: 01:47 00

Page No. 1 of 2

Business Unit : 11700 Virginia State Bar
Fiscal Year : 2024 Accounting Period : 2
Account Details : Summary Ledger Selection : ACTUALS
ChartField Selection : By BU,Fund Adj. Period :

<u>Business Unit</u>	<u>Fund Code</u>	<u>Account</u>	<u>Description</u>	<u>Beginning Balance</u>	<u>Net Activity</u>	<u>Ending Balance</u>
11700	09117					
		101010	Cash With The Treasurer Of VA	16,091,443.98	(77,871.78)	16,013,572.20
		131030	Petty Cash Advances	0.00	0.00	0.00
Asset Total :				<u>16,091,443.98</u>	<u>(77,871.78)</u>	<u>16,013,572.20</u>
		205025	Accts Payable-AP/EX Accruals	(116,313.61)	(109,295.97)	(225,609.58)
		22051401	Pay Susp-Garnishment	401.41	(401.41)	0.00
		22051404	Pay Susp-DOA Admin Fee	0.00	0.00	0.00
		22051406	Pay Susp-CoVA Care	0.00	0.00	0.00
		22051407	Pay Susp-CoVA Health Aware	0.00	0.00	0.00
		22051408	Pay Susp-CoVA High Ded	0.00	0.00	0.00
		22051424	Pay Susp-VRS Contributions	0.00	0.00	0.00
		22051426	Pay Susp-HlthCare Prem Reward	0.00	0.00	0.00
		22051427	Pay Susp-Group Life-VRS	0.00	0.00	0.00
		22051428	Pay Susp-VSDP/LTD-VRS	0.00	0.00	0.00
		22051429	Pay Susp-RetireeHlthCred-VRS	0.00	0.00	0.00
		22051442	Pay Susp-CVC Deductions	158.34	0.00	158.34
		22051443	Pay Susp-Optional Group Life	880.08	0.00	880.08
		22051444	Pay Susp-3rd Party Admin	226.18	0.00	226.18
		22051446	Pay Susp-Deferred Comp	0.00	0.00	0.00
		22051447	Pay Susp-Hybrid Retirement	0.00	0.00	0.00
		22051448	Pay Susp-VRS Hybrid MDB Retire	0.00	0.00	0.00
		22051450	Pay Susp-Agy Parking	0.00	0.00	0.00
		22051454	Pay Susp-Flex Reimb Dependent	0.00	0.00	0.00
		22051455	Pay Susp-Flex Reimb Medical	0.00	0.00	0.00
		22051456	Pay Susp-Flex Reimb Admin	0.00	0.00	0.00
		22051461	Pay Susp-Deferred Comp EE	0.00	0.00	0.00
		22051462	Pay Susp-Hybrid Retire EE	0.00	0.00	0.00
		22055803	Pay Susp VA State Tax	0.00	0.00	0.00
		2402101	Def Rev-Businss/Professnal Lic	0.00	0.00	0.00
		2402433	Def Rev-Client Protectn Fd Fee	0.00	0.00	0.00
		2402440	Def Rev-Attorney Wellness Fund	0.00	0.00	0.00
		2402618	Def Rev-Atty Registration Fee	0.00	0.00	0.00
Liability Total :				<u>(114,647.60)</u>	<u>(109,697.38)</u>	<u>(224,344.98)</u>

<u>Business Unit</u>	<u>Fund Code</u>	<u>Account</u>	<u>Description</u>	<u>Beginning Balance</u>	<u>Net Activity</u>	<u>Ending Balance</u>
Equity Total :		308000	Fund Balance	(7,135,583.52)	0.00	(7,135,583.52)
				(7,135,583.52)	0.00	(7,135,583.52)
Revenue Total :			Revenue Accounts	(10,012,900.83)	(1,400,956.39)	(11,413,857.22)
Expense Total :			Expense Accounts	1,171,687.97	1,588,525.55	2,760,213.52
Total for Fund :	09117		Dedicated Special Revenue-VSB	0.00	0.00	0.00
Total for BU :	11700		Virginia State Bar	0.00	0.00	0.00



Commonwealth of Virginia
REVENUE STATUS REPORT

Run Date: 09/15/2023
Run Time: 01:51 00

Page No. 1 of 2

Business Unit: 11700 : Virginia State Bar
Revenue Budget Ledger: CC REVEST
Fiscal Year: 2024
Accounting Period To: 2

Bus Unit	Fund	Account	Description	Estimated Revenue	Year to Date Current Year	Year to Date Last Year	Month - 02 Current Year	Month - 02 Last Year
11700	02354	4008123	Legal Aid Filing Fees	0.00	945,137.10	861,278.79	492,304.00	481,247.47
			Total for Fund 02354	\$ 0.00	\$ 945,137.10	\$ 861,278.79	\$ 492,304.00	\$ 481,247.47
09117	4002100		Licenses & Permits	0.00	4,350.00	4,800.00	2,550.00	1,950.00
	4002101		Business & Professnal Licenses	405,135.00	336,710.00	359,438.00	41,595.00	49,798.00
	4002199		Misc Licenses, Permits & Fees	42,000.00	7,646.00	5,641.00	4,546.00	1,597.00
	4002306		Corp Registered Name Fees	135,000.00	12,950.00	23,750.00	6,900.00	11,350.00
	4002404		Real Estate Sttlmt Agt Reg Fee	19,000.00	2,680.00	4,120.00	1,680.00	960.00
	4002433		Clients Protection Fund Fee	178,250.00	159,346.07	150,957.40	18,805.00	20,710.29
	4002440		Attorney Wellness Fund Fee	0.00	932,315.00	899,900.00	98,985.00	121,840.00
	4002452		Miscellaneous Regulatory Fees	0.00	(7,240.00)	12,180.00	(10,065.00)	2,685.00
	4002501		Admission Receipts	161,875.00	25,950.00	18,700.00	13,100.00	10,000.00
	4002618		Attorneys Registration Fees	10,074,125.00	9,483,935.00	9,092,195.00	962,990.00	1,244,474.55
	4005046		Other Business Fees	510,000.00	82,474.06	101,338.98	32,731.44	42,873.43
	4006103		Other Edu Gifts/Grants-Private	0.00	36,000.00	5,000.00	21,000.00	5,000.00
	4008000		Fine/Fort/Court Fee/Cst/Penlty	112,000.00	24,059.98	16,418.03	6,548.40	10,484.87
	4008316		Penlty/Past Dues-Attorneys Reg	450,000.00	135,425.00	333,695.00	110,780.00	316,720.00
	4009000		Other Revenue	1,500,000.00	163,040.00	133,950.00	81,275.00	70,325.00
	4009004		Reg Fees For Workshops/Classes	70,000.00	825.00	4,685.00	100.00	1,960.00
	4009060		Miscellaneous Revenues	181,985.00	13,391.11	16,888.66	7,435.55	9,542.13
	4009084		Refund-Exp/Misc Disburse Pr Yr	0.00	0.00	454.67	0.00	454.67
			Total for Fund 09117	\$ 13,839,370.00	\$ 11,413,857.22	\$ 11,184,111.74	\$ 1,400,956.39	\$ 1,922,724.94
09880	4009999		Proceeds From Sale Of Surplus	0.00	571.08	0.00	571.08	0.00
			Total for Fund 09880	\$ 0.00	\$ 571.08	\$ 0.00	\$ 571.08	\$ 0.00
			Total for Business Unit 11700	\$ 13,839,370.00	\$ 12,359,565.40	\$ 12,045,390.53	\$ 1,893,831.47	\$ 2,403,972.41

VIRGINIA STATE BAR

REVENUE CROSSWALK

Account	Cardinal Description	VSB Description
4002100	Licenses & Permits	Dues – Corporate Counsel Reg
4002101	Business & Professional Licenses	Sections
4002199	Misc Licenses, Permits & Fees	Virginia Lawyer Revenue
4002306	Corp Registered Name Fees	Professional Corporation
4002404	Real Estate Settlement Agt Reg Fee	CRESPA Registration Fees
4002433	Clients Protection Fund Fee	Clients Protection Fund Receipts
4002452	Miscellaneous Regulatory Fees	Dues - Over/Under Payments
4002501	Admission Receipts	Professionalism Course Fees
4002618	Attorney Registration Fees	Dues - Attorney Dues
4003002	State Publication Sales	Pamphlet Sales
4005046	Other Business Fees	Lawyer Referral Revenue
4006103	Other Edu Gifts/Grants-Private	Grants
4008000	Fines/Fort/Court Fee/Cst/Penlty	Cost Assessment
4008316	Pnlty/Past Dues-Attorney Reg	Past & Penalty Dues
4009000	Other Revenue	MCLE Fees
4009004	Reg Fees for Workshops/Classes	A&F Account Receipts
4009060	Miscellaneous Revenue	Seminar & Miscellaneous
4009084	Refund-Exp/Misc Disburse Pr Yr	Expenditure Refunds Prior Year



Commonwealth of Virginia August 2023 Expenditure Summary

Report ID: RGL035
Layout ID: VGLR0035
Period Ending: 2024-06-30

Run Date: September 19, 2023
Run Time: 3:48:51 PM

Business Unit: 11700 Virginia State Bar

Cost Center	Description	Budget	2024-2	Current Year Expenditures	(Over) Under Budget	% of Budget Remaining
6000	Salaries	11,498,720.00	854,899.76	1,700,768.26	9,797,951.74	85%
6020	Benefits	0.00	7,180.50	21,826.50	(21,826.50)	0%
6040	Wages & Professional Services	0.00	1,535.10	1,760.10	(1,760.10)	0%
6060	Receiverships	175,000.00	9,858.71	11,241.71	163,758.29	94%
6080	Dues & Subscriptions	62,315.00	2,565.46	10,968.29	51,346.71	82%
6100	Rent: Office Space	656,500.00	0.00	108,673.90	547,826.10	83%
6103	Grants	0.00	19,918.58	22,067.81	(22,067.81)	0%
6120	Rent: Office Equipment	13,000.00	988.23	1,979.16	11,020.84	85%
6140	Office Supplies	33,175.00	8,410.13	10,974.82	22,200.18	67%
6160	Stationery & Forms	6,200.00	0.00	0.00	6,200.00	100%
6180	Office Furniture & Equipment	10,000.00	0.00	0.00	10,000.00	100%
6200	Staff Travel	184,975.00	5,743.25	13,714.39	171,260.61	93%
6220	Office Insurance	15,200.00	0.00	9,410.00	5,790.00	38%
6240	Repairs and Maintenance	25,000.00	5,514.00	9,430.86	15,569.14	62%
6260	Printing & Copying	239,500.00	27,243.10	28,594.39	210,905.61	88%
6280	Postage	188,300.00	48,326.35	51,270.25	137,029.75	73%
6300	Communication Technology	67,000.00	4,842.72	10,800.64	56,199.36	84%
6320	Advertising	23,000.00	728.54	1,291.10	21,708.90	94%
6340	Other Contractual Services	425,000.00	97,751.00	174,377.45	250,622.55	59%
6350	Office Renovation	264,000.00	0.00	0.00	264,000.00	100%
6360	Computer Operating	775,355.00	53,696.59	79,621.10	695,733.90	90%
6380	Other Technology Projects	325,000.00	194,971.00	194,971.00	130,029.00	40%
6400	Professionalism Course-Trav	111,000.00	6,454.43	6,454.43	104,545.57	94%
6420	Professionalism Course-Misc	22,500.00	0.00	0.00	22,500.00	100%
6440	Council, Comm, Boards-Trav	496,595.00	28,133.63	37,939.03	458,655.97	92%
6460	Council, Comm, Boards-Misc	228,065.00	24,917.90	30,619.94	197,445.06	87%
6480	Sections-Trav	139,127.00	10,585.95	20,073.36	119,053.64	86%
6500	Sections-Print	25,940.00	0.00	3,280.02	22,659.98	87%
6520	Sections-Comm	22,327.00	177.16	194.93	22,132.07	99%
6540	Sections-Other	170,214.00	4,246.05	14,328.45	155,885.55	92%
6560	Senior Lawyers Conf-Trav	9,800.00	2,659.07	2,859.41	6,940.59	71%
6580	Senior Lawyers Conf-Print	15,000.00	0.00	0.00	15,000.00	100%

6600	Senior Lawyers Conf-Comm	10,000.00	813.36	813.36	9,186.64	92%
6620	Senior Lawyers Conf-Misc	8,900.00	156.39	282.84	8,617.16	97%
6640	Young Lawyers Conf-Program	63,000.00	0.00	1,404.87	61,595.13	98%
6660	Young Lawyers Conf-Print	3,500.00	87.74	87.74	3,412.26	97%
6680	Young Lawyers Conf-Travel	32,700.00	2,814.57	4,912.69	27,787.31	85%
6700	Young Lawyers Conf-Misc	300.00	6.00	12.00	288.00	96%
6702	Diversity Conference - Program	45,150.00	0.00	0.00	45,150.00	100%
6704	Diversity Conference - Print	1,800.00	0.00	0.00	1,800.00	100%
6706	Diversity Conference - Travel	10,700.00	2,320.43	3,818.22	6,881.78	64%
6708	Diversity Conference - Misc	2,400.00	0.00	0.00	2,400.00	100%
6710	CLSBA-Travel	11,800.00	2,935.97	8,398.28	3,401.72	29%
6715	CLSBA-Print	9,500.00	0.00	0.00	9,500.00	100%
6725	CLSBA-Communications	500.00	0.00	5.54	494.46	99%
6730	CLSBA-Other	8,175.00	71.81	359.37	7,815.63	96%
6760	Attorney General Costs	50,000.00	0.00	1,236.24	48,763.76	98%
6780	A&F Trans	70,000.00	0.00	1,455.00	68,545.00	98%
6800	Clients' Protection Fund Trans	178,250.00	157,936.07	157,936.07	20,313.93	11%
6820	Online Legal Research	85,000.00	0.00	0.00	85,000.00	100%
	All Cost Centers	\$16,819,483.00	\$1,588,525.55	\$2,760,213.52	\$14,059,269.48	84%

**VIRGINIA STATE BAR
ADMINISTRATION & FINANCE ACCOUNT
AS OF August 31, 2023**

Cash Balance as of July 1, 2023	\$ 268,054.05
Year-to-Date Revenue through August 31, 2023	1,457.56
Year-to-Date Expenses through August 31, 2023	<u>(103.20)</u>
Cash Balance as of August 31, 2023	<u>\$ 269,408.41</u>

LEDGER

**BALANCE
8/31/2023**

Annual Meeting	\$ 226,265.41
Midyear Seminar	43,193.64
Council, Committees, etc.	-
Other	<u>(50.64)</u>
Total Ledger Balance	<u>\$ 269,408.41</u>

**VIRGINIA STATE BAR
ADMINISTRATION & FINANCE ACCOUNT
MONTHLY STATEMENT OF REVENUE & EXPENSES
FOR AUGUST 2023**

	BALANCE 8/1/2023	AUGUST 2023 ACTIVITY	BALANCE 8/31/2023
Revenue:			
Annual Meeting	\$ 1,455.00	\$ 0.00	\$ 1,455.00
Money Market Account Interest	1.28	1.28	2.56
Total Revenue	1,456.28	1.28	1,457.56
Expenses:			
Annual Meeting	50.00	0.00	50.00
National Meetings and Miscellaneous	0.00	0.00	0.00
Employee Recognition	0.00	0.00	0.00
Bank Service Charges	26.60	26.60	53.20
Expenses to be Reimbursed	0.00	0.00	0.00
Total Expenses	76.60	26.60	103.20
Total Revenue Over/(Under) Expenses	\$ 1,379.68	\$ (25.32)	\$ 1,354.36

**VIRGINIA STATE BAR
CLIENTS' PROTECTION FUND
CASH BALANCE
AS OF AUGUST 31, 2023**

Cash Balance as of July 1, 2023	\$ 10,936,139.84
Year-to-Date Revenue through August 31, 2023	174,854.93
Year-to-Date Expenses through August 31, 2023	<u>(60.00)</u>
Cash Balance as of August 31, 2023	<u>\$ 11,110,934.77</u>
Liability for claims approved but not paid:	<u>12,825.00</u>
Available Cash Balance as of August 31, 2023:	<u>\$ 11,098,109.77</u>

Funds Invested/Maintained as Follows:

Truist Business Checking Account	594,268.11
Federal Home Loan Bank	5,816,666.66
Federal Home Loan Mortgage Corp.	1,500,000.00
Federal National Mortgage Association	200,000.00
Federal Farm Credit Bank	<u>3,000,000.00</u>
Total Cash and Investments	<u>\$ 11,110,934.77</u>

**VIRGINIA STATE BAR
CLIENTS' PROTECTION FUND
MONTHLY STATEMENT OF REVENUE & EXPENSES
FOR AUGUST 2023**

	BALANCE 8/1/2023	AUG 2023 ACTIVITY	BALANCE 8/31/2023
REVENUE			
INTEREST:			
Investment Interest	\$ 11,938.86	\$ 4,920.00	\$ 16,858.86
REIMBURSEMENT FROM ATTORNEYS:			
AG's Collections	-	200.00	200.00
Debt Set-Off Receipts	-	1,370.28	1,370.28
Individual Restitution	-	2,220.79	2,220.79
TRANSFERS:			
CPF Assessment	-	154,205.00	154,205.00
Total Revenue:	\$ 11,938.86	\$ 162,916.07	\$ 174,854.93
EXPENSES			
Bank Service Charges	-	0.00	0.00
Attorney General's Fees	-	60.00	60.00
CPF Board Expenses - Oper. Acct. Reim.	-	0.00	0.00
Receivership Reimbursement	-	0.00	0.00
Payments to Clients	-	0.00	0.00
Total Expenses:	\$ -	\$ 60.00	\$ 60.00
Total Revenue Over/(Under) Expenses	\$ 11,938.86	\$ 162,856.07	\$ 174,794.93

TAB 4



Virginia State Bar

1111 East Main Street Suite 700
Richmond, Virginia 23219-0026
Telephone: (804) 775-0500

Fax: (804) 775-0501 TDD: (804) 775-0502

To: Virginia State Bar Executive Committee & Council

From: Renu M. Brennan
Bar Counsel

Date: September 21, 2023

DISCIPLINARY SYSTEM REPORT

- I. Update – Effective July 24, 2023, the Discipline Department implemented a new case management system, Litify. Implementation resulted in an interruption of monthly reports to the Committee on Lawyer Discipline (“COLD”). The information below is our first reporting after implementation of Litify. Please bear in mind that there may be some errors as staff acclimates.

II. Public/Private Discipline (July 1, 2023 to September 21, 2023)

Public Discipline – 14 ¹	Private Discipline – 9
<ul style="list-style-type: none">Competence/Diligence – 6	<ul style="list-style-type: none">Competence/Diligence – 3
<ul style="list-style-type: none">Trust Accounting/Safekeeping of Property – 3	<ul style="list-style-type: none">Trust Accounting/Safe Keeping of Property – 2
<ul style="list-style-type: none">Deliberately Wrongful Conduct – 1	<ul style="list-style-type: none">Deliberately Wrongful Conduct – 1
<ul style="list-style-type: none">Dishonesty – 1	<ul style="list-style-type: none">Fairness to Opposing Party & Counsel – 1
<ul style="list-style-type: none">Fairness to Opposing Party & Counsel – 1	<ul style="list-style-type: none">Fees – 1
<ul style="list-style-type: none">Communication with Persons Rep'd by Counsel – 1	<ul style="list-style-type: none">Decline or Term Rep – 1
<ul style="list-style-type: none">13-29 - Duties of Disbarred or Suspended Respondent - 1	

¹ Number of respondents in each category.

II. Docket Statistics (August 31, 2023)

Total Open Cases/Cases at Preliminary Investigation and Subcommittee Level:

- **Total open cases are at 248, down 26 cases from last year at this time.** In the previous five years, open cases fluctuated between 274 (2022) and 340 (2019).
- **There are 14 prior fiscal year cases,** i.e., cases opened before July 1, 2022. The range for the prior five years was between eight (2021) and 33 (2018).
- **Cases over 365 days are at 21.** The range for the prior five years was between 19 (2022) and 68 (2018).
- **Preliminary Investigation and District Committee cases are at 164, down 60 from last year at this time.** The range for the prior five years was between 224 (2022) and 285 (2020).
- **District Committee cases over 180 days are at 61, down twelve from last year at this time.** The range for the prior five years was between 69 (2021) and 78 (2020).
- **Cases awaiting report by bar counsel are at 25, up two from last year.** The range for the prior five years was between 19 (2020) and 24 (2019).
- **Cases awaiting report by investigator are at 15, down 25 from last year.** The range for the prior five years was between 40 (2022) and 48 (2021).
- **There are 21 cases awaiting meeting by subcommittee.** The range for the previous five years was between zero (2021) and 17 (2020).
- **Cases awaiting Certification and Charges of Misconduct are at two and zero respectively.** The range for cases awaiting Certification for the past five years was between zero (2022) and eight (2019, 2020), and the range for Charges of Misconduct was between zero (2022) and five (2019).

Trials, Sanctions, Agreed Dispositions, Consents to Revocation, and Impairments:

- **We have 32 cases to be tried** (30 Disciplinary Board/Circuit Court and two District Committee). The range for the prior five years was between 32 (2022) and 53 (2020).

- **We have held ten trials year to date.** The range for the prior five years was between zero (2019) and six (2021).
- **Subcommittees have issued seven sanctions year to date.** The range for the prior five years was between seven (2020) and 12 (2022).
- **We have entered into ten agreed dispositions year to date.** The range for the prior five years was between three (2019) and 12 (2021).
- **We have entered into five consents to revocation year to date.** The range for the prior five years was between two (2022) and three (2019, 2020, 2021).
- **We have closed two impairments year to date.** The range for the prior five years was between zero (2019) and two (2022).

III. Intake Report – James C. Bodie, Intake Counsel

The VSB received 459 bar complaints between July 1, 2023 and August 31, 2023. During the same period in FY 2023, the VSB received 528 complaints. For the month of July 2023, we received 201 complaints. Our new online link for submitting bar complaints from the VSB website was fully operational by early August. Complaint numbers for August increased to 258 – a 28% increase from July.

IV. Public Disciplinary Actions

Recent disciplinary actions can be accessed on the [VSB website](#).

V. Matters Before the Supreme Court of Virginia (“Court”)

A. Pending Appeals

On May 30, 2023 John F. Kennedy noted an appeal of the Circuit Court of the City of Richmond’s [Memorandum Order](#) revoking his license. This was a reciprocal revocation. Assistant Attorney General Sheri H. Kelly represents the VSB in this appeal.

On September 5, 2023 John D. Vena, II noted an appeal of Disciplinary Board’s [Memorandum Order](#) suspending his license for five years. Assistant Attorney General Cooper Vaughn represents the VSB in this appeal.

Dismissed Appeals

By [Opinion](#) issued June 1, 2023, the Court affirmed a three-judge panel's findings that Bradley Glenn Pollack violated Rule 1.15, Safekeeping Property, and Rule 1.16, Declining or Terminating Representation, and six-month suspension. By Order entered September 7, 2023, the three-judge panel ordered that Respondent's six-month suspension is effective November 6, 2023 to May 6, 2024.

On July 10, 2023, the Court dismissed Phillip Ben-Zion Leiser's appeal of the Circuit Court of Fairfax County's [Memorandum Order](#) publicly reprimanding him with terms. Leiser failed to file assignments of error.

Assistant Attorney General Sheri H. Kelly represented the VSB in these two appeals.

VI. Changes to Disciplinary Procedure, Part Six, Section IV, Paragraph 13 of the Rules of the Supreme Court, Rules of Professional Conduct, and Legal Ethics Opinions

[All proposed and/or pending actions regarding the Rules of the Supreme Court of Virginia and Legal Ethics Opinions can be found on the VSB website.](#)

A. Paragraph 13

Paragraph 13-1, 13-16.BB, 13-18.O, 13-20, 13-24, 13-25, and 13-29

On June 15, 2023, Council unanimously approved, for submission to the Court, COLD's proposed amendments which add a specific mechanism for Respondents to demand three-judge panels at Paragraph 13-16.BB, 13-18.O, 13-20, 13-24, 13-25, and 13-29. The approved amendments also clarify related definitions in Paragraph 13-1. The petition was filed with the Court on August 9, 2023 and is pending approval.

B. Rules of Professional Conduct and Legal Ethics Opinions

Pending Approval by the Supreme Court of Virginia

- [UPL Opinion 219](#) – Representation by nonlawyer in administrative proceedings. The petition was filed with the Court on August 9, 2023 and is pending approval.

Pending Approval by VSB Council on October 13, 2023

- [Rule 8.4\(f\)](#) – Agreement not to file bar complaint.
- [LEO 1900](#) – Duty to disclose the death of client.

VII. Unauthorized Practice of Law (UPL) Update

As of September 19, 2023, there are ten open investigations; of those, three are out for investigation, and seven are in the preliminary stage. There are currently two matters under review.

There have been two dispositions made since the prior UPL update on July 19, 2023: one was closed dismissed and the other was dismissed with caution.

VIII. Receiverships

As of September 20, 2023, we have 16 open receiverships:

Baldwin (Williamsburg/James City 03/28/2023); **Beale** (Prince William 09/07/2022); **Bell** (Prince Edward 02/07/2023); **Englisby** (Chesterfield 04/03/2023); **Kaufmann** (Page 12/19/2022); **Miller** (Charlottesville 11/09/2020); **Morris** (Charlottesville 10/20/2022); **Novo** (Henrico 06/01/2022); **Pirsch** (Alexandria 01/08/2020); **Rowan** (Accomack 07/25/2023); **Sachsel** (Fairfax 08/30/2023); **Scott** (Fairfax 02/23/2023); **Shapiro** (Roanoke 03/09/2023); **Sheehy** (Fairfax 01/27/2022); **Stogner** (Alexandria 06/20/2023); and **Throop** (Richmond 06/24/2020).

The receivership budget for FY 2024 was \$175,000. As of September 20, 2023, the VSB has paid \$21,936.01 in receivership costs and received no reimbursements for FY 2024. Thus far the VSB has incurred net receivership payments in the amount of \$21,936.01 for FY 2024.

Attachment: Statistics - Five-Year Comparison and Six-Month Comparison

STATISTICS – FIVE-YEAR COMPARISON						
Docket Period Ending→	8/31/23	8/31/22	8/31/21	8/31/20	8/10/20	8/9/19
Total Open Cases	248	274	298	332	336	340
DISTRICT COMMITTEE CASES OVER 180 DAYS						
Cases Awaiting Report by Investigator	15	40	48	42	46	41
Cases Awaiting Report by Bar Counsel !	25	23	21	19	21	24
Cases Awaiting Meeting by Subcommittee*!	21	10	0	17	4	8
Total	61	73	69	78	71	73
PRELIMINARY INVESTIGATIONS & DC CASES						
Preliminary Investigation Cases	39	62	79	88	90	72
District Committee Cases	125	162	170	189	195	201
Total	164	224	249	277	285	273
SANCTIONS ISSUED BY DISTRICT COMMITTEE SUBCOMMITTEES Y-T-D						
Total	7	12	11	11	7	10
DC CASES AWAITING CERTIFICATION TO DB TO BE WRITTEN BY BAR COUNSEL						
Total	2	0	7	5	8	8
DC CASES AWAITING CHARGE OF MISCONDUCT TO BE WRITTEN BY BAR COUNSEL						
Total	0	0	3	1	1	5
CASES TO BE TRIED						
District Committee	2	0	3	1	2	6
Disciplinary Board / Circuit Court	30	32	41	52	49	39
Total	32	32	44	53	51	45
CONSENTS TO REVOCATION Y-T-D						
Total	5	2	3	3	2	3
TRIALS HELD Y-T-D						
District Committee	1	0	0	1	0	0
Disciplinary Board / Circuit Court	9	4	6	3	1	0
Total	10	4	6	4	1	0
AGREED DISPOSITIONS Y-T-D						
District Committee	10	8	8	6	3	2
Disciplinary Board / Circuit Court	0	2	4	5	2	1
Total	10	10	12	11	5	3
CLOSED IMPAIRMENTS Y-T-D	2	2	1	1	1	0

STATISTICS–SIX-MONTH COMPARISON						
Docket Period Ending→	8/31/23	7/31/23	6/30/23	5/31/23	4/30/23	3/31/23
Total Open Cases	248	255	273	269	269	278
DISTRICT COMMITTEE CASES OVER 180 DAYS						
Cases Awaiting Report by Investigator	15	35	35	51	51	60
Cases Awaiting Report by Bar Counsel !	25	35	24	25	25	11
CasesAwaitingMeeting by Subcommittee *!	21	2	3	5	5	3
Total	61	72	62	81	81	74
PRELIMINARY INVESTIGATIONS & DC CASES						
Preliminary Investigation Cases	39	59	66	40	40	55
District Committee Cases	125	144	152	175	175	178
Total	164	203	218	215	215	233
SANCTIONS ISSUED BY DISTRICT COMMITTEE SUBCOMMITTEES Y-T-D						
Total	7	1	81	59	59	54
DCCASES AWAITING CERTIFICATION TO DB TO BE WRITTEN BY BAR COUNSEL						
Total	2	1	4	12	12	9
DCCASES AWAITING CHARGE OF MISCONDUCT TO BE WRITTEN BY BAR COUNSEL						
Total	0	1	1	0	0	1
CASES TO BE TRIED						
District Committee	2	4	4	2	2	2
Disciplinary Board/Circuit Court	30	47	43	41	41	34
Total	32	51	47	43	43	36
CONSENTS TO REVOCATION Y-T-D						
Total	5	7	7	6	6	5
TRIALS HELD Y-T-D						
District Committee	1	1	0	0	0	0
Disciplinary Board/Circuit Court	9	2	30	23	23	20
Total	10	3	30	23	23	20
AGREED DISPOSITIONS Y-T-D						
District Committee	10	3	47	34	34	31
Disciplinary Board/Circuit Court	0	1	24	20	20	20
Total	10	4	71	54	54	51
CLOSED IMPAIRMENTS Y-T-D	2	0	15	13	13	13



Virginia State Bar

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To: Virginia State Bar Executive Committee & Council

From: Renu M. Brennan
Bar Counsel

Date: October 10, 2023 Update

- Chief Investigator Cam Moffatt retired after 29 years as an Investigator with the bar. We will sorely miss Cam. She investigated cases in Richmond and the surrounding areas for 29 years, and she managed the bar's team of 12 investigators since 2011. Cam handled recruitments, hiring, onboarding, and management of caseloads. She maintained her own active docket and investigated many serious cases throughout her tenure. Among her many strengths was her investigation of trust account cases. We wish Cam the best in her well-deserved retirement.

In mid-November, Michael Schuler will succeed Cam. Michael has been with the FBI since 1999 serving as a Special Agent, Cyber in Seattle and Richmond; Special Agent, Richmond, Cyber and Child Exploitation Task Force; a Supervisory Special Agent in the Richmond Field Office, Financial Crime/Public Corruption/Civil Rights; an Assistant Legal Attache, Cyber, FBI, US Embassy, Canberra, Australia; and as Chief Division Counsel in the Richmond Field Office since 2017. Michael is licensed to practice law in Wisconsin and Virginia.

- By Order entered September 29, 2023, and effective November 28, 2023, the Supreme Court of Virginia approved changes by the Committee on Lawyer Discipline (COLD) adding a specific mechanism for Respondents to demand three-judge panels at Paragraph 13-16.BB, 13-18.O, 13-20, 13-24, 13-25, and 13-29. The amendments also clarify related definitions in Paragraph 13-1.
- CLEs – The Chairs of COLD's Rules and Oversight Subcommittees (Melissa Robinson and Jennifer West), Deputy Bar Counsel Ed Dillon, and Assistant Bar Counsel Shelley Spalding presented "Demystifying the Disciplinary System" at the Solo & Small-Firm Practitioner Forums at the Eastern Shore and Washington & Lee. Also, in January 2023, Ed, Paulo Franco, Jane Fletcher, and Ron McCall presented a recorded webinar on Trust Account Issues, which has been viewed by more than 900 attorneys in less than 10 months. Based on this feedback, we

plan to present at least one more trust account webinar this year. Additionally, Senior Assistant Bar Counsel Elizabeth Shoenfeld and Senior Ethics Counsel Barbara Saunders presented Recent Developments to Virginia CLE last week. We are also presenting CLEs to various local bars including the Rockingham County Bar Association on Impairments (Assistant Bar Counsel Tenley Seli and Chair of the Conference of Local and Specialty Bar Associations Dilliana Stickley) and the Fairfax Bar Association (Elizabeth Shoenfeld and Assistant Bar Counsel Rich Johnson). Also, Tenley presented on the disciplinary system at the recent Professional Course in Arlington. Finally, we are working on a CLE for judges in light of the Paragraph 13 amendments and last fiscal year's increase in requests for three-judge panels.

TAB 5

VIRGINIA STATE BAR
Report of the Conference of Local and Specialty Bar Associations
Dillina Stickley, Chair
October 12-13, 2023

The CLSBA Executive Committee is currently planning another successful year of fulfilling its mission.

We are offering three Solo & Small-Firm Practitioner Forums, all in person with the same agenda. The dates/locations are as follows:

[September 18, 2023 – Eastern Shore Community College in Melfa](#)

[October 2, 2023 – Washington & Lee School of Law in Lexington](#)

[May 17, 2024 – Mountain Empire Community College in Big Stone Gap](#)

Traditionally, Supreme Court Justices or Judges from the Court of Appeals of Virginia have taken on the Town Hall Meetings at these events. At the suggestion of Justice Cleo Powell, Kristi Wright, JPE Program Director, Office of the Executive Secretary, has been invited to speak about the Supreme Court's Judicial Performance Evaluation program. Justice Powell is hoping to be able to join Kristi at the October and May events.

Other topics for the day include *Lawyers and Other People's Money*; *Demystifying the Disciplinary System*; *Introduction to Collaborative Law Under the Virginia UCLA*; *Understanding the Occupational Risks of Practicing Law & Adopting Well-Being Strategies for Small and Solo Law Practitioners*; and *What Every Virginia Lawyer Needs to Know About Cybersecurity*.

The Big Stone Gap location will be recorded and offered for on-demand credit from May-October 2024.

On September 28, 2022, Sharon Nelson, John Simek, and Mike Maschke will present a one-hour webinar on [Zero Trust Architecture](#). As of the writing of this report, there are 84 people registered.

The first meeting of the CLSBA Executive Committee will be held on Thursday, September 14, which is after the deadline for this report. I will give a verbal report on any significant topics from the CLSBA meeting in October.

This year's Bar Leaders Institute will be presented on Friday, March 8, 2024, at Lewis Ginter Botanical Garden in Richmond. We hope you will be able to join us!

As chair of the Virginia State Bar Conference of Local and Specialty Bar Associations, it is my honor and privilege to invite each of you to attend these programs. Check out the [CLSBA web page](#) for more information. Also look for information in your monthly VSB News.

The *So You're 18* handbook has been updated and is available for distribution to schools, J&DR Courts, departments of social services, election registrars, juvenile detention

centers, and other groups/organizations as requested. This information is also available [online](#). If you would like copies of the *So You're 18* for distribution, please contact Paulette Davidson at 804-775-0521 or pdavidson@vsb.org.

The CLSBA continually seeks to improve its efforts to better serve the needs of Virginia's local and specialty bar associations, to identify best practices, and to inform bar leaders of developments and trends on issues of importance to bar association leadership.

TAB 6

VIRGINIA STATE BAR
REPORT OF THE DIVERSITY CONFERENCE

Candace A. Blydenburgh, Chair

September 2023

The Diversity Conference Board of Governors held their first meeting for the fiscal year 2023-2024 on September 20, 2023. The next Diversity Conference Board of Governors meeting will be November 9, 2023.

Chair's Report

The Diversity Conference is excited to continue implementing its signature programs this year.

The Conference is in the early planning stages of its **4th Annual Forum on Diversity in the Legal Profession** to be held in early March, 2024. The Annual Forum typically focuses on issues involving diversity, equity, and inclusion in the legal field.

The Conference is in the preliminary planning stages for the **Oliver Hill/Samuel L. Tucker Pre-Law Institute**. The Pre-Law Institute will be held during the summer of 2024, and it hosts talented minority high school students, mainly from Virginia, providing them with an enriching week-long program exposing them to the field of law. HTI events usually include: a mock trial competition, a visit to the Virginia Supreme Court and special talk with Justice Cleo Powell, a networking reception, etiquette dinner, and college admissions panel. Applications will be sent out to Virginia high schools and relevant listservs in early spring.

The Conference will continue to support the **Rule of Law (ROL) Day program**. Rule of Law Day encompasses two programs held at local high schools with a slightly smaller number of students; and a larger ROL Day program at the State Capitol. These programs will be held in the spring of 2024.

The Conference will continue in its tradition of hosting an **Annual Showcase CLE** at the VSB Annual Meeting. Currently, the Conference is vetting topics for the CLE.

The Conference will also continue hosting its **Annual Mentor/Mentee Initiative** at the VSB Annual Meeting in May. The program identifies two student representatives from each law school who demonstrate a commitment in diversity. The dean of the respective law school selects the students, and the students attend the annual meeting with an assignment to an attorney for the weekend. They attend CLE programs, receptions, and the awards banquet, providing them a chance to meet bar leaders and to learn more about the Virginia State Bar's activities.

The Conference will host an event commemorating Juneteenth Celebration during the VSB Annual Meeting in 2024. Details about programing and planning are forthcoming.

Active Committees

The Diversity Conference currently has the following committees.

- Showcase/Annual Meeting Committee
- Pipeline and Community Projects Committee
- Oliver Hill/Samuel Tucker Pre-Law Institute Committee
- Rule of Law Day Committee
- Annual Forum
- Law School Committee (Mentor-Mentee Initiative)
- Publicity/Website/E-Newsletter Committee
- Membership Committee
- Nominating Committee

The Conference had 971 members at the most recent report.

Next Meeting

The Board next meets on November 9, 2023.

TAB 7

VIRGINIA STATE BAR

REPORT OF THE SENIOR LAWYERS CONFERENCE

W. Carter Younger, Chair

October 13, 2023

Officers and Board Members for 2023-2024

The Senior Lawyers Conference (SLC) Board met in person at the Virginia State Bar Annual Conference at Virginia Beach on June 17, 2023. The Board elected the following officers to serve for one year, beginning July 1, 2023: W. Carter Younger, Chair; Thomas G. Bell Jr., Vice Chair; Barbara S. Anderson, Secretary; Richard A. Gray, Treasurer; Gary C. Hancock, Immediate Past Chair.

The following new members were elected to serve on the Board: Phillip V. Anderson, Leonard L. Brown, Jr., Jon D. Huddleston, and William E. "Bill" Phillips. The following Board Members are serving a second term: Thomas A. Edmonds; Hon. James M. Gamble; Nancy M. Reed; Aubrey J. Rosser Jr.; and Veronica E. Williams.

Peter C. Burnett was elected to the Board *ex officio* as Coordinator of Special Product to conclude his excellent work on the SLC's *Civility and Professionalism in a Successful Litigation Practice* film project.

Bruce Sams was appointed to serve as SLC Liaison to the Litigation Section

The Board expressed gratitude to Mr. Hancock for his excellent service as Board Chair. The Board also commended Sylvia Daniel for her outstanding service as the SLC's VSB Liaison and welcomed Nancy Donner as our new Liaison.

By-Laws Amendment

The SLC adopted a proposed amendment to the SLC Conference By-Laws regarding in-person meeting quorums for the transaction of business. If approved by Bar Council, the By-Laws will be changed so that Article 4: Board of Governors; §4.4 Meetings, Subsection (b) shall provide:

At each meeting of the Board of Governors, three (3) voting members of the Board of Governors in attendance shall constitute a quorum for the transaction of business. The vote of a majority of voting members present, either physically or through electronic communication means, shall be the act of the Board of Governors.

Financial Matters

The SLC's budget for the fiscal year ending June 2023 shows total expenditures of \$44,980.92 against a budget of \$37,000.00, indicating total expenditures exceeded budget by \$7,980.92. The two largest expenditures were for the film project (\$20,900) and for printing additional copies of the Senior Virginians Handbook (\$5,000), both of which are described in detail below. However, the excess

expenditure for the film project was due to a payment of \$15,900 that was paid in July 2022, but should have been paid by the end of June 2022 under the prior fiscal year's SLC budget. This delayed payment was acknowledged by the VSB and the SLC's budget was given credit for this occurrence. Accordingly, the SLC did not exceed authorized and budgeted expenditures.

Newsletter Committee

Frank Brown continues to produce his outstanding *Senior Lawyers News* on-line newsletter for the SLC. The Summer 2023 Annual Meeting Edition, Volume 31, Issue 31 is remarkable, with 39 pages of moving remembrances, informative reports, and excellent articles. Frank also oversees SLC's content in the *Virginia Lawyer*. Frank's valuable program "*Protecting Your Client's Interest in the Event of Your Disability, Death, or Other Disaster*" has been provided free to bar members around the state before a hiatus imposed by COVID-19.

Fifty-Year Awards

At the VSB's Annual Meeting at Virginia Beach, the SLC honored 375 lawyers who marked 50 years of practice in 2022-2023. SLC Chair Gary Hancock was joined by VSB President Stephanie Grana and VSB President-Elect Chidi James in presenting plaques to the honorees in attendance.

Senior Virginians Handbook

Veronica Williams has assumed leadership of the SLC's Senior Virginians Handbook project. The Handbook has been in great demand, especially over the last several months, and the SLC has had to ration requests for printed copies. The SLC allocated \$5,000 to print additional printed copies. The Handbook is also posted on-line to be downloaded. The Handbook is available in English and Spanish. Plans are in progress to update the handbook this year. Updates will be made available on-line as they are created, and reflected in a new printed edition, probably in 2024.

Free copies of the Handbook are provided to attendees at senior Law Day seminars provided by local bar associations. A template for these seminars program is available on the SLC attorney resources page, and we provide advice on proven presentation strategies. Former SLC Board of Governors Chair Bruce Robinson continues to provide leadership and support for these popular seminars for seniors.

Pro Bono Committee

The SLC continues to encourage pro bono work by senior lawyers. Andrea Bridgeman heads the SLC's pro-bono efforts. Under her leadership, the SLC Pro Bono working group has discussed several initiatives, including:

- Promoting TIES, Transition into Emeritus Status, to encourage retiring VSB members to provide pro bono service and continue to participate with the Bar.
- Sponsoring/creating webinars about planning for seniors and legal protections for the vulnerable and infirm—proactive legal advocacy for senior lawyers and their clients.
- Support for the *Senior Helpline*, a project of the State Department of Aging and Rehabilitative Services and the Virginia Poverty Law Center. The Helpline provides remote advice and counsel to clients without income restrictions and will need pro bono volunteers to support specific substantive areas.

Civility and Professionalism Film

The film “***Civility and Professionalism in a Successful Litigation Practice – Mentorship from the Bench and Bar***” has been submitted to the VSB for distribution. The film is a project of the SLC, with financial support of the Litigation Section and the Virginia Law Foundation. It includes interviews with Chief Justice of the Supreme Court of Virginia, S. Bernard Goodwyn, and other distinguished jurists as well as current Virginia State Bar President, Chidi I. James, and other respected trial lawyers, about the role and importance of civility and professionalism. In what the moderator refers to as an “intensive mentorship session,” the interviewees provide practical advice about the importance of civility and professionalism to a successful practice, in and outside the courtroom.

Chief Justice Goodwyn has commended the film: “As lawyers, we all have the responsibility to make sure our legal system works effectively. *Civility and Professionalism in a Successful Litigation Practice* is an important resource for understanding a lawyer’s role and responsibilities as an advocate for their clients and as an officer of the court.” VSB Executive Director Cameron Rountree congratulated the SLC: “This is a very fine presentation, with an impeccable list of presenters.”

VSB President Chidi James called the film an “amazing and intimate discussion about the intersection of Ethics and Professionalism. The comments and stories shared are insightful, authentic, and inspiring. Taking part in this project was an honor, but watching it reminded me of the awesome privilege and responsibility we have, to serve the profession and our system of justice.” Legal ethics expert Tom Spahn, who chaired the Virginia Bar Association Commission that drafted the aspirational “Principles of Professionalism for Virginia Lawyers,” said that “this professionally – produced, entertaining video shows that courtesy does not reflect a lawyer’s weakness, but instead helps ensure that lawyer’s success - in the courtroom and at the negotiation table - while helping uplift all lawyers’ public standing.”

The SLC is applying for MCLE credit for the one-hour film, and plans are in the works to create a two-hour version that will be eligible for a full two hours of MCLE credit. The film will be without charge for non-commercial, educational purposes to local and state bar associations, courts, continuing legal education providers, community and civic groups, public interest organizations, law schools and other educational institutions, law firms, individual lawyers, and others interested in the legal profession. On August 24, 2023, the SLC received a \$6,000 grant from the Virginia Law Foundation to help support the creation of short “trailers” to publicize the availability of the film.

Respectfully Submitted,

W. Carter Younger, SLC Chair

TAB 8



**Virginia State Bar Young Lawyers Conference
President's Report, Craig E. Ellis
October 2023**

I. Awards and Honors

The YLC awarded our Annual Burnette Young Lawyer of the Year award to Alicia Penn. Alicia's efforts with the Bench-Bar Dinner and numerous other initiatives throughout the year set her apart from her peers and has made the YLC a better organization.

II. Initiatives for 2023-2024

The YLC is focused this year on continued success in the areas of service to the public, professional development, and wellness with additional emphasis on growing diversity and promoting holistic well-being in the profession. Last year we re-focused on core programming and transition from a "Covid footing." This year we plan to break out with new programs and initiatives taking what we've learn in the past few years. Please be on the lookout for information regarding a new portion of the Bench-Bar Conference and a newly styled Golf Tournament structured for those who are learning to play.

III. Past Programs and Meetings

Oliver Hill/Samuel Tucker Pre-Law Institute

The Diversity Conference and YLC served again as co-sponsors of the Oliver Hill/Samuel Tucker Pre-Law Institute. In July, the YLC program co-chairs and their counterparts in the Diversity Conference hosted students at the University of Richmond. Craig Ellis and Courtney Frazier from the YLC Board of Governors taught Evidence and how to conduct Direct Examinations to the students. The YLC plans to continue to increase its visibility and participation in the program in the coming years.

Understanding Your Client's Immigration Status

The Immigration Outreach Committee hosted a live CLE program on August 7 at the Newport News Public Defender's Office. The purpose of the course was to help criminal defense attorneys understand the many different forms of status that their clients could have so the attorney can properly advise their clients on the immigration consequences of charges, pleas, and convictions. The course was presented by YLC volunteer, Nicole Medved, a professor at William & Mary Law School, and offered 1.0 hour of CLE credit. 13 people attended.

The Newport News course was limited to the Public Defender's Office and served as a test run of sorts; the committee's goal is to partner with the VIDC to make the presentation available to all public defenders and court-appointed attorneys who are certified through VIDC.

Young Lawyers Conference Leaders Institute

The YLC hosted its annual Leaders Institute in September for newest batch of leaders across the state. This is our primary means of orienting new volunteers (primarily program/committee chairs and district representatives) to VSB policies, and the programs and resources offered by the YLC. We hosted 30 young leaders for the training. Janet Van Cuyk, Cris Gantz, and Carole Yeatts all gave their time and spoke to the group. Their messages really resonated with our new volunteers and set a great foundation for this coming bar year.

IV. Upcoming Programs and Meetings

Bench Bar Dinner

The Bench-Bar Celebration Dinner is set for October 3, 2022, at Virginia Union University in Richmond. While this program is returning to Richmond, we, for the first time, will also be recognizing newly appointed judges from the LGBTQ+ community and those with disabilities. This is in keeping with Goal III of the ABA to eliminate bias and enhance diversity within the legal profession. We are excited to host this tradition in a new venue with the hopes that we can engage more participants. In addition to our hosting our colleagues from around the state we also are looking forward to hosting students from Virginia Commonwealth University's Minorities in the Law Club for the second year in a row.

NOVA Minority Pre-Law Conference

On October 28th the Northern Virginia Minority Pre-Law Conference will return after a covid pause. Our Program chairs are working feverishly to have this program return to its former glory.

Young Lawyers Conference Board Meetings

The YLC Board will meet in Alexandria, Virginia in October. We will be focused on fine-tuning our programming schedule for the year. This includes looking at a new fall edition to our annual Bench-Bar conference at Lewis Ginter Botanical Garden and starting a new golf tournament in the spring that hopefully will bring new players to the game.

V. District Reports

The YLC District Representatives continue to inform the YLC board of events and programs for young lawyers in their districts and find ways for local young lawyer groups to collaborate with the YLC. They are brainstorming new in-person and virtual ideas for this year.

TAB 9

Virginia State Bar Access to Legal Services Committee
Pro Bono Month Report
October 2023

October is National Celebration of Pro Bono month. It's a time to honor the pro bono contributions of Virginia attorneys, reflect on our progress, and set goals for the future to ensure our efforts to fill the justice gap continue to grow in line with the VSB mission to increase access to legal services.

Pro Bono Conference

The VSB is hosting the 2023 Pro Bono Conference on October 18, 2023. The event is held in conjunction with the Statewide Legal Aid Conference and will be at the Greater Richmond Convention Center. The theme of the conference is Poverty and the Law: Context and Content for Attorneys Representing Low-Income Clients. The CLE program features four 90-minute sessions and boasts 6 hours of free credit. Presenters include a veteran legal aid attorney, nonprofit legal services organization staff, the CEO of a children's advocacy group, and a nationally-renown procedural justice speaker. Evening programming starts with a joint VSB/VPLC reception followed immediately by a celebration dinner honoring 2023 Lewis F. Powell, Jr. recipient Bill Shmidheiser of Harrisonburg for his extraordinary service to the clients of Blue Ridge Legal Services. We will also be honoring the 2023 Virginia Legal Aid Award winner Tamara Moore of Culpeper for her exceptional work as a Legal Aid Works managing attorney.

View the full program agenda and register [here](#).

Pro Bono Reporting (see attached summary)

In the 2023 bar year Virginia attorneys reported contributing more than 285,000 hours of pro bono service and over \$1.3 million in financial contributions to legal services organizations. More than 46,000 attorneys were eligible to report. While thirty-five percent of attorneys reported their contributions, only 11.2% reported contributions greater than zero. The average number of pro bono hours reported by the 4,488 attorneys performing service was 63.5 hours. Fewer than 1% of attorneys reported contributing 40 hours or more in line with the Rule 6.1 aspirational pro bono service goals. If every active Virginia attorney hit the 40-hour mark the total number of annual pro bono contributions would increase by more than 1 million hours.

Even fewer Virginia attorneys reported making donations to legal services organizations. The average amount reported by the 1,510 lawyers reporting donations was \$891.49. Only 456 attorneys reported annual donations of at least \$1,000, which is the floor the Virginia Access to Justice Commission has set for becoming a Pro Bono Investment Champion. If every Virginia attorney made an annual donation of \$50 (only 5% of the Commission threshold for recognition) the total number of financial contributions would increase by at least \$1 million dollars.



**Virginia State Bar Voluntary Pro Bono Reporting Summary
YEAR 5 (2022 – 2023 Bar Year Contributions)ⁱ**

REPORTING STATUS

Total Active & Associate Members Eligible for Reporting	46,491
Total Active Members Who've Completed Dues Renewal	43,394
Total Pro Bono Reports Received to Date	36,254

CONTRIBUTION TOTALS

TOTAL NO. PRO BONO HOURS REPORTED	285,186.7
TOTAL NO. FINANCIAL CONTRIBUTIONS REPORTED	\$1,346,156.06

MEMBER RESPONSES

Members Reporting Any Numeric Value in the Hours or Financial Contribution Fields	16,393
<i>-Members reporting any numeric value in the hours field only</i>	<i>2,366</i>
<i>-Members reporting any numeric value in financial contributions field only</i>	<i>1,620</i>
<i>-Members reporting any numeric value in the hours and financial contributions field</i>	<i>12,407</i>
Members Reporting Contributions Greater Than Zero	5,213
<i>-Members reporting a value greater than zero in the hours field only</i>	<i>3,703</i>
<i>-Members reporting a value greater than zero in the financial contributions field only</i>	<i>725</i>
<i>-Members reporting a value greater than zero in the hours and financial contributions field</i>	<i>785</i>
Members Reporting Contributions Meeting Access to Justice Commission Goals	2,463
<i>-Members reporting a value ≥ 40 (donations less than \$1,000)</i>	<i>2,027</i>
<i>-Members reporting a value $\geq \\$1,000$ only (hours less than 40)</i>	<i>318</i>
<i>-Members reporting hours ≥ 40 and donations $\geq \\$1000$</i>	<i>118</i>

Members Declining to Report Hours and Financial Contributions	19,480
Members declining to report hours only	1,716
Members declining to report financial contributions only	2,359
Not Responsiveⁱⁱ	7,888
Members Affirmatively Identify Themselves on Reporting Form (Opt-in Reports)ⁱⁱⁱ	4,253
<u>RESPONSE RATES</u>	
Overall Response Rate^{iv}	77.1%
-Adjusted Response Rate ^v	35.2%
-Contribution Response Rate ^{vi}	11.2%
-Decline to Report Rate	41.9%
Not Responsive Rate	22.9%
Opt-in Response Rate	9.1%

FIVE-YEAR PRO BONO REPORTING TRENDS

	Year 1	Year 2*	Year 3*	Year 4*	Year 5*
Total Members Eligible to Report	32,199	45,477	45,545	46,166	46,491
Total Response Rate (all reports)	65.96%	61%	61%	62.1%	77.1%
<i>Adjusted Response Rate (contributions reported, including zero hours/donations)</i>	<i>16.03%</i>	<i>17%</i>	<i>16%</i>	<i>16.2%</i>	<i>35.2%</i>
<i>Contribution Response Rate (contributions greater than zero reported)</i>	<i>N/A</i>	<i>15%</i>	<i>13%</i>	<i>12.3%</i>	<i>11.2%</i>
<i>Decline to Report Response Rate</i>	<i>49.66%</i>	<i>44%</i>	<i>45%</i>	<i>45.9%</i>	<i>41.9%</i>
"Not Responsive" Rate	33%	39%	37%	35.1%	22.9%
Opt-In Response Rate	2.78%	10%	12%	12.5%	9.1%

	Year 1	Year 2*	Year 3*	Year 4*	Year 5*
TOTAL FINANCIAL CONTRIBUTIONS	\$974,130.02	\$1,585,492	\$1,558,337.00	\$1,674,409	\$1,346,156.06
TOTAL HOURS	368,845.70	403,969.00	372,104.30	343,665.10	285,186.7
AVERAGE CONTRIBUTIONS					
Average Financial Contribution/atty eligible to report	\$30.25	\$34.86	\$34.22	\$36.27	\$28.9
Average Hours/atty eligible to report	11.46	8.88	8.17	7.44	6.13
Average Financial Contributions/atty reporting donation greater than zero	N/A	\$901.7	\$1,017	\$1,146.07	\$891.49
Average Hours/atty reporting hours greater than zero	N/A	68.2	72.9	67.66	63.5

**Reporting forms were included in all Active and Associate dues renewal mailings in these years.*

ⁱ Renewals Processed as of March 9, 2023.

ⁱⁱ For example, members who renewed online but skipped reporting, member who renewed by mail and sent back blank paper form, presumptive paper forms not returned, and reports that contained data but no value in the "Pro Bono Hours," "Pro Bono Financial Contributions," or "Decline to Report" fields.

ⁱⁱⁱ Members opting in may fall into any of the reporting categories outlined above.

^{iv} Including "Decline to Report" responses and reports that had any value in hours and/or financial contributions fields, including 0.00 value.

^v Contributions reported, including zero hours and/or financial contributions.

^{vi} Percentage of forms with contributions greater than zero reported in the hours and/or financial contributions fields.

TAB 10

- Non-Attorneys
 - Eric W. Bond
 - Charles S. Coulter
- Ninth District Committee
 - Attorneys
 - Kemper M. Beasley III
 - Greg T. Haymore
 - Michael C. Keenan
 - Non-Attorneys
 - Sharlene Howell
 - Thomas J. Miles III
- Tenth District Committee, Section I
 - Attorneys
 - Phillip L. Blevins
 - Anthony D. Covington
 - Alexandra D. Goodpaster
- Tenth District Committee, Section II
 - Attorneys
 - Chase D. Collins
 - Aaron M. Gillespie
 - Non-Attorneys
 - Connie Comer
 - Jenny Nichols

D. UPL Opinion 219

Michael York presented a memo from Ethics Counsel to the Executive Committee for Proposed UPL Opinion 219 – Non-Lawyer Entity Representation in Practice Before State Agency. A copy of the memo dated June 15, 2023 and Draft Opinion – 3/1/2023 were included in the materials provided to Council. After a discussion, a motion was made by Chidi James and seconded by Jay Myerson, to vote to accept the recommendations of the Ethics Committee and forward the memo and draft opinion to the Supreme Court. The motion passed and Council voted to forward the memo and draft opinion to the Supreme Court. Member Thomas Edmonds voted “yes” verbally. All other members voted using the electronic Poll Everywhere voting tool. The electronic voting results are appended to these minutes.

E. Proposed Changes to the Bylaws of the VSB and VSB Council

Marni Byrum presented the Proposed amendments to Part I, Article V, Section 1 of the Bylaws of the VSB and Part II, Article VI of the Bylaws of the VSB Council. A copy of the memorandum dated June 5, 2023 from the Special Committee on Rules and Procedures was included in the materials provided to Council. After a discussion, the proposed changes to Part I (Bylaws of the Virginia State Bar), Article V, Section 1 were withdrawn by the Special Committee on Rules and Procedures.

MINUTES OF THE VIRGINIA STATE BAR EXECUTIVE COMMITTEE MEETING

Date: September 12, 2023, 12 noon
Location: Bank of America Building, 3rd floor conference room, 1111 E. Main Street, Richmond

The VSB Executive Committee met in-person on Tuesday, September 12, 2023. At 12:17 p.m., President Chidi I. James called the meeting to order. Thirteen (13) committee members attended in-person satisfying Part I, Art. V, Sec. 2 of the Bylaws of the Virginia State Bar. There was no remote participation.

Committee members in attendance:

President Chidi I. James
President-elect Michael M. York
Immediate Past President Stephanie E. Grana
Member Timothy R. Baskerville
Member Kyung “Katherine” N. Dickerson
Member Veronica E. Meade
Member Bruce H. Russell II
Member Joanna L. Suyes
Member Edgar M. “E.M.” Wright, Jr.
Conference of Local and Specialty Bar Associations Chair Dillina W. Stickley
Diversity Conference Chair Candace A. Blydenburgh
Senior Lawyers Conference Vice-Chair Thomas G. Bell, Jr.
Young Lawyers Conference President-elect Benjamin A. Shute

Absent:

Senior Lawyers Conference Chair William C. Younger
Young Lawyers Conference President Craig E. Ellis

Also attending:

Cameron M. Rountree	VSB	Executive Director and Chief Operating Officer
Janet P. Van Cuyk	VSB	Deputy Executive Director
Renu M. Brennan	VSB	Bar Counsel
Sylvia S. Daniel	VSB	Assistant to the Deputy Executive Director
DaVida M. Davis	VSB	Director of Regulatory Compliance
Crista L. Gantz	VSB	Director of Access to Legal Services
Crystal T. Hendrick	VSB	Director of Finance and Procurement
Shawne D. Moore	VSB	Assistant to the Executive Director
Caryn B. Persinger	VSB	Director of Communications
Maureen D. Stengel	VSB	Director of Bar Services

I. Reports and Information Items

A. President's Report

Chidi James reported on his activities. The September 2023 President's Report was included in the materials provided to the Executive Committee.

B. Executive Director's Report

Cameron Rountree reported on matters relating to the VSB. The Executive Director's September 2023 written report was included in the materials provided to the Executive Committee.

C. Financial Reports

Crystal Hendrick presented the financial report. A copy of the Financial Report for the Year Ended June 30, 2023 was included in the materials provided to the Executive Committee.

D. Bar Counsel Report

Renu Brennan reported on the activities in the Office of Bar Counsel. The Disciplinary System report dated August 15, 2023 was included in the materials provided to the Executive Committee.

II. Action Items

A. Minutes of the June 14, 2023 Meeting

A copy of the minutes for the June 14, 2023 meeting was included in the materials provided to the Executive Committee. A motion to vote to approve the minutes of the June 14, 2023 meeting was made by Bruce H. Russell II and seconded by Stephanie E. Grana. The Executive Committee by a unanimous vote approved the minutes of the June 14, 2023 meeting.

B. Request for Approval to Allow Staff to Engage in Legislative Activity at the General Assembly.

Cameron Rountree presented a request for approval to amend the policy to Allow Staff to Engage in Legislative Activity at the General Assembly. A copy of the Policy Governing Legislative Activities, as revised by the VSB Executive Committee and Approved by Council June 2001, was included in the materials provided to the Executive Committee. A motion to vote to approve the request to allow staff to engage in legislative activity at the General Assembly for the 2023-2024 session was made by E. M. Wright, Jr. and seconded by Bruce H. Russell II. The Executive Committee, by a unanimous vote, approved the request for approval to amend the policy to Allow Staff to Engage in Legislative Activity at the General Assembly, as revised by the VSB Executive Committee and Approved by Council June 2001, for the 2023-2024 session.

C. Approval of Disciplinary District Committee appointments

Cameron Rountree presented the 2023-2024 nominees for Disciplinary District Committees. A copy of the list of nominees dated September 2023 was included in the materials provided to the Executive Committee. A motion to vote to approve the slate of nominees to send to Council was made by Timothy R. Baskerville and seconded by Joanna L. Suyes. The Executive Committee, by a unanimous vote, approved sending the slate of nominees to Council.

Fourth District Committee, Section II

- Sean P. Schmergel

Fifth District Committee, Section II

- Michelle M. Kaminsky

Fifth District Committee, Section III

- Elizabeth M. Bookwalter

Eighth District Committee

- John C. Johnson

Tenth District Committee, Section II

- Michael A. Thomas

D. Approval of Section and Conference Solicitation Requests

Maureen Stengel presented section and conference solicitation requests for Executive Committee approval. A summary dated September 12, 2023 and copies of the VSB Request Forms for Solicitation or Receipt of Grants and Other Funds for each request were included in the materials provided to the Executive Committee. After a discussion, a motion was made by Stephanie E. Grana and seconded by Bruce H. Russell II to vote to approve each solicitation request. The Executive Committee voted unanimously to approve all solicitation requests as follows:

- Diversity Conference – Panel Series Reception – 2023-2024
- Diversity Conference – Annual Forum Reception - 2024
- Diversity Conference – Virginia Law Foundation Grant Hill Tucker Pre-Law Institute (2023-2024)
- Family Law Section, Board of Governors Travel Meeting Reception Expenses
- Family Law Section, Update to Spare the Child Video

- 2023-24 Professionalism Course Dinner Solicitation Request
- 2023-24 Professionalism Course Video Update Solicitation Request
- Section on the Education of Lawyers in Virginia Annual Law School & Law Firm Membership Contributions
- 2024 Annual Meeting Solicitation Request
- Requests for 2024 Young Lawyers Conference Bench-Bar Celebration Dinner
- Young Lawyers Conference Minority Pre-Law Conference for Bar Year 2023-2024

At 1:35 p.m., the meeting was adjourned.

MINUTES OF THE VIRGINIA STATE BAR COUNCIL MEETING

Date: June 15, 2023, 9:00 am

Location: Hilton Oceanfront Hotel, 3001 Atlantic Avenue, Virginia Beach

The VSB Council met in-person on Thursday, June 15, 2023. At 9:15 a.m., President Stephanie E. Grana called the meeting to order. Sixty-five (65) Council members attended in-person satisfying Pt. 6., § IV, Para. 7 of the Rules of the Supreme Court of Virginia. There was no remote participation.

President Stephanie E. Grana
President-elect Chidi I. James
Immediate Past President Jay B. Myerson
Member D.J. Hansen
Member Ryan G. Ferguson
Member Naveed Kalantar
Member Bretta Zimmer Lewis
Member Matthew R. Foster
Member Charlene A. Morring
Member Corrynn J. Peters
Member Derek A. Davis
Member Benjamin M. Mason
Member Veronica E. Meade
Member Susan B. Tarley
Member E. M. Wright, Jr.
Member P. George Eliades II
Member Timothy R. Baskerville
Member Mark D. Dix
Member Cullen D. Seltzer
Member Neil S. Talegaonkar
Member Samuel T. Towell
Member Henry I. Willett III
Member Craig B. Davis
Member Thomas A. Edmonds
Member Allen F. Bareford
Member Richard H. Howard-Smith
Member Ann Marie Park
Member Carole H. Capsalis
Member G. L. "Rex" Flynn, Jr.
Member David E. Sher
Member Nicholas J. Gehrig
Member Sebastian M. Norton
Member Todd A. Pilot

Member Susan M. Butler
Member Gary V. Davis
Member Kyung "Kathryn" N. Dickerson
Member Brian C. Drummond
Member Carly J. Hart
Member Sandra L. Havrilak
Member Tamika D. Jones
Member Nathan J. Olson
Member Luis A. Perez
Member Debra L. Powers
Member Susan M. Pesner
Member Robert B. "Bob" Walker
Member Michael M. York
Member R. Penn Bain
Member Susan F. Pierce
Member G. Andrew Hall
Member Daniel P. Frankl
Member Kevin W. Holt
Member William T. Wilson
Member Peter K. McDermott II
Member Bruce H. Russell II
Member Anna B. Bristle
Member at Large James W. Hundley
Member at Large Molly E. Newton
Member at Large Lonnie D. "Chip" Nunley III
Member at Large Joanna L. Suyes
Member at Large Nicole E. Upshur
Member at Large David P. Weber
Member at Large Lisa A. Wilson
CLSBA Chair Luis A. Perez
Senior Lawyer Conference Chair Gary C. Hancock
Diversity Conference Chair Alicia R. Johnson

Absent:

Member W. Grant Back
Member D. Sue Baker
Member Eugene N. Butler
Member W. Huntington “Hunter” Byrnes, Sr.
Member Bradley D. Fleming
Member Stephen K. Gallagher
Member Jennifer S. Golden
Member Shaun R. Huband
Member Adam M. Krischer
Member Neil S. Lowenstein
Member Joel R. McClellan
Member at Large Lenard T. “Len” Myers, Jr.
Member Debra L. Powers
Member Thomas G. Shaia
Member at Large Patricia E. Smith
Member Susheela Varky
Young Lawyer’s Conference President Craig E. Ellis

Council Guests - 2023-24 Council Members

Circuit 2	Jeremiah A. “Jake” Denton IV
Circuit 4	W. Caswell Richardson
Circuit 7	Patrick C. Murphrey
Circuit 19	Chidinma U. Harley
Circuit 19	Gina L. Schaecher
Circuit 19	Gobind S. Sethi
Circuit 24	Hope R. Townes
Circuit 25	D. Brian Richardson

Council Invitees:

Valerie O’Brien	Virginia Trial Lawyers Association
K. Danielle Payne	Virginia Association of Criminal Defense Lawyers

Also attending:

Cameron M. Rountree	VS	Executive Director and Chief Operating Officer
Janet P. Van Cuyk	VS	Deputy Executive Director
Renu M. Brennan	VS	Bar Counsel
Vivian R. Byrd	VS	Deputy Clerk
Marni E. Byrum	VS	Special Committee on Rules and Procedures chair
Sylvia S. Daniel	VS	Assistant to the Deputy Executive Director
DaVida M. Davis	VS	Director of Regulatory Compliance
Emily F. Hedrick	VS	Ethics Counsel
Crystal T. Hendrick	VS	Director of Finance and Procurement
R. Braxton Hill IV	VS	Committee on Lawyer Discipline chair
Shawne D. Moore	VS	Assistant to the Executive Director
Caryn B. Persinger	VS	Director of Communications

I. Reports and Information Items

A. President's Report

Stephanie Grana reported on her activities. The June 2023 President's Report was included in the materials provided to Council.

B. Executive Director's Report

Cameron Rountree reported on matters relating to the VSB. The Executive Director's June 2023 written report was included in the materials provided to Council.

C. Financial Report

Crystal Hendrick presented the April 2023 financial report. The Financial Report as of April 30, 2023 was included in the materials provided to Council.

D. Bar Counsel Report

Renu Brennan reported on the activities in the Office of Bar Counsel. The Disciplinary System report dated June 12, 2023 was included in the materials provided to Council.

E. Conference of Local & Specialty Bar Associations Report

Chair Luis Perez reported on the activities of the Conference of Local & Specialty Bar Associations. His written report was included in the materials provided to Council.

F. Diversity Conference Report

Chair Alicia Johnson reported on the activities of the Diversity Conference. The Report of the Diversity Conference dated June 2023 was included in the materials provided to Council.

G. Senior Lawyers Conference Report

Chair Gary Hancock reported on the activities of the Senior Lawyers Conference. The Report of the Senior Lawyers Conference dated May 10, 2023 was included in the materials provided to Council.

H. Young Lawyer Conference Report

Alicia Johnson presented the YLC President's Report dated May 2023. A copy of the report was included in the materials provided to Council.

I. Virginia Judges and Lawyers Assistance Program Report

Timothy R. Carroll, Executive Director of the Virginia Judges and Lawyers Assistance Program, provided an executive summary of the activities of the program since the last report to Council on June 16, 2022. A written report was included in the materials provided to Council.

II. Action Items

A. Minutes of the February 25, 2023 Meeting

A motion was made by Chidi James and seconded by Michael York, to amend the minutes to add David P. Weber, and all members who were present at the February 25, 2023 meeting to the list of Council members in attendance. The motion passed and Council approved the minutes of the February 25, 2023 meeting. Members Gary Davis, Thomas Edmonds and D.J. Hansen voted “yes” verbally. All other members voted using the electronic Poll Everywhere voting tool. The electronic voting results are appended to these minutes.

B. Paragraph 13 Changes re Three-Judge Circuit Courts

R. Braxton Hill IV presented a summary review of the proposed Paragraph 13 Changes re Three-Judge Circuit Courts. A copy of the memo dated May 31, 2023, from Bar Counsel and Senior Assistant Bar Counsel, re: the Committee on Lawyer Discipline’s proposed changes to the Rules of Supreme Court of Virginia Part Six, Section IV, Paragraph 13 to provide a specific mechanism for respondents to elect a three-judge panel in all disciplinary proceedings was included in the materials provided to Council. Renu Brennan also referenced and provided a copy of an email with a public comment from Randy V. Cargill, Assistant Federal Public Defender, Western District of Virginia, dated and time stamped June 13, 2023 4:32 PM. After a discussion, a motion was made by Chidi James and seconded by Bruce Russell, to vote to forward the recommendations of the Committee on Lawyer Discipline to the Supreme Court. Council voted in favor of the proposed amendments. The motion passed and Council approved sending the recommendations to the Supreme Court. Member Thomas Edmonds voted “yes” verbally. All other members voted using the electronic Poll Everywhere voting tool. The electronic voting results are appended to these minutes.

C. Approval of Disciplinary District Committee appointments

Cameron Rountree presented the 2023-2024 nominees for Disciplinary District Committees. A copy of the June 2023 report as amended with additional nominees was included. A motion was made by Bruce Russell and seconded by Jay Myerson, to vote to approve the slate of nominees, as amended. The motion passed and Council approved the slate of nominees, as amended. Members D. J. Hansen and Thomas Edmonds voted “yes” verbally. All other members voted using the electronic Poll Everywhere voting tool. The electronic voting results are appended to these minutes.

- First District Committee
 - Attorneys
 - Robert C. Barclay IV
 - Nancy G. Parr
 - Non-Attorneys
 - Phil Johnson
 - Ann W. Templeman
- Second District Committee, Section I

- Attorneys
 - Gordon C. Ufkes
 - Non-Attorneys
 - Lewis J. Georges
 - Lloyd Petersen
 - Zoah Scheneman
- Second District Committee, Section II
 - Attorneys
 - Solomon H. Ashby, Jr.
 - Jessica H. Dixon
 - Patrick L. Maurer
 - Shannon Twohig
 - Non-Attorneys
 - Sarah B. Stedfast
- Third District Committee, Section I
 - Attorneys
 - Mary Katherine Martin
 - Non-Attorneys
 - Gordon R. Hickey
 - Garrison M. Hickman
 - R. Douglas Robbins
- Third District Committee, Section II
 - Attorneys
 - Matthew G. Howells
 - Julie E. McConnell
 - Non-Attorneys
 - Vanessa Griggs
- Third District Committee, Section III
 - Attorneys
 - Dennis R. Kiker
 - Tracy E. Paner
 - Brewster S. Rawls
 - Non-Attorneys
 - Elizabeth Chancy
 - Barbara S. Lanier
- Fourth District Committee, Section I
 - Attorneys
 - Allison H. Carpenter
 - Gregory J. Golden
 - Robert T. Hicks
 - Non-Attorneys
 - Roxan Ordal
- Fourth District Committee, Section II

- Attorneys
 - Michelle Bartoli-Cain
 - Samuel C. Moore
 - Sean A. O. Sherlock
 - Non-Attorneys
 - Jennifer J. Krischer
- Fifth District Committee, Section I
 - Attorneys
 - David E. Bateman
 - Tara J. Mooney
 - Andrea C. Weiss-Bryk
- Fifth District Committee, Section II
 - Attorneys
 - Lauren A. D'Agostino
 - Richard B. Orsino
 - Brandon R. Sloane
 - Non-Attorneys
 - Courtney Reheiser
 - Jeffrey A. Skigen
- Fifth District Committee, Section III
 - Attorneys
 - Kristen L. Kugel
 - Matthew P. Tsun
 - Non-Attorneys
 - Barbara W. Hutto
- Sixth District Committee
 - Attorneys
 - Jane S. Chambers
 - Gary D. Godman
 - John Tarley, Jr.
 - Non-Attorneys
 - David Fagiano
- Seventh District Committee
 - Attorneys
 - Bret M. Reed
 - Ryan D. Ruzic
 - Non-Attorneys
 - Matt Caesar
 - Kimberly Gregg
- Eighth District Committee
 - Attorneys
 - James W. Curd
 - Vicki L. Francois

- Non-Attorneys
 - Eric W. Bond
 - Charles S. Coulter
- Ninth District Committee
 - Attorneys
 - Kemper M. Beasley III
 - Greg T. Haymore
 - Michael C. Keenan
 - Non-Attorneys
 - Sharlene Howell
 - Thomas J. Miles III
- Tenth District Committee, Section I
 - Attorneys
 - Phillip L. Blevins
 - Anthony D. Covington
 - Alexandra D. Goodpaster
- Tenth District Committee, Section II
 - Attorneys
 - Chase D. Collins
 - Aaron M. Gillespie
 - Non-Attorneys
 - Connie Comer
 - Jenny Nichols

D. UPL Opinion 219

Michael York presented a memo from Ethics Counsel to the Executive Committee for Proposed UPL Opinion 219 – Non-Lawyer Entity Representation in Practice Before State Agency. A copy of the memo dated June 15, 2023 and Draft Opinion – 3/1/2023 were included in the materials provided to Council. After a discussion, a motion was made by Chidi James and seconded by Jay Myerson, to vote to accept the recommendations of the Ethics Committee and forward the memo and draft opinion to the Supreme Court. The motion passed and Council voted to forward the memo and draft opinion to the Supreme Court. Member Thomas Edmonds voted “yes” verbally. All other members voted using the electronic Poll Everywhere voting tool. The electronic voting results are appended to these minutes.

E. Proposed Changes to the Bylaws of the VSB and VSB Council

Marni Byrum presented the Proposed amendments to Part I, Article V, Section 1 of the Bylaws of the VSB and Part II, Article VI of the Bylaws of the VSB Council. A copy of the memorandum dated June 5, 2023 from the Special Committee on Rules and Procedures was included in the materials provided to Council. After a discussion, the proposed changes to Part I (Bylaws of the Virginia State Bar), Article V, Section 1 were withdrawn by the Special Committee on Rules and Procedures.

Part II (Bylaws of the Council of the Virginia State Bar), Article VI (Executive Committee), Section 3

After comments from members Thomas Edmonds, Sandra Havrilak, Susan Pesner and Susan Tarley, member Debra Powers offered an amendment to the proposed changes. A motion to adopt the proposed amendment and approve the proposed changes as amended, to Part II, Article V, Section 3, was made by Chidi James and seconded by Jay Myerson. The motion passed and Council adopted the proposed changes, as amended by the requisite two-third threshold required to amend the bylaws and approved sending the proposed changes to the Supreme Court. Two (2) members Thomas Edmonds and Susan Pesner voted “no” verbally, and one (1) member Susan Pierce voted “yes” verbally. All other members voted using the electronic Poll Everywhere voting tool. The electronic voting results are appended to these minutes.

Part II (Bylaws of the Council of the Virginia State Bar), Article VI (Executive Committee), Section 4

A motion was made by Jay Myerson and seconded by Bruce Russell to amend subsection (i) to add language allowing the president to serve on the performance review subcommittee or appoint a designee. The motion passed and Council adopted the proposed changes, as amended by the requisite two-third threshold required to amend the bylaws and approved sending the proposed changes to the Supreme Court. One (1) member Thomas Edmonds voted “no” verbally, and one (1) member Neil Talegaonkar voted “yes” verbally. All other members voted using the electronic Poll Everywhere voting tool. The electronic voting results are appended to these minutes.

F. Approval of Resolutions Honoring Stephanie E. Grana and Law Firm Cantor Grana Buckner Bucci, P. C.

Chidi James presented resolutions dated June 15, 2023 to Stephanie E. Grana to honor her for her outstanding service as the 84th president of the Virginia State Bar, and to Cantor Grana Buckner Bucci, P.C. to express gratitude to the members of the firm for their contributions to the Virginia State Bar. Copies of the resolutions were included in the materials provided Council. A motion was made by Michael York and seconded by Jay Myerson, to vote to approve both resolutions. The motion passed unanimously, and Council approved both resolutions. Council members verbally voted “yes” in favor of both resolutions.

At 12:04 p.m. the meeting was adjourned.

TAB 11



Virginia State Bar

1111 E. Main Street, Suite 700
Richmond, Virginia 23219-0026
Telephone: (804) 775-0500

To: The Virginia State Bar Executive Committee and Council

From: Janet P. Van Cuyk, Deputy Executive Director
Carter Younger, Chair, Senior Lawyers Conference
Craig E. Ellis, Chair, Young Lawyers Conference
Dillina Stickley, Chair, CLSBA

Date: October 13, 2023

Re: Proposed Changes the Bylaws of the Senior and Young Lawyers Conferences and to the Bylaws and Constitution of the Conference of Local and Specialty Bar Associations

This memorandum is to request approval by the Virginia State Bar (VSB) Executive Committee and Council of the proposed changes to the Bylaws of the Senior Lawyers Conference (SLC), the Bylaws of the Young Lawyers Conference (YLC), and the Bylaws and the Constitution of the Conference of Local and Specialty Bar Associations (CLSBA), as unanimously approved by each conferences' governing board and conferences. The proposed changed would do the following:

- *SLC:*
 - Reduces the quorum requirement for the transaction of business by the Board of Governors (BOG) from a majority of the voting members in attendance to three voting members.
 - Clarifies that members attending either physically or virtually may vote on actions before the BOG.
- *YLC:*
 - Reduces the quorum requirement for the transaction of business by the BOG from a majority of the members present to two members present.
 - Reduces the quorum requirement for the transaction of business by the Nominating Committee from at least fifty percent of the members appointed to three members.
 - Clarifies that members attending the BOG or conference meetings physically or virtually may vote on actions.

- *CLSBA*:
 - Combines the two separate governing documents, the Constitution and Bylaws, into the proposed bylaws with some technical changes but no substantive revisions other than those detailed below; repeals the Constitution.
 - Reduces the quorum requirement for the transaction of business by the Executive Committee from a majority to three voting members.
 - Sets the quorum requirement for the transaction of business for any subcommittee or other entity established by the Executive Committee at one member. Requires review and approval of any action by such groups to be approved by the Executive Committee to become effective.
 - Clarifies that members attending either physically or virtually may vote on actions before the Executive Committee.

The proposed changes to the specific provisions of each of the conferences Bylaws are further detailed in Attachment 1. The proposed new Bylaws for the CLSBA are Attachment 2.

I. Background

VFOIA does not establish a number or percentage of members that constitutes a quorum. The current bylaws of the conferences require a majority of the BOG or Executive Committee members to be assembled in person for business to be conducted. Given the geographic and occupational variations of members, these groups have had difficulty assembling a quorum which has interfered with their ability to conduct the business of the VSB. The proposed changes would allow greater flexibility in hosting hybrid meetings, which still require a quorum to be physically assembled.

The proposed changes would set the quorum requirement for meetings of the conferences governing bodies and clarify that attendance may be either virtually or in person. The changes would not impact other VFOIA requirements including, but not limited to, the posting of notice, allowance of public access and participation, and the taking of minutes.

II. Process and Public Comment

- *SLC*: The BOG approved the proposed changes unanimously on May 11, 2023, with notice sent to the membership thereafter. At the VSB Annual Meeting on June 17, 2023, the conference, after voting to waive the 60-day notice period, voted unanimously to approve the proposed changes.
- *YLC*: The BOG approved the proposed changes unanimously on February 18, 2023, with notice to the conference sent on May 25, 2023. At the VSB Annual Meeting on June 16, 2023, the conference voted unanimously to approve the proposed changes.
- *CLSBA*: The Executive Committee approved the proposed changes on May 4, 2023, with notice to the conference sent thereafter. At the VSB Annual Meeting on June 16, 2023, the conference voted unanimously to approve the proposed changes.

III. Conclusion

Council approval is required for the proposed changes as follows:

- *SLC*: Bylaws, Article 7 (Amendments), states “Amendments shall become effective upon adoption by the members and approval by the VSB Council.”
- *YLC*: Bylaws, Article IX (Amendment), states “no amendment so adopted shall become effective until approved by the Council upon recommendation of the Executive Committee of the Virginia State Bar.”
- *CLSBA*: Both the Bylaws, Article V (Amendments to Bylaws) and the Constitution, Article VIII (Effective Date and Amendments), state “no amendment so adopted shall become effective until approved by the Council upon recommendation of the Executive Committee of the Virginia State Bar.”

We respectfully request approval of the proposed changes to the Bylaws of the SLC, changes to the Bylaws of the YLC, changes to the Bylaws and repeal of the Constitution of the CLSBA, as stated herein and detailed in Attachments 1 and 2.

CONFERENCE BYLAWS PROPOSED CHANGES

Senior Lawyers Conference

SLC	Existing	Proposed 2023
Board of Governors Quorum	<p>Article 4: Board of Governors; § 4.4 Meetings, Subsection b:</p> <p>At each meeting a majority of the voting members of the Board of Governors in attendance shall constitute a quorum for the transaction of business. The vote of a majority of such members present shall be the act of the Board of Governors.</p>	<p>Article 4: Board of Governors; § 4.4 Meetings, Subsection b:</p> <p><i>Changes Tracked:</i> At each meeting a majority of the voting members of the Board of Governors, <u>three (3) voting members</u> in attendance shall constitute a quorum for the transaction of business. The vote of a majority of such members present, <u>either physically or virtually</u>, shall be the act of the Board of Governors.</p> <p><i>Clean Copy:</i> At each meeting of the Board of Governors, three (3) voting members of the Board of Governors in attendance shall constitute a quorum for the transaction of business. The vote of a majority of voting members present, either physically or virtually, shall be the act of the Board of Governors.</p>

Young Lawyers Conference

YLC	Existing Language	Proposed 2023
Committees of Board of Governors	<p>Article IV, Nominations of Officers and Boards, Section 1. Nominations:</p> <p>Quorum shall consist of at least fifty percent of those members appointed to the committee, and if less than a quorum is present, the President of the Conference shall appoint new members sufficient to constitute a quorum.</p>	<p>Article IV, Nominations of Officers and Boards, Section 1. Nominations:</p> <p><i>Changes Tracked:</i> Quorum shall consist of at least fifty percent of those <u>three</u> members appointed to the committee, and if less than a quorum is present, the President of the Conference shall appoint new members <u>of the conference to the Nominating Committee</u> sufficient to constitute a quorum.</p> <p><i>Clean Copy:</i> <i>Quorum shall consist of three members appointed to the committee, and if less than a quorum is present, the President of the Conference shall appoint new members of the Conference to the Nominating Committee sufficient to constitute a quorum.</i></p>

YLC	Existing Language	Proposed 2023
Annual Meeting/ Conference Membership Quorum	<p>Article VII, Meetings; Section 3. Actions:</p> <p>Action of the Conference shall be by a majority vote of the members present. Between meetings of the Conference, action of the Board of Governors shall be binding on the Conference without ratification thereby.</p>	<p>Article VII, Meetings; Section 3. Actions <u>of the Conference</u>:</p> <p><i>Changes Tracked:</i> Action of the Conference shall be by a majority vote of the members present. <u>For purposes of this section, members present shall include those individuals physically assembled and those individuals participating remotely.</u> Between meetings of the Conference, action of the Board of Governors shall be binding on the Conference without ratification thereby.</p> <p><i>Clean Copy:</i> Action of the Conference shall be by a majority vote of the members present. For purposes of this section, members present shall include those individuals physically assembled and those individuals participating remotely. Between meetings of the Conference, action of the Board of Governors shall be binding on the Conference without ratification thereby.</p>
Board of Governors Quorum	<p>Article VII. Meetings; Section 6. Quorum:</p> <p>A majority of the Board of Governors shall constitute a quorum.</p>	<p>Article VII. Meetings; Section 6. Quorum:</p> <p><i>Changes Tracked:</i> <u>Two members of the Conference physically present at any duly called meeting</u> A majority of the Board of Governors shall constitute a quorum <u>for the transaction of business. Unless otherwise specified, action by a majority of the members present shall be binding on the Conference.</u></p> <p><i>Clean Copy:</i> Two members of the Conference physically present at any duly called meeting shall constitute a quorum for the transaction of business. Unless otherwise specified, action by a majority of the members present shall be binding on the Conference.</p>
Board of Governors Voting	<p>Article VII. Meetings; Section 7. Voting:</p> <p>Action of the Board of Governors shall be by a majority vote of a quorum of the members present at any called meeting. Members of the Board of Governors, when personally present at a meeting of the Board, shall vote in person.</p>	<p>Article VII. Meetings; Section 7. Voting <u>Actions by the Board of Governors</u>:</p> <p><i>Changes Tracked:</i> Action of the Board of Governors shall be by a majority vote of a quorum <u>the members of the Board of Governors present at any called meeting.</u> <u>For purposes of this section, members present shall include those individuals physically assembled and those individuals participating remotely.</u> Members of the Board of Governors, when personally present at a meeting of the Board, shall vote in person.</p> <p><i>Clean Copy:</i> Action of the Board of Governors shall be by a majority vote of the members of the Board of Governors present at any called meeting. For purposes of this section, members present shall include those individuals physically assembled and those individuals participating remotely. Members of the Board of Governors, when personally present at a meeting of the Board, shall vote in person.</p>

Conference of Local and Specialty Bar Associations

CLSBA	Existing	Proposed 2023
Bylaws and Constitution	<p>Articles of the Constitution</p> <ul style="list-style-type: none"> I. Name and Purposes II. Membership III. Officers IV. Executive Committee V. Conference Representatives VI. Committees VII. Bylaws VIII. Effective Date and Amendments <p>Articles of the Bylaws</p> <ul style="list-style-type: none"> I. Meetings II. Officers III. Nominations and Elections IV. Appropriations and Expenses V. Amendments to Bylaws 	<p>Articles of the Bylaws</p> <ul style="list-style-type: none"> I. Name and Purposes II. Membership III. Officers IV. Executive Committee V. Conference Representatives VI. Committees VII. Meetings VIII. Officers IX. Nominations and Elections X. Appropriations and Expenses XI. Amendments to Bylaws <div style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p>The two separate governing documents, the Constitution and Bylaws, were merged into the proposed bylaws with some technical changes but no substantive revisions other than those detailed below. The Constitution is proposed to be repealed in its entirety.</p> </div>
Executive Committee Quorum	<p>Article IV, Conference Representatives; Section 5. Executive Committee Meetings</p> <p><i>A majority of the Executive Committee shall constitute a quorum.</i></p>	<p>Article IV, Executive Committee; Section 6. Executive Committee Quorum</p> <p><i>New Section and Text: At each meeting of the Executive Committee, three (3) voting members of the Executive Committee shall constitute a quorum for the transaction of business. The vote of a majority of voting members present, either physically or by electronic participation, shall be the act of the Executive Committee.</i></p>
Executive Subcommittee Quorum	-	<p>Article VI, Committees; Section 1: Committee Quorum</p> <p><i>At any meeting of any organizational structure or committee established by the Executive Committee or Chair pursuant to the powers set forth in this Article of these Bylaws, one (1) member shall constitute a quorum of said organizational structure or committee for the transaction or business. Any business by a committee under this Article requiring action or endorsement shall be submitted for review and approval to the Executive Committee as constituted pursuant to Article IV of these Bylaws.</i></p>

THE VIRGINIA STATE BAR
CONFERENCE OF LOCAL & SPECIALTY BAR ASSOCIATIONS

BYLAWS

ARTICLE I

Name and Purposes

Section 1. Name.

The name of this organization shall be “The Virginia State Bar Conference of Local & Specialty Bar Associations” (hereinafter “the Conference”).

Section 2. Purposes.

The Conference shall have as its purposes:

1. Establishment and maintenance of a mutually beneficial working relationship between the Virginia State Bar ("VSB") and local and specialty bar associations in Virginia.
2. Establishment and maintenance of lines of communication to provide for transmission of the input of local and specialty bar associations to the VSB on issues affecting the legal profession, as well as information from the VSB about its activities and policies to such associations in Virginia.
3. Coordination and cooperation between the VSB and local and specialty bar associations in improving the practice of law in Virginia and in enhancing the public understanding and appreciation of law and the legal profession.
4. Presentation of high-quality educational programs for leaders of local and specialty bar associations designed to facilitate the management of those associations and to provide a forum for the exchange of information and ideas about programs and policies.

ARTICLE II

Membership

Section 1. Eligibility.

Any local or specialty bar association in the Commonwealth of Virginia may be a member of the Conference.

Section 2. Joining.

Any local or specialty bar association may join the Conference, upon request, in writing, to the Executive Committee of the Conference or through the Executive Director of the VSB by supplying the names and addresses of its president and any other officers or staff.

Section 3. Termination of Membership.

Membership will be terminated upon the request of a local or specialty bar association or if the Executive Committee of the Conference determines that a local or specialty bar association has dissolved.

Section 4. Membership Records.

The official lists of member bar associations, the Conference officers, and the Conference representatives shall be maintained by the VSB.

ARTICLE III

Officers

The officers of the Conference shall be a Chair, Chair-elect, Immediate-Past Chair, Secretary, and Treasurer, all of whom shall be chosen from among the Conference Representatives as described in Article V.

Section 1. Terms of Office.

The Chair-elect shall be elected for a one (1)-year term at the Annual Meeting in the manner prescribed herein. The Chair-elect shall automatically succeed the Chair for a one(1) -year term.

All other officers shall be elected for one (1)-year terms, and they are eligible for re-election to three (3) successive terms.

Section 2. Vacancies.

If the office of Chair becomes vacant, the Chair-elect shall become Chair for the unexpired term. Such service shall not affect such person's becoming Chair of the Conference at the next Annual Meeting. If the Office of Chair-elect becomes vacant, that office shall be filled by the Executive Committee of the Conference.

ARTICLE IV

Executive Committee

Section 1. Members.

The Conference shall have an Executive Committee consisting of the Chair, Chair-elect, Immediate Past Chair, Secretary, Treasurer, and up to nine (9) at-large Conference Representatives from geographically diverse local or specialty bar associations of varying size not otherwise represented on the Executive Committee. The VSB Coordinator of Local and Specialty Bar Relations shall serve as an *ex officio* member of the Executive Committee. The Executive Committee shall plan the Conference's activities, represent the Conference, and manage the affairs of the Conference during intervals between meetings.

Section 2. Terms.

The members of the Executive Committee shall serve three (3)-year terms, and they are eligible for re-election to two (2) successive terms.

Section 3. Selection.

The nine (9) at-large representatives shall be selected for the following year by the membership of the Conference at the Annual Meeting. At-large representatives shall be chosen from among the Conference Representatives as described in Article V, and may serve on the Executive

Committee for a maximum of two (2) consecutive three (3)-year terms.

Section 4. Vacancies.

The Executive Committee shall have the authority to fill, from among the Conference representatives, any vacancies, except that of Chair. Such appointees shall hold office for the balance of any unexpired term.

Section 5. Executive Committee Meetings.

The Executive Committee shall meet at least twice a year, in conjunction with the Conference's Annual Meeting and Educational Program. Additional meetings may be called by the Chair or upon written request of any two members of the Executive Committee.

Section 6. Executive Committee Quorum.

At each meeting of the Executive Committee, three (3) voting members of the Executive Committee shall constitute a quorum for the transaction of business. The vote of a majority of voting members present, either physically or by electronic participation, shall be the act of the Executive Committee.

ARTICLE V

Conference Representatives

Each member bar association shall choose, at its discretion either by election by its membership or by selection by its governing body, one of its members to represent it in the Conference. If no such representative is elected by a member association, the current President of such an organization shall be deemed the representative. Those representatives shall be called "Conference Representatives" and shall serve three (3)-year terms. In addition, Executive Directors of local and specialty bar associations and current local and specialty bar association presidents are encouraged to attend Conference meetings. Nothing in this section is intended to discourage other local or specialty bar officers or interested persons from attending Conference functions.

ARTICLE VI

Committees

The Chair shall have the power to appoint the chairs and members of such standing or special committees as the Chair or the Executive Committee may establish. To the extent funds are available, committee expenses shall be paid from the budget of the Conference. All committee appointments shall be for a term of three (3) years, commencing with the Annual Meeting.

Section 1: Committee Quorum

At any meeting of any organizational structure or committee established by the Executive Committee or Chair pursuant to the powers set forth in this Article of these Bylaws, one (1) member shall constitute a quorum of said organizational structure or committee for the transaction or business. Any business by a committee under this Article requiring action or endorsement shall be submitted for review and approval to the Executive Committee as constituted pursuant to Article IV of these Bylaws.

ARTICLE VII

Meetings

Section 1. Annual Meeting.

The Annual Meeting of the Conference shall be held during the Annual Meeting of the VSB. At the meeting, annual reports of all officers and committees shall be delivered and officers shall be elected.

Section 2. Special Meetings.

Special meetings of the Conference may be called by the Chair, by a majority of the Executive Committee, or by the written request of any ten (10) Conference Representatives. Local and specialty bar associations shall have at least twenty (20) days written notice of the time, place, and object of a Special Meeting.

Section 3. Quorum.

At all meetings Conference Representatives from one-third of the local and specialty bar associations, or twenty (20) Conference Representatives, whichever is fewer, shall constitute a quorum for the transaction of business. The latest edition of Robert's Rules of Order shall govern the proceedings.

Section 4. Order of Business.

At the Annual Meeting the order of business shall be as follows:

1. Report of the Chair
2. Report of the Chair-elect
3. Report of the Immediate Past Chair
4. Report of the Secretary
5. Report of the Treasurer
6. Reports of the Committees
7. Old Business
8. New Business
9. Election of Officers

Section 5. Educational Program.

The Conference will sponsor an annual educational program which will focus on the education and training of local and specialty bar leaders. The Executive Committee shall consider geographic diversity in choosing locations. The Conference will request from the VSB MCLE Board that all attendees receive Virginia MCLE credit for the actual hours spent in educational sessions which meet the criteria for approval established by the MCLE Board.

ARTICLE VIII

Officers

Section 1. Chair.

The Chair shall preside at all meetings of the Conference and meetings of the Executive Committee. The Chair shall perform all duties ordinarily incident to the office, and pursuant to Part 6, Section IV, Paragraph 5 of *the Rules of the Supreme Court of Virginia*, shall serve as an *ex officio*

member of the Virginia State Bar Council.

Section 2. Chair-elect.

The Chair-elect shall act as Chair in the absence of the Chair and shall perform such other duties as may be assigned by the Chair.

Section 3. Immediate Past Chair.

The Immediate Past Chair shall be a voting *ex-officio* member of the Executive Committee and shall perform such duties as may be assigned by the Chair or the Executive Committee.

Section 4. Secretary.

The Secretary shall keep minutes of meetings, send out notices, shall be custodian of correspondence files, and shall perform such other duties as may be assigned by the Chair or the Executive Committee. The Secretary may be assisted in performing these duties by the VSB's Coordinator of Local & Specialty Bar Relations.

Section 5. Treasurer.

The Treasurer shall annually submit a budget request approved by the Executive Committee to the VSB, shall report at the Annual Meeting of the Conference on budgetary matters, and shall perform such other duties as may be assigned by the Chair or the Executive Committee. The Treasurer may be assisted in performing these duties by the VSB's Coordinator of Local and Specialty Bar Relations.

ARTICLE IX

Nominations and Elections

Section 1. Nominations.

The Chair, Chair-elect, and Immediate Past Chair shall assemble not less than one month before the next Annual Meeting of the Conference to constitute the Nominating Committee. This

committee will select candidates for the offices of Chair-elect, Secretary, and Treasurer, and up to nine (9) at-large representatives on the Executive Committee and will report those names to the Secretary. The Secretary will circulate the nominating committee report to all Conference Representatives at least twenty (20) days before the Annual Meeting. Additional nominations may be made from the floor by any Conference Representative during the Annual Meeting.

Section 2. Elections.

The Chair-elect, Secretary, Treasurer, and at-large representatives on the Executive Committee shall be elected at the Annual Meeting by a majority of the Conference Representatives present at the meeting.

ARTICLE X

Appropriations and Expenses

Section 1. Fiscal Year.

The fiscal year of the Conference shall be the same as that of the VSB.

Section 2. Funds.

Funds for the Conference shall come from contributions from the VSB and from any other appropriate source. The Conference, through its Treasurer, must submit a budget request for the following fiscal year to the VSB by March 1. That budget may be as detailed as necessary but must include at least line items for travel, lodging, printing, mailings, and each separate Conference project. All bills incurred by the Conference shall be approved by the Chair or by the designated representative of the Chair prior to being forwarded to the fiscal officer of the VSB for payment.

Section 3. Impact Statement.

The Chair shall file an impact statement form with the VSB Coordinator of Local & Specialty Bar Relations before undertaking any new project requiring VSB staff support or other

resources.

Section 4. Compensation.

No salary or compensation shall be paid to any officer or member of the Conference for their services, except for such necessary travel or other expenses as are allowed by the VSB from Conference funds.

Section 5. Liability.

Any liability incurred by a Conference officer or committee in excess of the appropriation authorized in the annual budget shall be the personal liability of the person or persons responsible for incurring or authorizing the expenditure.

ARTICLE XI

Amendments to Bylaws

Bylaws may be adopted, amended, or rescinded by a majority vote of the Conference Representatives present and voting at a Conference Meeting provided that written notice of such proposed action shall have been given in writing to all local and specialty bar associations twenty (20) days in advance of the meeting at which time the vote is to be taken. Any proposed amendment(s) shall first have been approved by a majority of the Executive Committee of the Conference of Local & Specialty Bar Associations and provided, further, that no amendment so adopted shall become effective until approved by the Council upon recommendation of the Executive Committee of the Virginia State Bar.

TAB 12



Virginia State Bar

1111 E. Main Street, Suite 700
Richmond, Virginia 23219-0026
Telephone: (804) 775-0500

To: The Virginia State Bar Executive Committee and Council

From: Janet P. Van Cuyk, Deputy Executive Director
Joanna Suyes, Chair, Access to Legal Services Committee

Date: October 13, 2023

Re: Virginia State Bar Bylaws' Proposed Changes Regarding Committee and Board Quorum Requirements

This memorandum is to request approval by the Virginia State Bar (VSB) Executive Committee and Council of the proposed changes to the VSB Bylaws and the Bylaws of the Council of the VSB (collectively, Bylaws), as unanimously approved by the VSB's Access to Legal Services Committee (Committee). The proposed Bylaw changes would (i) reduce the current VSB committee, subcommittee, and board quorum requirement to a minimum of three members or a majority if the membership is less than four; (ii) require a vote of a majority of members of any committee, subcommittee, or board for action to be taken; and (iii) remove a provision that is inconsistent with the Virginia Freedom of Information Act (VFOIA). The proposed changes are provided in Section II below.

The proposed changes would impact all VSB committees, subcommittees, and boards, unless the quorum requirements are specifically provided elsewhere.¹

I. Background

VFOIA does not establish a number or percentage of members that constitutes a quorum. It does provide that a public meeting occurs whenever three or more members of a public body are gathered for the purpose of discussing or transacting public business.² The current Bylaws require a majority of Committee members to be assembled in person for business to be conducted, except for the statutorily allowed all-virtual meetings.³ Given the geographic and occupational variations of members, the Committee and other VSB committees and boards have had difficulty assembling

¹ E.g., The VSB Council quorum is provided for in the Rules of the Supreme Court of Virginia (Part 6, Section IV, Paragraph 7) and is set at 20; the VSB Disciplinary Board has a quorum of 5 members (Part 6, Section IV, Paragraph 13-6 (D)); and the District Committee's panel quorum is 5 (Part 6, Section IV, Paragraph 12-4 (B)).

² *Va. Code* § 2.2-3701.

³ *Va. Code* § 2.2-3708.3.

a quorum which has interfered with their ability to conduct the business of the VSB. The proposed changes would allow greater flexibility in hosting hybrid meetings, which still require a quorum to be physically assembled.

These changes would:

- (i) Reduce the current VSB committee, subcommittee, and board quorum requirement from a majority of voting members to three or more or a majority for committees/subcommittees with four or fewer members;
- (ii) Require an affirmative vote of a majority of voting members for action to be taken by the committee or board; and
- (iii) Remove a provision that is inconsistent with VFOIA.

These proposed changes would impact all VSB committees, subcommittees, and boards unless the committee or board has a specific quorum established by statute or Rule.

The proposed changes would set the quorum requirement for a meeting to three individuals or a majority if the membership is fewer than four. The three-member requirement is consistent with the VFOIA provision making any assemblage of three members of a public body discussing public business a public meeting. The changes would not impact other VFOIA requirements including, but not limited to, the posting of notice, allowance of public access and participation, and the taking of minutes. The proposed changes include a procedural protection against a small proportion of a committee or board acting without full committee or board consideration. They would require a vote of *the majority of the total members* of a committee for action to be taken; the majority no longer must be physically located in the same place but must vote affirmatively for action to be taken.

II. Amended Proposed Bylaw Changes

Virginia State Bar Bylaws

Article V – Committees

Sec. 2.

~~A majority of any committee shall constitute a quorum. Three (3) voting members of a committee, subcommittee, or other entity or a majority if the membership is less than four (4) constitute a quorum for the transaction of business.~~

The vote of a majority of the total members of the committee, subcommittee, or other entity is necessary for the adoption of any matter.

Bylaws of the Council of the Virginia State Bar

Article IX – ~~Votes by Mail or Telephone~~ [repealed]

~~By unanimous consent of the members of any committee, all questions before such committee may be settled by mail ballot or telephone call.~~

III. Process and Public Comment

On July 25, 2023, the Committee voted unanimously to amend the Bylaws quorum requirement and remove antiquated language that contradicts VFOIA. Thereafter, the proposed changes were open for public comment from July 28, 2023, through September 11, 2023. The notice of the public comment period was posted on the VSB website on July 28, 2023, and was included in the VSB News monthly emails sent on July 31, 2023, and August 31, 2023. It also was covered in a Virginia Lawyers Weekly (VLW) article during the week of August 7, 2023, and was a featured article in VLW's daily alert email on August 29, 2023. During the public comment period, three individuals submitted written comments.

- Donna Linton, Amicus Reporting, LLC, suggests Article V, Section 2 include the modifier of "At least" before the enumeration of the quorum and that "51 percent" be included to define the majority vote.
- Thomas Shaia, in his individual capacity, objects to the proposed changes to Article V, Section 2. He opposes the Bylaws allowing two people, a majority of the three-person quorum, to have the ability to act on behalf of the committee as a whole. Note: Per Mr. Shaia, "most if not all" of his concerns were resolved through subsequent communications.
- Henry Su supports the proposed changes and raises the concern that the proposed changes might impede the efficient and effective work of subcommittees that consist of three members as all three individuals would be required to meet in person. He does not think that subcommittee business needs to be subject to a quorum requirement and recommends deleting "subcommittee" from the proposed language.

In reviewing the public comments, the Committee recommended one substantive change to the proposed amendments which would allow for subcommittees with three members to have a two-person quorum.⁴ The amendment was adopted unanimously by the Committee.

IV. Conclusion

The Bylaws, Section on Amending Bylaws, requires any amendments to be considered at a regular meeting of the Council with 30 days' notice of the proposed amendment to all VSB members. An affirmative vote of two-thirds of the Council members present and voting is required for any Bylaws changes to be adopted.

We respectfully requests approval of the proposed changes to the Virginia State Bar Bylaws and the Bylaws of the Council of the Virginia State Bar, to become effective upon the date of approval.

⁴ The Committee reviewed what is allowable as the lowest quorum requirement under VFOIA, which is two members. The VFOIA Advisory Council Opinion AO-12-08 advises that a single person cannot comprise a public body, at least for meeting purposes.

From: [Van Cuyk, Janet](#)
To: [Van Cuyk, Janet](#)
Subject: Proposed bylaw amendment language
Date: Tuesday, September 12, 2023 4:05:21 PM

From: Amicus Reporting, LLC <amicusreporting@aol.com>
Sent: Tuesday, August 15, 2023 9:39 AM
To: publiccomment <PublicComment@vsb.org>
Subject: EXTERNAL SENDER Proposed bylaw amendment language

What is proposed as of now by VA State Bar.

Virginia State Bar Bylaws

Article V – Committees

Sec. 2.

~~A majority of any committee shall constitute a quorum. Three (3) voting members of a committee, subcommittee, or other entity constitute a quorum for the transaction of business.~~

The vote of a majority of the total members of the committee, subcommittee, or other entity is necessary for the adoption of any matter.

Suggestion:

Virginia State Bar Bylaws

Article V – Committees

Sec. 2.

~~A majority of any committee shall constitute a quorum. At least three (3) voting members of a committee, subcommittee, or other entity constitute a quorum for the transaction of business.~~

The vote of a majority of the total members, 51 percent, of the committee, subcommittee, or other entity is necessary for the adoption of any matter.

Donna L. Linton, RDR-RMR-CCR-CLR
Amicus Reporting, LLC
Office/Fax: 703-729-2536
Cellphone: 703-501-4320
www.amicusreporting.org
amicusreporting@aol.com

IF YOU REQUIRE A TRANSCRIPT FOR APPEAL, WE NEED AT LEAST THREE WEEKS' NOTICE.

Sent from [AOL Desktop](#)

FROM THE DESK OF THOMAS SHAIAS
TGSHAIA@ICLOUD.COM

August 20, 2023

Janet P. Van Cuyk
Deputy Executive Director
Virginia State Bar
via email: publiccomment@vsb.org

RE: Public Comment to proposed change to Article V, Section 2 of the Bylaws

Dear Ms. Van Cusk,

I am writing in my individual capacity to object to the proposed change to Article V, Section 2 of the Bylaws.

The proposed change is simply to change a quorum for any Committee to 3 voting members and to re-enforce that a majority vote is necessary to adopt any proposal. There are several reasons why I am opposed to this change:

1. It allows 2 people of **any** Committee, subcommittee, or other entity, to change or adopt any matter before that committee.. That includes the Executive Committee, District Committees, standing committees, and any other special committee. While one would think that the Executive Committee or Budget Committee would be very reluctant to exercise this extraordinary power at any given time, there is no guarantee that it will not happen. Imagine, 2 people coming up with the Budget for the Bar? 2 people deciding a LEO? 2 people deciding whether an attorney, at the district committee level, has violated the ethical rules AND bar them from practice? 2 people exercising all of the power of the Executive Committee? This reason alone should encourage people to stop this proposal from moving forward.

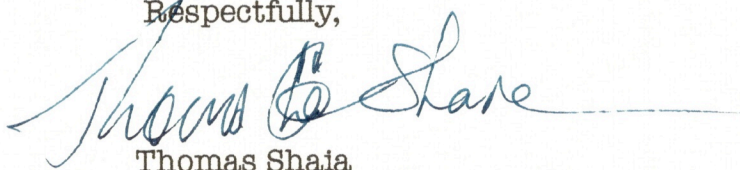
2. The change allows for a quorum of 3 voting members from any "other entity". We are a group of lawyers and it would not be hard to apply the "other entity" clause to Council itself. In fact, the wording contradicts that of Article IV section 2 and Section 5 of the bylaws. While I am personally not sure exactly what else could fit under the "other entity" clause, that part of the change should be struck or re-defined to make the clause much more specific.

3. The change allows a majority vote when only 3 people are present. Most of the committees appear to have at least 10 or more people assigned. Allowing 1/5th of the Committee members decide an issue that is set forth in front of the entire committee seems inappropriate at best. In fact, taking a "very negative"

approach, such a rule could be used to stifle the very diversity in which the Bar is striving to protect and enhance. At the very least the voting should be changed that if a minimum of the quorum is present, the vote must be unanimous. If a proposal can't gain the interest of less than 1/3 of the committee, it really should not be adopted.

Thank you for your time.

Respectfully,

A handwritten signature in blue ink that reads "Thomas Shaia". The signature is fluid and cursive, with a long horizontal line extending to the right.

Thomas Shaia

From: Thomas Shaia
To: Van Cuyk, Janet
Subject: Re: Public Comment to Article V Section 2
Date: Monday, August 28, 2023 10:36:46 AM

Good Morning Ms. Van Cuyk,

Thank you very much for your detailed explanation. The explanation does solve most if not all of the issues. The only question that I can see raised as to the voting is whether it is meant to say "members then present" or all of the members of the committee. But this is nit picky and probably does not need to be addressed.

While "other entity" still bothers me a bit, the explanation regarding the majority of total members alleviates this problem.

Thank you for the full explanation.

Tom

On Aug 22, 2023, at 4:03 PM, Van Cuyk, Janet <IVanCuyk@vsb.org> wrote:

Good afternoon Mr. Shaia,

Thank you so much for your comments regarding the Virginia State Bar Bylaws' Proposed Changes Regard the Committee and Board Quorum Requirements. I would like to directly address some of your concerns to see whether they may be resolved and, if needed, would love to schedule a follow up telephone call or meeting.

- **Background:** The changes were recommended by the Access to Legal Services Committee (Access Committee) to increase the ability to use "hybrid" meetings as allowed under the Virginia Freedom of Information Act (VFOIA). Given the geographical diversity of the Access Committee members, they had to cancel several meetings due to failure to have a majority quorum. When we checked with other VSB committees, many others were having the same problem (e.g., Bench-Bar Relations Committee, Better Annual Meeting). Under FOIA, there are three types of meeting in-person, hybrid, and all-virtual. Both in-person and hybrid require an in-person quorum (however defined by the public body) to be assembled in one central place. This is not required for all-virtual meetings but those are restricted to two per calendar year which may not be held in succession.
- **Proposal:** When the request to review the bylaws regarding the majority quorum requirement was suggested, it was originally rejected for the exact reasons stated in your letter (it would be absurd to have two members of a committee making decisions for the whole). We checked with the VFOIA Advisory Council on whether it was possible to have different quorum (in-person attendance) and voting thresholds to which there was not an objection. Given this advice, we added to the proposal the procedural protection that any action of the body requires *"the vote of the majority of the total members"* of the body (emphasis added) – which would, actual, *raise the voting threshold from the majority of the members present to the majority of all members of the committee, etc.*
 - Committees can meet and discuss action with less than a majority present, they may not take action without a majority affirmative vote. As such, before, action could be taken by a majority of the majority. Under the proposed changes, regardless of the number of members present to make the quorum, no action can be taken without a majority voting in favor.
 - For example, the Access Committee has 15 members. Under the current bylaw provisions, 8 members are required to meet in-person in one location for an in-person or a hybrid meeting to be held. Once the majority in-person quorum is established, the Access Committee can take action by a simple majority vote of the members in attendance. Thus, if there were 9 members present; action may be taken by the affirmative vote of 5. Under the proposed changes, 3 members are required to meet in-person in one location for an in-person or a hybrid meeting to be held. Once the quorum of 3 in-person members is established, a majority of the entire committee must vote affirmatively for action to be taken. Thus, for the Access Committee, 3 members must meet in person to discuss public business. To take action, there must be an affirmative vote of 8 members (a majority of the whole). Thus, if an Access Committee has a total of only 7 members present, they can discuss public business but cannot take any action on behalf of the committee.
- **VFOIA Impact:** VFOIA is silent on what constitutes a quorum – thus we are able to address it in the bylaws. All meetings of any committee or board is still required to comply with the VFOIA posting and notice, public access, and minutes requirements. Chairs, at their discretion can require all meetings to be in-person if desired (the Budget committee has so stated).
- **"Other Entity" Quorum Requirements:** The "other entity" language was borrowed from the VFOIA statute and the general language of "committee, subcommittee, or other entity" in proposed in the bylaws would not supersede any more specific quorum requirements. Council quorum is provided for in the Rules of the Supreme Court of Virginia (Part 6, Section IV, Paragraph 7) and is set at 20; the Disciplinary Board has a quorum of 5 members (Part 6, Section IV, Paragraph 13-6 (D)); and the District Committee's panel quorum is 5 (Part 6, Section IV, Paragraph 12-4 (B))

I hope this address some of the concerns detailed in your August 20, 2023 public comment. If not, it would be great to set up a call or meeting to discuss further. In no way, are the proposed changes intended to allow 2 people of any committee to change or adopt any matter before that committee. If you have proposed amendments, please let me know.

Thanks so much for your time.
~Janet

 Janet P. Van Cuyk, Deputy Executive Director
Virginia State Bar
1111 East Main Street, Suite 700 | Richmond, Virginia 23219-0026
(804) 775-0553 | www.vsb.org | jvancuyk@vsb.org

Janet P. Van Cuyk, Deputy Executive Director
Virginia State Bar
1111 East Main Street, Suite 700 | Richmond, Virginia 23219-0026
(804) 775-0553 | www.vsb.org | jvancuyk@vsb.org

-----Original Message-----

From: Tom Shaia <tomshaia@yahoo.com>
Sent: Sunday, August 20, 2023 2:08 PM
To: publiccomment <PublicComment@vsb.org>
Subject: EXTERNAL SENDER Public Comment to Article V Section 2

Ms. Van Cuyk,
Please see the attached letter in opposition.

Thank you!

Tom Shaia

<Proposed Bylaw .Changes.docx>

Henry C. Su
200 Massachusetts Ave., N.W.
Washington, DC 20001-1429
(650) 430-2754
ronin.trial.lawyer@gmail.com

August 30, 2023

Via Email

Janet P. Van Cuyk, Esq.
Deputy Director
Virginia State Bar
1111 East Main St.
Suite 700
Richmond, VA 23219-0026
publiccomment@vsb.org

Re: Comments on the Proposed Amendments to Article V, Section 2, of the VSB Bylaws and Article IX of the Bylaws of the VSB Council (July 28, 2023)

Dear Ms. Van Cuyk:

As an active member of the Virginia State Bar and a sitting member of the Standing Committee on Access to Legal Services (ALS Committee), I write to express my support for the proposed amendments to Article V, Section 2, of the VSB Bylaws and Article IX of the Bylaws of the VSB Council (July 28, 2023), which have been published online [here](#).

Specifically, reducing the minimum quorum requirement from a majority of voting members to three ensures that the ALS Committee will be able to transact business even if some of its members are unable to travel to Richmond from their respective locations within the Commonwealth. Presently, a full *two-thirds* (i.e., ten) of the ALS Committee's [fifteen members](#) live and work outside of the Richmond-Petersburg area, and therefore must travel some distance to attend our meetings. Accordingly, we sometimes struggle to ensure that we will satisfy the current minimum quorum requirement (i.e., eight voting members) for a given meeting. At the same time, the current makeup of the ALS Committee is wholly consistent with the Bar's stated goal of seeking balance and diversity in [committee membership](#), including *diversity of geography*. It therefore makes complete sense to reduce the minimum quorum requirement so that the Bar can continue to draw committee members from all corners of the Commonwealth.

However, the proposed amendments raise a *new concern* (inadvertently, in my view). They seek to replace the current text of Article V, Section 2 ("A majority of any committee shall constitute a quorum.") with new text that reads: "Three (3) voting members of a committee, *subcommittee*, or other entity constitute a quorum for the transaction of business." (Emphasis added.) Simply put, the amended bylaw would subject *subcommittees* as well as committees to a minimum quorum requirement, even though the current bylaw applies only to committees. But subcommittees, by their very nature, are usually comprised of a subset of a committee's total voting members. To take an extreme example, suppose that a subcommittee is comprised of only three of a committee's voting members, and those three members happen to live and work in Abingdon, Alexandria, and Norfolk, respectively. All of them would have to travel to Richmond for a subcommittee meeting; otherwise, there would be no quorum and hence no ability for the subcommittee to transact business. This

Janet P. Van Cuyk, Esq.

Deputy Director

Page 2

scenario seems like an unintended result of the proposed amendments. Perhaps "subcommittee" could be deleted from the proposed language?

Thank you for receiving and considering these comments. I am happy to answer any questions that the Bar may have.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Henry C. Su", with a stylized flourish extending to the right.

Henry C. Su

VSB No. 32871

From: [Henry Su](#)
To: [Gantz, Crista](#)
Cc: [Van Cuyk, Janet](#); [publiccomment](#); [Daniel, Sylvia](#)
Subject: Re: EXTERNAL SENDER Comments on the Proposed Amendments to Article V, Section 2, of the VSB Bylaws and Article IX of the Bylaws of the VSB Council (July 28, 2023)
Date: Wednesday, August 30, 2023 11:12:04 AM

P.S. -- Assuming that this thread becomes part of the public comment thread as well, let me add that I don't think subcommittee business needs to be subject to a quorum requirement. Subcommittees greatly benefit from more flexibility to meet when and where as needed, and any subcommittee output that ultimately merits full committee consideration will be put on the committee meeting agenda and subject to the bylaw's requirements for quorum and adoption.

--Henry

On Wed, Aug 30, 2023 at 10:17 AM Gantz, Crista <cgantz@vsb.org> wrote:

Thank you, Henry!



Crista Gantz, Director of Access to Legal Services

Virginia State Bar
1111 East Main Street, Suite 700 | Richmond, Virginia 23219-0026
(804) 775-0522 | Fax (804) 775-0501
www.vsb.org | cgantz@vsb.org

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From: Henry Su <henry.c.su@gmail.com>
Sent: Wednesday, August 30, 2023 9:56 AM
To: Van Cuyk, Janet <JVanCuyk@vsb.org>
Cc: publiccomment <PublicComment@vsb.org>; Daniel, Sylvia <SDaniel@vsb.org>; Gantz, Crista <cgantz@vsb.org>
Subject: Re: EXTERNAL SENDER Comments on the Proposed Amendments to Article V, Section 2, of the VSB Bylaws and Article IX of the Bylaws of the VSB Council (July 28, 2023)

You're welcome, Janet. --Henry

On Wed, Aug 30, 2023 at 7:05 AM Van Cuyk, Janet <JVanCuyk@vsb.org> wrote:

Thank you for your comments Henry. Have a great morning.

~ Janet

Janet Van Cuyk, Deputy Executive Director

Virginia State Bar

From: Henry Su <henry.c.su@gmail.com>
Sent: Wednesday, August 30, 2023 1:47 AM
To: publiccomment <PublicComment@vsb.org>; Van Cuyk, Janet <JVanCuyk@vsb.org>
Cc: Daniel, Sylvia <SDaniel@vsb.org>; Gantz, Crista <cgantz@vsb.org>
Subject: EXTERNAL SENDER Comments on the Proposed Amendments to Article V, Section 2, of the VSB Bylaws and Article IX of the Bylaws of the VSB Council (July 28, 2023)

Dear Janet,

Good evening. Please see the attached letter. Thank you very much.

Best,

Henry

TAB 13

Virginia State Bar

1111 E. Main Street, Suite 700
Richmond, Virginia 23219-0026
Telephone: (804) 775-0500

To: The Virginia State Bar Council

From: Joanna Suyes, Chair, Access to Legal Services Committee

Date: September 19, 2023

Re: Approval of VSB Legislative Activity to Support Efforts to Improve the Quality of Legal Services Provided by Court-Appointed Parents' Counsel

This memorandum is to request approval by the Virginia State Bar (VSB) Executive Committee and Council for VSB leadership to engage in legislative activity, pursuant to Section IV, Part 6, Paragraph 9(J) of the Rules of the Supreme Court of Virginia,¹ in the 2024 General Assembly Session. Pursuing the proposed legislative activity was unanimously approved by the Access to Legal Services Committee (Committee) and supports the [recommendations](#) of the Virginia Child Dependency Legal Representation Workgroup (Workgroup) to improve the quality of legal services provided by court-appointed counsel in child dependency cases.

I. Background

Providing quality legal services to parents involved in child dependency cases is essential for ensuring due process for parents facing removal of a child or termination of parental rights.² Virginia pays court-appointed parents' counsel at the lowest rate of any state in the country, and the rate has not been raised in 23 years. The fee is capped at \$120 per hearing/\$158 for

¹ Section IV, Part 6, Paragraph 9(J) of the *Rules of the Supreme Court of Virginia* authorizes the VSB to engage in legislative activity concerning: the regulation of the legal profession; budget appropriations for the Virginia State Bar, the judicial system, the administrative adjudicatory system, or legal aid societies; the availability of legal services to the public; qualifications and standards for admission to the Bar; the endorsement of judicial candidates or candidates for administrative appointments on a nonpartisan, merit basis; improvements to the quality of the legal services made available to the public; reforms in judicial procedure or the judicial system that are intended to improve the quality and fairness of the system; and any other matters within the scope of Paragraph 9(J).

² Child dependency cases involve children who have been alleged to have been abused or neglected and/or who have entered foster care. Court proceedings on these cases include emergency removal order hearings, preliminary removal hearings, preliminary child protective order hearings, adjudicatory hearings, dispositional hearings, foster care review hearings, permanency planning hearings, and termination of parental rights hearings.

termination of parental rights hearing.³ These complicated cases require time, training, and experience yet judges have reported difficulty finding attorneys to assist as fewer attorneys are opting onto the court-appointed lists and some are dropping off. In a press release dated October 3, 2023, the Supreme Court of Virginia announced that it had raised fees for compensating court-appointed counsel in appeals of terminations of parent rights cases with comments from Chief Justice Goodwyn noting the importance of adequate compensation.⁴

In line with the VSB's mission: (i) high-quality family legal representation has been proven to reduce time in foster care,⁵ demonstrating a positive public protection and (ii) increasing the compensation of court-appointed counsel is anticipated to increase the number of attorneys taking on this work and advancing access to legal services. When attorneys invest adequate time and resources throughout representation, it bolsters competency and allows for zealous advocacy, resulting in better outcomes for families and improved quality of representation in the interest of both public protection and regulation of the profession.

The VSB has previously supported raising reimbursement rates for court-appointed counsel, that time in criminal cases. In 2004 to 2008, the VSB formally supported raising the fee cap in misdemeanor cases from \$120 to \$240. The VSB-led Indigent Defense Task Force's recommendations were unanimously adopted by Council. Following Council's approval, the 2007-08 VSB President wrote a letter to then-Governor Warner asking him to include the fee increase measure in his submitted budget. According to Representative Campbell, the VSB's endorsement of proposed policy and budgetary action was the most impactful support that led to securing the compensation increase in 2008.

II. Proposed Action

On August 31, 2023, the Committee voted unanimously to request VSB leadership's support of the Workgroup recommendations to improve the quality of legal representation in child dependency cases. Specifically, the Committee is asking Council to authorize the VSB, with the approval of the Supreme Court of Virginia, to support policy, budgetary, and related legislative action to:

- i. Increase compensation, from the current rate of \$90/hour with a cap of \$120 per petition, for court-appointed legal counsel for parents in certain child-dependency cases;
- ii. Establish a state-level commission or similar office to provide support, training, qualification, practice standards, and oversight for court-appointed counsel for parents in certain child-dependency cases; and

³ Unfortunately, a fee cap waiver is not available in parent defense cases. Two efforts – one in 2015 and one in 2020 – that would have applied the waiver failed in House Appropriations, though the substantive idea of the waiver passed their respective committees (House Courts, Senate Judiciary, Senate Finance).

⁴ Chief Justice S. Bernard Goodwyn said, "Court-appointed counsel serve a vital role in our appellate justice system. This adjustment continues the commitment of Virginia's appellate courts to ensure that court-appointed counsel are adequately compensated for their services."

⁵ In addition to promoting family stability, the proposed legislative action will not be cost-prohibitive. The federal government will match 25% of the cost to increase court-appointed parents' counsel compensation. With the federal offset, it would cost \$8 million in additional state funds which likely would be further offset by reduced foster care costs.

- iii. Appropriate funds to establish and launch pilot multidisciplinary offices for certain child dependency cases and parents' defense, to serve diverse jurisdictions of the Commonwealth.

III. Process and Public Comment

On August 31, 2023, the Committee voted unanimously to support the Workgroup's recommendations and to request VSB leadership's support of related legislative activity. Notice of the public comment period was posted on the VSB website on September 14, 2023, and was open for public comment through October 9, 2023. The bar received 17 comments, all in favor of advancing the recommendations of the Workgroup.

IV. Conclusion

The Committee now seeks Council approval of legislative action to improve the availability and quality of legal services provided to the public on child dependency cases, consistent with the VSB mission to protect the public, regulate the profession, advance access to legal services, and improve the judicial system and the legal profession.

The Committee respectfully requests the Executive Committee and Council to authorize the VSB, with the approval of the Supreme Court of Virginia, to support policy, budgetary, and related legislative activity to improve the availability and quality of legal services provided to the public by court-appointed parents' counsel.

Attachments:

1. Virginia State Bar public comment request as posted on the posted on VSB website.
2. Public comments received.
3. Pree release from the Supreme Court of Virginia dated October 3, 2023.



Virginia State Bar

An agency of the Supreme Court of Virginia

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September 14, 2023

VSB Seeks Comment on Legislative Activity

The Virginia State Bar (VSB) is seeking public comment on proposed VSB engagement in legislative activity, pursuant to Section IV, Part 6, Paragraph 9(J) of the Rules of the Supreme Court of Virginia, in the 2024 General Assembly Session.

On August 31, 2023, the Access to Legal Services Committee (Access Committee) voted unanimously to request VSB leadership's support of the [recommendations](#) of the Virginia Child Dependency Legal Representation Workgroup, as convened by the Office of the Children's Ombudsman, to improve the quality of legal representation in certain child dependency cases. At the October 13, 2023, VSB Council meeting, the Access Committee will request Council to authorize the VSB, with the approval of the Supreme Court of Virginia, to support policy, budgetary, and related legislative activity as follows:

1. Increase compensation, from the current rate of \$90/hour with a cap of \$120 per petition, for court-appointed legal counsel for parents in certain child-dependency cases;
2. Establish a state-level commission or similar office to provide support, training, qualification, practice standards, and oversight for court-appointed counsel for parents in certain child-dependency cases; and
3. Appropriate funds to establish and launch pilot multidisciplinary offices for certain child dependency cases and parents' defense, to serve diverse jurisdictions of the Commonwealth.

Comment

Any individual, business, or other entity may submit written comments in support of or in opposition to the proposed amendments with Crista Gantz, Director of Access to Legal Services of the Virginia State Bar, by close of business October 9, 2023. Comments may be submitted via email to publiccomment@vsb.org.

From: Elana Strom <elana@elanastrom.com>
Sent: Wednesday, October 4, 2023 1:09 PM
To: publiccomment <PublicComment@vsb.org>
Subject: EXTERNAL SENDER increased pay and support

Yes, please!

Those of us who represent parents in foster care cases, for example, are underpaid and in need of continuing education and support.

--

Elana E. Strom (she/her)
The Law Office of Elana E. Strom, PLLC
10511 Judicial Drive, Suite 110
Fairfax, VA 22030
Telephone: 571-441-2830
Facsimile Telecopier: 571-441-2833

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From: Morgan Cox <morgan@childadvocatelawfirm.com>

Sent: Wednesday, September 27, 2023 7:51 PM

To: publiccomment <PublicComment@vsb.org>

Subject: EXTERNAL SENDER Virginia Child Dependency Legal Representation Workgroup

Please support the work and the legislative agenda of the child dependency workgroup. I represent parents and children in child welfare cases and see first hand on a weekly basis the need for high quality representation for parents. These parents deserve the dignity of having an attorney who is being paid to actually represent them and advocate for them throughout the foster care process.

It is also a disgrace to our profession to expect attorneys to work for less than minimum wage. Oftentimes I take cases as a service to the Court and consider the work pro bono because of how low the compensation is. I recently put in approximately twenty hours of work on an appeal in the Circuit Court on behalf of a parent in a foster care case. I ended up making approximately \$8/hour given the current pay structure.

The evidence in other states is that higher quality representation equals better outcomes for families and children. I can tell you from first hand experience that if a parent has an attorney he/she feels like they can trust and who can advocate for what is needed to bring the child home, the entire process goes much better and the likelihood of success for the family is higher.

If anyone has any questions from an attorney who is in court on these cases all the time, please contact me.

Many thanks for your time.

Morgan Cox

Morgan A. Cox
The Child Advocate Law Firm PLLC
1710 Allied Street, Suite 21
Charlottesville, VA 22903
Phone: 434-282-4575
Fax: 434-205-9200

Email: morgan@childadvocatelawfirm.com
<http://www.childadvocatelawfirm.com>

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From: Panzera, Jeannine <pan01@henrico.us>
Sent: Thursday, October 5, 2023 11:58 AM
To: publiccomment <PublicComment@vsb.org>
Cc: Kate Duvall <kduvall@pcasa.org>
Subject: EXTERNAL SENDER Support for Proposed Legislation - Child Dependency Legal Representation
Importance: High

Dear Ms. Gantz,

I hope this email finds you well. On behalf of myself as the Executive Director of Henrico CASA (Court Appointed Special Advocates) and the President/CEO of Piedmont CASA, Kate Duvall, we are responding to requests for comments regarding these proposed legislative activities:

- Increasing compensation for court-appointed legal counsel for parents in certain child-dependency cases.
- Establishing a state-level commission or similar office to provide support, training, qualification, practice standards, and oversight for court-appointed counsel.
- Appropriating funds to establish pilot multidisciplinary offices for child dependency cases and parents' defense, serving diverse jurisdictions of the Commonwealth.

These initiatives hold significant implications for children, parents, and families involved in child dependency cases, and align closely with the mission and values of our organizations. We have attached a letter of support outlining our endorsement of these proposals and ask that this letter be shared with the VSB and Access to Legal Services Committee as appropriate. We believe that by supporting these recommendations, we can contribute to a more equitable and just child dependency legal system in the Commonwealth.

Thank you for your attention to this matter, and for your continued dedication to the betterment of child welfare and legal representation in Virginia.

With appreciation,

Jeannine



Jeannine Panzera, J.D. | Executive Director
P: 804.501.1673
F: 804.501.2574
E: pan01@henrico.us

[CHANGE A CHILD'S STORY.](#)

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Ms. Crista Gantz, Director
Access to Legal Services, Virginia State Bar
1111 East Main Street, Suite 700
Richmond, VA 23219

Re: Support for Improved Parental Representation in Child Dependency Cases

Dear Ms. Gantz,

We are writing as Directors of the Henrico and Piedmont CASA (Court Appointed Special Advocates) programs, organizations committed to the welfare and best interests of abused and neglected children involved in the child welfare system. As members of the Virginia Child Dependency Legal Representation Workgroup, we unreservedly support the recommendations and urge the Virginia State Bar (VSB) to take action to improve the quality of legal representation for parents in certain child dependency cases.

The importance of effective parental representation in child dependency cases cannot be overstated. These cases have far-reaching implications for the lives of not only the children involved but also the parents. The outcomes of these proceedings are critical, as they can lead to family reunification and permanency, or the termination of parental rights. It is imperative that parents have access to competent legal counsel to ensure that their rights are protected, and their voices are heard in these high-stakes matters.

The current compensation rate of \$90 per hour, with a cap of \$120 per petition, for court-appointed legal counsel for parents in certain child dependency cases is not commensurate with the complexity and gravity of the issues at hand. Insufficient compensation creates disincentives for experienced and skilled attorneys to take on these cases, leading to a shortage of qualified legal representation. This shortage ultimately results in adverse outcomes for parents and can contribute to delays in case resolution.

We wholeheartedly endorse the proposed actions to address this issue:

Increase Compensation: We support the proposal to increase compensation for court-appointed legal counsel for parents in child dependency cases. Adequate compensation is essential to attract and retain skilled attorneys who can provide competent and zealous representation to parents. This, in turn, will lead to fairer and more just outcomes for families.

Establish a State-Level Commission: The creation of a state-level commission or similar office to provide support, training, qualification, practice standards, and oversight for court-appointed counsel is crucial. Such an entity would ensure that legal representation is of the highest quality and adheres to established standards, benefiting both parents and children involved in these cases.

Pilot Multidisciplinary Offices: We also support the appropriation of funds to establish and launch pilot multidisciplinary offices for child dependency cases and parents' defense. These offices would offer comprehensive support and resources to parents, recognizing that the issues involved are often complex and multifaceted. This holistic approach can lead to more positive outcomes for families.

Improving parental representation in child dependency cases aligns with our mission to advocate for the best interests of children in the foster care system. When parents receive fair and competent legal representation, the entire child welfare and juvenile court processes can be more efficient, ultimately benefiting the children we serve. Research has shown that outcomes improve for children in foster care cases when their parents have appropriate legal counsel. We believe that every child deserves the opportunity for a safe and stable home environment whenever possible, and these proposed reforms are an important step toward achieving that goal.

We respectfully request that the Virginia State Bar, in collaboration with the Supreme Court of Virginia, take the necessary steps to support the proposed policy, budgetary, and legislative activities outlined by the Access to Legal Services Committee. By doing so, this will contribute to a more just and equitable child dependency legal system in the Commonwealth of Virginia.

Thank you for your attention to this critical issue. We look forward to the positive impact that your support can have on the lives of children and families in our state.

In partnership,



Jeannine Panzera, J.D.
Executive Director

Henrico CASA
Pan01@henrico.us | (804) 501-1673
www.HenricoCASA.org



Kate Duvall, J.D.
President and CEO

Piedmont CASA
kduvall@pcasa.org | (434) 971-7515 x 109
www.PCASA.org

From: Alexandra Payne <xanpayne@gmail.com>

Sent: Thursday, September 28, 2023 11:57 AM

To: publiccomment <PublicComment@vsb.org>

Subject: EXTERNAL SENDER Public comment on proposed VSB engagement in legislative activity, pursuant to Section IV, Part 6, Paragraph 9(J) of the Rules of the Supreme Court of Virginia

Dear Ms. Gantz,

I am writing to express my support of proposed changes to Section IV, Part 6, Paragraph 9(J) of the Rules of the Supreme Court of Virginia. As a Virginia resident with a number of close friends directly impacted by the Virginia child services systems, I support the proposed rules and believe they will improve legal representation for parents involved in child welfare cases in VA.

Thank you,
Alexandra Payne

From: Jessie Strauser <jmaynor2014@gmail.com>

Sent: Monday, October 9, 2023 9:15 AM

To: publiccomment <PublicComment@vsb.org>

Subject: EXTERNAL SENDER Public Comment in Support of Virginia Child Dependency Legal Representation Workgroup's Recommendations

Hello,

I am an attorney barred in Virginia writing to support the Virginia Child Dependency Legal Representation Workgroup's Recommendations as outlined in the October 2023 VSB email.

These changes will address a serious problem, first identified in 2015 by the Virginia Commission on Youth: Virginia pays parents' court-appointed counsel at **the lowest rate of any state**: there hasn't been a raise in 23 years. Judges say they can't even find lawyers to take these cases; attorneys can't afford to put more than a minimum amount of time into a case.

This budget amendment would increase court-appointed counsel compensation from \$120. If increased to \$445, with available federal offset, it would cost only \$8 million in additional state funds – which likely would be further offset by reduced foster care costs, as better-prepared lawyers means fewer continuances and court delays. High-quality family legal representation has been proven to reduce time in foster care – without compromising safety.

Virginia spends \$5,000-20,000 per month per child in foster care. If every one of the 5,000 children in Virginia's foster care system spent even one month less in foster care, the Commonwealth could save at a minimum \$25 million per year—more than paying for this increase.

The current pay structure (\$90/hour with a cap of \$120 per petition) incentivizes attorneys to work the bare minimum on cases that have huge impacts on vulnerable children in the Commonwealth and likely results in more children being placed in foster care unnecessarily.

Further, a state-level commission and pilot multidisciplinary offices would allow Virginia to build a robust parent representation system to ensure parents' due process rights are respected and children are kept safe and achieve appropriate permanency.

Jessica Strauser

(she/her/hers)

814-404-0309

jmaynor2014@gmail.com

From: Esther Sherrard <esther@esherrardconsulting.com>
Sent: Wednesday, September 27, 2023 4:37 PM
To: publiccomment <PublicComment@vsb.org>
Subject: EXTERNAL SENDER Proposed Legislative Engagement

I am writing in support of proposed VSB engagement in legislative activity, pursuant to Section IV, Part 6, Paragraph 9(J) of the Rules of the Supreme Court of Virginia, in the 2024 General Assembly Session. State data on child welfare outcomes indicate significant concerns with lack of appropriate services to parents involved in child welfare cases, particularly foster care. Improved legal representation is absolutely necessary to ensure that parents have equitable access to just child welfare proceedings. I am in full support of the proposals for 1) increased compensation for court-appointed legal counsel for parents, 2) a state-level office that would provide needed support, training and oversight for parent counsel, and 3) appropriating funds to support piloting multidisciplinary offices in the Commonwealth. These 3 recommended proposals reflect work that is already occurring in other states and represents strategies that have been proven to improve outcomes for children and families involved in the child welfare system. I have worked at the national level in child welfare and have seen the positive impact of these kinds of efforts in other states. Therefore I wholeheartedly support their implementation in Virginia. Additionally, as a foster parent, foster youth mentor, and parent advocate in Virginia, I can also attest to the urgent need for attention in this matter of improving legal representation for parents. Thank you for your consideration.

Esther Sherrard

Founder + Consultant | www.esherrardconsulting.com
(703) 270-8725 | esther@esherrardconsulting.com

From: Laura Pantazis <laura.pantazis@gmail.com>
Sent: Monday, October 9, 2023 1:02 PM
To: publiccomment <PublicComment@vsb.org>
Subject: EXTERNAL SENDER Legislative activity comment

Good afternoon,

I am writing to comment about the legislation proposed regarding child dependency cases, specifically regarding the following issues:

1. Increase compensation, from the current rate of \$90/hour with a cap of \$120 per petition, for court-appointed legal counsel for parents in certain child-dependency cases;

This increase is absolutely necessary. I have served in child dependency cases as a parent's court appointed counsel. A couple of my cases have each required well over 30 hours. My final compensation was less than the hourly minimum wage. Because of those experiences, I now actively avoid representing the parent whenever possible.

If the cap was raised, I would be far more likely to accept representation of a parent again.

2. Establish a state-level commission or similar office to provide support, training, qualification, practice standards, and oversight for court-appointed counsel for parents in certain child-dependency cases; and

This would be helpful. I did not know much about representing a parent in a child dependency case for my first case, but accepted because the court was desperate for an attorney to accept the case. I had to read the statutes and case law and primarily teach myself the law because of the lack of training I received.

3. Appropriate funds to establish and launch pilot multidisciplinary offices for certain child dependency cases and parents' defense, to serve diverse jurisdictions of the Commonwealth.

Anything to help with these cases would be useful. So much is on the line for these parents and they are not receiving the representation they deserve because the funding and resources are not there.

--

Laura Pantazis
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Fax: (540) 766-5656

From: William Rasnic <wrasnic@wardandrasnic.com>
Sent: Friday, September 29, 2023 8:03 AM
To: publiccomment <PublicComment@vsb.org>
Subject: EXTERNAL SENDER Crista Gantz - Child Dependency

Morning,

I believe it imperative to increase the current rate for court-appointed attorneys for parents in child-dependency cases. It should not be surprising why clerks have a small list of attorneys willing to assist. Often, by the time the case is opened, reviewed, initial contact and correspondence is sent out, and one court appearance, the cap of \$120 has already been billed, if not more. Then comes two more court appearances, correspondence, client contact, negotiations with parties. That is bare bones representation assuming it is straightforward and stipulated to, obviously not accounting for cases wherein lengthy evidence need be reviewed, lengthy consultations with clients, and contested hearings being required.

This rate, among all court-appointed rates, should be adjusted.

Thank you for your attention to this matter.

Sincerely yours,

William T. Rasnic

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Bristol, VA 24203

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From: Rachael Deane <rachael@vakids.org>

Sent: Monday, October 9, 2023 9:16 AM

To: publiccomment <PublicComment@vsb.org>

Subject: EXTERNAL SENDER Comment: Parent Legal Representation

Dear Ms. Gantz:

Thank you for this opportunity to support the Virginia State Bar in advocating for recommendations to improve the quality of the court-appointed legal representation provided to parents in child dependency proceedings.

Voices for Virginia's Children (“Voices”) has been concerned about Virginia's poor state of legal representation since the report of the Virginia Commission on Youth in 2015. We have also been concerned about Virginia's poor foster care outcome statistics as documented in the 2018 report of the Joint Legislative Audit and Review Commission (JLARC). The evidence from multiple studies around the country shows these problems are inextricably connected.

Since 2018, the federal Children's Bureau, which funds states' efforts to keep children safe, has allowed states to use federal funds to improve legal representation for parents—because of the robust data showing that improved legal representation for parents improves outcomes for *children* in the child welfare system. Yet Virginia's legislature has rejected multiple opportunities to draw down these funds to ensure meaningful due process is provided to families and to make a difference in children's lives.

Voices' Policy Director, Allison Gilbreath, convenes the Virginia Foster Care Policy Network (FCPN), which includes foster care workers, adoption specialists, CASAs, and other advocates for children around the Commonwealth. The FCPN has for the past two years supported efforts to improve legal representation for parents due to the evidence showing this improves permanency outcomes for children safely—whether reunified with parents, placed in the custody of relatives, or adopted—and gets children out of foster care faster. In 2023, the FCPN elevated this issue as a priority.

We urge the VSB to adopt this proposal.

Thank you,

Rachael C. Deane
VSB #80289

Rachael Deane (she/her)

Chief Executive Officer

Voices for Virginia's Children

O: 804.649.0184, EXT 105 | M: 804.873.0783

rachael@vakids.org

[Book a meeting with me](#)

From: Meghan Cloud <mcloud@northgardenlegal.com>
Sent: Monday, October 9, 2023 5:49 AM
To: publiccomment <PublicComment@vsb.org>
Subject: EXTERNAL SENDER Comment on VSB Legislative Activity - Improving Legal Representation for Parents in Child Dependency Cases

Attn: Crista Gantz, Director of Access to Legal Services of the Virginia State Bar

Dear Ms. Gantz:

I write in support of two of the three recommendations made by the Virginia Child Dependency Legal Representation Workgroup aimed at improving the quality of legal representation for parents in certain child dependency cases. Specifically, I support:

(1) Increasing the fee cap for counsel for parents facing any one of the following: (a) removal of their children and entry into the foster care system; (b) child protective orders; and/or (c) termination of parental rights.

(2) The establishment of a state-level commission or similar office to provide support, training, qualification, practice standards, and oversight for court-appointed counsel for parents in certain child-dependency cases.

I work primarily as a GAL for children and serve only rarely as court-appointed counsel for parents in child-dependency cases. When I do represent parents, however, I find it very difficult to give them the first-rate legal service they deserve. My time is limited, and when push comes to shove I find it impossible to avoid the conclusion that the Commonwealth--speaking through its fee cap--has determined that, while children are entitled to zealous representation, their parents are not.

As the work group has pointed out, that disparity disserves the system's return-home goal.

By way of example: I currently represent an illiterate, Pashto-speaking Afghan refugee, the mother of two very young children with a rare kidney disorder. Both babies have been removed by DSS in the last 12 months. Finding Pashto interpreters in central VA and arranging for meetings at the parents' home alone is time-consuming, as is facilitating the parents' provision of family contacts to DSS. So far, I have not been able to spend the significant time required to make contact with the babies' doctors (none of whom is eager to talk with defense counsel) and otherwise investigate the case and the viability of the return-home goal. Nor have I been able, to the extent I would have liked, to advocate for the parents with DSS regarding--for example--the scope and timing of supervised visits with their children.

Given that the Commonwealth is paying me only \$120 for my services, it would be easy to conclude that my job comprises court appearances only, with no additional effort aimed at reunifying parents with their children. Given the importance of the interests involved, that cannot be right. (And if the assumption is that I and others will provide these services pro bono, that assumption is naive; it's far more likely that we'll find other, less frustrating ways to practice law.)

I hope the VSB will take up this extremely important issue.

Meghan Cloud

--

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From: Laura Dobbs <ldobbs@homeofva.org>
Sent: Thursday, September 28, 2023 1:04 PM
To: publiccomment <PublicComment@vsb.org>
Subject: EXTERNAL SENDER Comment on VSB Legislative Activity

Dear Christa Gantz,

I write in support of the Virginia State Bar's proposed engagement in legislative activity concerning court-appointed legal counsel for parents in child-dependency cases. A lack of quality legal representation harms families, places a greater financial burden on localities, and undermines the public's faith in the legal profession and judicial system. I support the Virginia Child Dependency Legal Representation Workgroup's recommendations to increase compensation for court-appointed legal counsel for parents, establish a state-level commission to support and train court-appoint attorneys for parents, and fund the establishment of pilot multidisciplinary offices for parent defense. I urge the bar to support these common-sense legislative proposals.

Thank you,



Laura Dobbs, Esq. (Bar #95440)

Pronouns: She/Her

Director of Policy

Direct: 804-905-6800

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From: Valerie L'Herrou <valerie@vplc.org>

Sent: Thursday, September 28, 2023 10:46 AM

To: publiccomment <PublicComment@vsb.org>

Subject: EXTERNAL SENDER Comment on VSB Legislative Activity

Dear Ms Gantz,

I am writing in support of the legislative proposal: that the Virginia State Bar advocate for the recommendations of the SB396/SJ241 Legal Representation in Child Dependency Cases Workgroup. Nearly two decades ago, the bar took similar action, advocating on behalf of an increase in the fee cap for court-appointed criminal defense work. As then, a crisis in the practice of law exists. The current rate of \$120 per petition, was too low even at the time it was set, in 2000; but the buying power of \$120 in the intervening 23 years has eroded to the equivalent to \$69 dollars. Surely no one would ever have thought that was sufficient to cover, at a minimum, two court hearings, plus reviewing evidence, meeting with the client, subpoenaing witnesses, or preparing legal arguments. Court appointed counsel either are working essentially pro bono—at \$90 an hour, the very low court-appointed rate, \$120 is equivalent of 1.3 hours, which is simply not enough to provide even minimally competent representation. Attorneys are sometimes forced to accept cases by judges who will not appoint them for more lucrative (but still underpaid) GAL work unless they accept these cases. Many judges have held hearings with no attorney present, because they have been unable to find anyone will to accept appointment. Members of the public represented by attorneys say their calls are not returned, and their counsel does not speak on their behalf in court. Attorneys are not trained for this practice area; there are no standards of practice as there are for other court-appointed attorneys, and there is no oversight. Without fair and zealous representation, the courtroom is lopsided, and judges must make decisions that impact the entire trajectory of a family's (and child's) life while only hearing half the story.

The recommendations of the SB396/SJ241 workgroup are reasonable, sound, based on a broad range of considerations and input. These recommendations fit well with the Bar's mission, as they will make possible access to competent and effective legal services, and have the potential to improve the profession of law and the efficiency and sound judgment of our courts, while protecting those members of the public who rely upon court-appointed counsel to represent their interests in one of the most important aspects of their lives—their family. I hope the Bar will advocate for these recommendations with the General Assembly and the Governor.

Thank you,

Valerie



Valerie L'Herrou

Deputy Director, Center for Family Advocacy

Virginia Poverty Law Center

919 East Main Street, Suite 610

Richmond, VA 23219

Direct/Mobile: (804) 351-5276

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vplc.org

<http://www.learnyourrightsva.org/>

From: Letendre, Denise <let004@henrico.us>

Sent: Monday, October 2, 2023 4:43 PM

To: publiccomment <PublicComment@vsb.org>

Subject: EXTERNAL SENDER Comment on VSB Legislative Activity

I am writing in support of the recommendations of the Virginia Child Dependency Legal Representation Workgroup.

Sincerely,

Denise Letendre

Denise M. Letendre, Esq.
(pronouns: she/her)
Senior Assistant County Attorney
County of Henrico
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Henrico, Virginia 23273-0775
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From: Rachel Robinson <rachel@berardrobinson.com>

Sent: Monday, October 2, 2023 6:00 PM

To: publiccomment <PublicComment@vsb.org>

Subject: EXTERNAL SENDER Comment in Favor of Proposed Legislative Activity

Good afternoon Ms. Gantz,

I am writing to support the proposed activities regarding increasing the compensation and available training for attorneys appointed as parents' counsel in dependency cases and for the establishment of pilot offices. This is so urgently needed. I am a member of a small firm; we have two attorneys total. Our Juvenile and Domestic Relations District Court emails every week with urgent needs for counsel to be GALs for children and CACs for the parents involved in child dependency cases. In addition to the email requests, we get calls directly from the Clerk's Office asking for our availability. The Clerks and Judges are having to spend a massive amount of time just trying to get cases staffed. This is a misuse of resources. The list of available and willing attorneys is dwindling smaller and smaller because the attorneys who accept these cases do so solely as a service to their community. The compensation is so low that attorneys take a financial loss when they are appointed in these cases, sometimes a very large financial loss. For example, an attorney will have to appear at least at the 5-day removal hearing, adjudication, and disposition. The attorney might have to wait at least a half hour for the case to be called for each of those hearings. For even the simplest, least litigated case, without any preparation, the attorney is spending at least 4 hours bare minimum, and that is not including any attempts to speak with their client or prepare for any of the hearings. And for all of that time and blocking out their schedule where they could otherwise be earning \$300-\$500/hour, that attorney is paid \$120 flat. The financial loss is discouraging, leads to burnout, and undermines effective representation. I suspect it also undermines attorney well-being because the attorneys who take these cases truly care and believe in the importance of this work. So when the attorneys have to ask to not be appointed, they know the Clerks and the Judges are left scrambling. So they either continue to take the personal financial loss along with the emotional burden involved in these cases, or they have to decline to help despite knowing the need is urgent.

Whether or not an abused or neglected child is removed from or returned to their family is unspeakably important. This affects our communities for generations to come. We have to get this right. Without a significant increase in the cap (at a minimum), we are going to run out of willing

and qualified attorneys. We will be burning judicial resources to pressure a few attorneys to take as many cases as possible at a great personal loss. We will burn out those attorneys. And then our system will start to fail, if it isn't already.

I feel strongly about this issue and would be happy to elaborate if that would be helpful to anyone involved. I should add that I think pilot offices of attorneys who handle these cases on a salaried basis might be a good solution and compromise. I know of other states who have such offices. They function like the Office of the Public Defender, but their clients are all parents involved in these types of cases. The attorneys have supervision and training and there is oversight to make sure they are providing quality representation and zealous advocacy. But the attorneys would not be funding the venture out of their own wallets, they would receive a reasonable salary.

Thank you for your time and hopefully for your support for this effort.

Most sincerely,
Rachel Robinson

--

Rachel Robinson (She/Her)
Partner, Berard Robinson PC
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berardrobinson.com

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From: McConnell, Julie <jmcconne@richmond.edu>
Sent: Sunday, October 8, 2023 1:08 PM
To: publiccomment <PublicComment@vsb.org>
Subject: EXTERNAL SENDER Comment on VSb Legislative Activity

To Whom it May Concern:

I have practiced in Virginia since 1999. I have served as a Virginia Court of Appeals clerk, an Assistant Public Defender, an Assistant Commonwealth's Attorney (in JDR), and now serve as a court-appointed attorney. For most of my career, I have had at least part of my practice centered in the Juvenile and Domestic Relations District Court. In the last few years, I have seen the number of attorneys willing to take court-appointed cases in the JDR court drop precipitously. We are now in the midst of a crisis in a court where effective, holistic representation is most needed. The attorneys who have dedicated their practice to this court have been working for poverty wages for far too long. We cannot realistically expect families to thrive when we put no value on properly compensating the attorneys trying to assist them. We have had among the lowest compensation in the country for court-appointed attorneys in JDR for my entire career. And sadly, the constituents who are most harmed by this failure to properly compensate those who have dedicated their careers to helping families are children.

We know that the outcomes for children in foster care are abysmal. We know that children benefit from positive family connections, yet we continue to refuse to support proven measures such as increased compensation for court-appointed attorneys that can help repair families and better support the needs of children growing up in poverty.

I fully support the changes proposed below by the Office of the Children's Ombudsman and the Virginia Child Dependency Legal Representation Workgroup. I urge the Virginia State Bar to support these proposals, as well. This would help move us down the path of improving an unconscionable situation.

1. Increase compensation, from the current rate of \$90/hour with a cap of \$120 per petition, for court-appointed legal counsel for parents in certain child-dependency cases;
2. Establish a state-level commission or similar office to provide support, training, qualification, practice standards, and oversight for court-appointed counsel for parents in certain child-dependency cases; and
3. Appropriate funds to establish and launch pilot multidisciplinary offices for certain child dependency cases and parents' defense, to serve diverse jurisdictions of the Commonwealth.

With best regards,

Julie E. McConnell (she/her)
Professor of Law, Legal Practice
Director, Children's Defense Clinic
University of Richmond School of Law
203 Richmond Way
Richmond, VA 23173
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C) 804-893-0885



From: Barrett Craig <barrettcraig@me.com>
Sent: Wednesday, September 27, 2023 9:32 PM
To: publiccomment <PublicComment@vsb.org>
Subject: EXTERNAL SENDER Comment on VSb Legislative Activity

Good evening,

This is a quick email in support of the proposed VSB engagement in legislative activity to support policy, budgetary, and related legislative proposals that aim to improve legal representation for parents.

Thank you!

Barrett Craig

From: Pamela Johnson <pamirj01@gmail.com>

Sent: Friday, September 29, 2023 9:01 AM

To: publiccomment <PublicComment@vsb.org>

Subject: EXTERNAL SENDER Comment on VSb Legislative Activity

This comment regards recommendations regarding child dependency legal representation. I practice frequently in the Charlottesville-Albemarle Juvenile Court and frequently represent parents in child dependency cases. I also serve as guardian ad litem for the children in these cases.

I absolutely support increased compensation for attorneys in these cases. The first reason is that there are not enough attorneys trained and willing to serve. In this court, the same dozen (or fewer) attorneys handle all the cases, changing hats from case to case. Higher compensation could encourage more attorneys to train and accept cases. Higher compensation is also fair. These attorneys frequently spend many uncompensated hours serving their clients

In addition, the compensation for guardians ad litem needs to be increased. The GAL spends many out-of-court hours serving their clients. The pay for this service is \$55/hour.

Pamela Johnson

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Press Release – October 3, 2023

THE SUPREME COURT OF VIRGINIA RAISES ITS FEES FOR COURT-APPOINTED COUNSEL

RICHMOND –The Supreme Court of Virginia has revised the fee structure used for compensating court-appointed counsel in appeals of criminal convictions and terminations of parental rights. The increased fees in these appeals will be effective beginning with the cases presented at the October 17, 2023 Writ Panels.

Appellate review before the Supreme Court of Virginia is a two-step process in most cases. In the first or petition stage of the process, a petition for appeal is filed with the Clerk of the Supreme Court. Oral arguments may be heard before a panel of justices, or, in some cases, may be heard by the Chief Staff Attorney who then presents the case to a panel of justices for decision. If the panel does not grant the appeal, the appeal is denied. If the petition is granted, the second phase of the appeal proceeds with eventual argument of the case before the full court.

The following updated fee structure for court-appointed counsel in appeals before the Supreme Court of Virginia has been approved by the Court:

Court-appointed counsel fees for representation at the petition stage of the process will be set as follows:

- Misdemeanor appeals: fee amounts begin at \$700, not to exceed \$1,500
- Felony appeals: fee amounts begin at \$1,000, not to exceed \$2,000
- Termination of Parental Rights appeals: fee amounts begin at \$1000, not to exceed \$2,000

If a petition for appeal is granted, court-appointed counsel in docketed criminal and termination of parental rights appeals that proceed to an opinion or order will receive \$3,250 and are not paid at the petition stage.

Chief Justice S. Bernard Goodwyn said, “Court-appointed counsel serve a vital role in our appellate justice system. This adjustment continues the commitment of Virginia’s appellate courts to ensure that court-appointed counsel are adequately compensated for their services.”

If you are a Virginia-licensed attorney interested in representing indigent appellants before the Supreme Court of Virginia, please contact Muriel-Theresa Pitney, Clerk of Court, at scvclerk@vacourts.gov.

Media Contact: Alisa W. Padden, Director of Legislative and Public Relations, Office of the Executive Secretary, Supreme Court of Virginia, (804) 786-6455.

TAB 14

TO: VSB Executive Committee and Council
 FROM: Emily F. Hedrick, Ethics Counsel
 DATE: October 13, 2023
 RE: Proposed Legal Ethics Opinion 1900, Lawyer's duty to disclose death of client

This proposed opinion addresses the extent of a lawyer's obligation to disclose the death of a client during the lawyer's representation. Beginning from the legal premise that the lawyer has no client and no authority to continue any kind of representation once the client dies, unless and until hired by the client's personal representative or other successor in interests, the opinion concludes that it is misleading to act as if the lawyer still has a client and authority to take action on behalf of a client.

The opinion concludes that the lawyer must disclose the client's death before any further substantive communication with opposing counsel and must disclose the client's death to the court no later than the first communication or appearance after learning of the client's death.

The opinion overrules LEO 952 (1987), which concluded that a lawyer can accept a settlement offer without disclosing the client's death absent a direct inquiry about the client's health. LEO 952 did, however, advise that the lawyer should disclose the client's death when accepting the offer to avoid an "appearance of impropriety." The committee concluded that LEO 952 no longer provides accurate guidance in light of Rule 4.1.

Comments

We received eight comments on the proposed opinion, from Peter Katt, Mona Flax, Julie Cillo, Robert Lamborn, David Corrigan on behalf of the LGA, August Bequai, John Crouch, and Valerie O'Brien on behalf of the VTLA. After considering the comments, the committee made minor revisions to the opinion to remove a specific example and just note that Rule 4.1 allows a lawyer to delay substantive communication with opposing counsel in order to determine whether there is a representative of the client's estate and if so, whether that representative wishes to hire the lawyer to continue to pursue the estate's claim.

The committee particularly considered the comment from the VTLA but ultimately concluded that it was not appropriate to make any changes to the opinion based on that comment. Both examples given in the comment identify the lawyer as having ethical duties to a deceased client that the committee believes are not accurate. In the first example, the comment suggests that there is an "ethical duty to their deceased client and the decedent's beneficiary" to complete the settlement of a claim that has already been negotiated but had not been carried out at the time of the client's death. As explained in the proposed opinion, the lawyer has no authority to complete a settlement when their client has died and no successor client has retained the lawyer to pursue the claim. There is no ethical duty that is violated when the lawyer discloses the client's death and the fact that the settlement cannot be concluded; in fact, the lawyer is generally ethically obligated to disclose that for the reasons stated in the opinion.

Likewise, the second example in the comment involves a lawyer representing a decedent's estate in a wrongful death matter when the administrator of the estate is not a beneficiary of the estate;

the VTLA's comment indicates that the death of the individual client should not affect the lawyer's responsibility to the estate and its beneficiaries. As established in prior opinions, a lawyer who represents an administrator of the estate represents the administrator, not the beneficiaries, nor the "estate" as an abstract concept. The lawyer cannot assist the administrator in violating any fiduciary duties to the beneficiaries or the estate, but the lawyer has no client-lawyer duty to the beneficiaries either. See LEOs 1452, 1599 (approved by Bar Council 1995), 1720, and 1778.

LEGAL ETHICS OPINION 1900. LAWYER’S DUTY TO DISCLOSE DEATH OF CLIENT.

QUESTION PRESENTED

When a lawyer’s client dies during the representation, what duty does the lawyer have to disclose the client’s death to opposing counsel or to the court?

APPLICABLE RULES AND OPINIONS

Rule 3.3. Candor Toward The Tribunal.

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal;

(2) fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client;

* * *

Rule 4.1. Truthfulness In Statements To Others.

In the course of representing a client a lawyer shall not knowingly:

(a) make a false statement of fact or law; or

(b) fail to disclose a fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client.

Legal Ethics Opinion: 952 (1987).

ANSWER

The lawyer must disclose the client’s death to opposing counsel or the opposing party if pro se before any further substantive communication. If the matter is before a court, the lawyer must disclose the client’s death to the court no later than the next communication with, or appearance before, the court.

ANALYSIS

The ethical duties begin with the legal conclusion that the death of the client terminates the representation and the lawyer’s actual authority to act for the client. Restatement (Third) of the Law Governing Lawyers, § 31 Termination of a Lawyer’s Authority, Comment *e*. Given that foundation, any act or omission that perpetuates the belief that the lawyer represents the client or

has any authority to act on behalf of a client violates Rule 4.1 either by affirmatively misrepresenting the lawyer’s authority or by failing to act and therefore passively misrepresenting the lawyer’s authority.

In Formal Opinion 397, the American Bar Association Standing Committee on Ethics and Professional Responsibility concluded:

The death of a client means that the lawyer, at least for the moment, no longer has a client and, if she does thereafter continue in the matter, it will be on behalf of a different client. We therefore conclude that a failure to disclose that occurrence is tantamount to making a false statement of material fact within the meaning of Rule 4.1(a). ... Prior to the death, the lawyer acted on behalf of an identified client. When, however, the death occurs, the lawyer ceases to represent that identified client. Accordingly, any subsequent communication to opposing counsel with respect to the matter would be the equivalent of a knowing, affirmative misrepresentation should the lawyer fail to disclose the fact that she no longer represents the previously identified client.

The opinion also concludes that an appearance before a court without disclosing the client’s death would violate Rule 3.3 by making a false statement of material fact to the court. Therefore, the ABA concluded, the lawyer must inform the opposing lawyer and the court of the client’s death in her first communication after learning of that fact.

The committee agrees that the lawyer must disclose the client’s death before any further substantive communication with opposing counsel and must disclose to the court no later than the first communication or appearance after learning of the client’s death. The lawyer does not violate Rule 4.1 by simply avoiding any substantive communication with opposing counsel while, for example, determining whether there is a representative of the client’s estate and whether that representative wishes to hire the lawyer to continue to pursue the client’s claim.

LEO 952, which concluded that a lawyer can accept a settlement offer without disclosing the client’s death absent a direct inquiry about the client’s health, but that the lawyer should disclose the client’s death when accepting the offer to “avoid an appearance of impropriety,” is

DRAFT – 8/18/23

59 overruled by this opinion. The committee concludes that a lawyer cannot accept an offer of
60 settlement on behalf of a deceased client, even if the lawyer discloses the client's death at the
61 same time. As stated above, the lawyer has no client and no authority to accept a settlement after
62 the client's death unless and until the administrator of the estate or other successor in interest
63 retains the lawyer to pursue any remaining claim on behalf of the estate.

64

From: [Peter A. Katt](#)
To: [publiccomment](#)
Subject: EXTERNAL SENDER Proposed LEO 1900
Date: Wednesday, March 22, 2023 1:40:54 PM

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There is a circumstance that proposed LEO does not seem to consider. Assume prior to suit being filed an offer for settlement is made. After the offer is made, the client dies. The death of the client diminishes the value of the claim, and disclosure of his death would likely trigger a rescission of the offer. Since the attorney no longer has a client at his death, is the attorney still obligated to make the other party aware of his former client's death? Assume further that the former client involved his wife in representation and consultations about the former client's claim. The wife contacts the attorney informing him of her husband's death and wants him to continue representation once she qualifies as the personal representative, which he agrees to do. Would it not be against the wife's best interest for the attorney to volunteer the information about the death of the client, and violate his duty of loyalty to his client? Although an attorney could not make any misrepresentations about the health or life of his former client, it seems that the attorney would have the duty not to disclose the death of his former client until the wife is qualified and can decide whether to accept the offer. It is conceded that on acceptance of the offer, the death of the former client would have to be disclosed to effectuate the final agreement.

Otherwise, I think proposed LEO 1900 is well reasoned.

Sincerely,
Peter A. Katt, Esq.

Crandall & Katt

Attorneys & Counselors at Law
366 Elm Avenue, SW, Roanoke, VA 24016

[Web](#) [Map](#)

Peter A. Katt

Partner

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From: [Mona Flax](#)
To: [publiccomment](#)
Cc: [Jeffrey Flax](#)
Subject: EXTERNAL SENDER Proposed LEO 1900
Date: Thursday, March 30, 2023 1:22:51 PM
Attachments: [image001.png](#)
[image002.png](#)

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I wholeheartedly endorse the passage of this LEO. This issue recently arose in one of my cases. A party was terminally ill but failed to disclose the illness in discovery. My client entered into an agreement days before her husband's death and a deed was delivered to counsel AFTER the death of the party. The attorney then gave the deed to the estate administrator who has attempted to record the deed. We are now involved in litigation that is costly to my client.

Mona Schapiro Flax, Attorney
 MONA SCHAPIRO FLAX, P.C.
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From: [Julie Cillo](#)
To: [publiccomment](#)
Subject: EXTERNAL SENDER Proposed LEO 1900
Date: Thursday, March 30, 2023 1:25:47 PM

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Thank you for circulating this proposed LEO on a lawyer's duty to disclose the death of a client.

My proposed revision is that the duty to disclose to the other attorney, party if pro se, and court be done within a definitive number of days upon the lawyer learning of the death.

It seems reasonable that a lawyer could notify the other attorney, party if pro se, and court within 14 days ideally and 30 days at most.

The necessity of a more definitive time frame is based on the concept that the other attorney may be preparing for trial, working with experts, and otherwise doing substantive work on a matter that results in attorney fees and/or expert fees being incurred by the living party because no one is aware that the nature of the litigation has changed or ended due to the death of that party.

I appreciate you considering this feedback. If you have any questions, please feel free to contact me.

Julie M. Cillo

Partner

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From: [Robert Lamborn](#)
To: [publiccomment](#)
Subject: EXTERNAL SENDER LEO 1900
Date: Thursday, March 30, 2023 7:12:34 PM

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It makes eminent good sense that a lawyer should have to reveal the death of a client to opposing counsel and the court. Certainly this is a material fact with bearing on every aspect of the representation.

However, it is waste of time and money (for at least the client's estate and the court) to insist that a lawyer must cease all actions on behalf of the now deceased client. When the lawyer knows the ends / goal sought by the client, why not honor the client's expressed wishes by continuing -- perhaps even completing - the work?

Might a lawyer / client avoid the effect of this proposed LEO by simply executing a retainer agreement in the name of both the client *and* the client's estate? Certainly a client should be able to choose whom to represent the interests of his own estate.

The attorney-client privilege and duty of confidentiality survive the death of the client, indicating that the law respects the integrity of the client's wishes and reputation even after death. (This is to say nothing of the legal effect given to a validly executed will.) Why not then honor the client's wishes as expressed and understood at the outset of the representation?

Respectfully,

Rob Lamborn



harman claytor corrigan wellman
THE CIVIL LITIGATION FIRM

DAVID P. CORRIGAN
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DIRECT FAX | 804.212.0862
dcorrigan@hccw.com
Respond to: Richmond

April 19, 2023

VIA EMAIL at publiccomment@vsb.org

Cameron Rountree, Executive Director
Virginia State Bar
1111 East Main Street, Suite 700
Richmond, VA 23219-0026

Re: Proposed Legal Ethics Opinion 1900

Dear Mr. Rountree:

Thank you for seeking public comment on proposed advisory Legal Ethics Opinion 1900, regarding duty to disclose the death of the client.

After reviewing the proposed opinion, the Ethics Committee of the Local Government Attorneys of Virginia, Inc. ("LGA") has determined that the proposed LEO does not have any impact unique to the practice of local government law. Therefore, the Committee has no comment on this proposed LEO. However, we do appreciate the continuing opportunity to provide comments on proposed Legal Ethics Opinions and Rule changes.

Very truly yours,

David P. Corrigan
Chair, LGA Ethics Committee

cc: Mark C. Popovich, Esq., LGA President (via email)
Andy Herrick, Albemarle County Deputy County Attorney (via email)

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From: attyabeq@aol.com
To: [publiccomment](#)
Subject: EXTERNAL SENDER VSB Seeking Comment on Disclosure of Client Death/Proposed Legal Ethics Opinion 1900
Date: Tuesday, April 18, 2023 3:08:12 PM

While the privilege continues after death, nevertheless, there is no logic for a lawyer to withhold that information from those with a need to know. Ignorance, especially in matters involving probate and other financial issues is an invitation at times for abuses by lawyers. Dipping into estate funds, especially when the heirs may be in the dark, leads to temptation. In short, there is no logic to keeping the death of a client a secret to those that have a legitimate need to know. Than you.

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May 12, 2023

Cameron Rountree, Esq.
Executive Director
Virginia State Bar
111 East Main Street, Suite 700
Richmond, VA 23219

Re. Proposed Legal Ethics Opinion 1900

Dear Cameron,

Please accept this letter as the formal comment of the Virginia Trial Lawyers Association (“VTLA”) on Proposed Ethics Opinion 1900, currently titled “Lawyer’s Duty to Disclose Death of Client.” This is a scenario that our members confront with some regularity, and it is of great importance that the LEO accurately describe the situation and provide clear guidance. In its present form, we believe that the LEO does not account for certain nuanced situations in which a lawyer’s ethical duty may diverge from that as stated in the draft LEO. VTLA requests that this draft of LEO 1900 be withdrawn, or its adoption postponed so that we may have members of our association who have confronted this scenario provide further input and assist in development of further drafts. As an alternative, we would ask that the Committee consider incorporating into the draft LEO some of the issues raised below.

As presently drafted, the LEO overly generalizes the issue and broadly construes the circumstances surrounding the death of a *client* as compared to the continuation and/or potential resolution of a particular *claim* (which is not extinguished upon the death of a client but becomes an asset of their estate as soon as they die). In many situations—in fact, in the majority of situations—there is little debate that the death of a client materially changes the substance and nature of a claim (e.g. when a portion of the claimed damages in a personal injury matter include future lost earnings or when the client in a wrongful death matter is the only living beneficiary of the decedent) and as such, the lawyer for the client should be ethically bound to alert the court and opposing counsel of their client’s death as outlined in the proposed LEO.

However, the issue is more nuanced and fact-dependent than the LEO suggests in its present draft. Our members have encountered specific scenarios wherein their ethical duties to “abide by a client’s decision...to accept an offer of settlement of a matter” (*See* Virginia Rules of Professional Conduct Rule 1.2) may conflict with their ethical duties of candor and truthfulness to the court and opposing counsel.

Consider an example that crystallizes the point: a client informs their lawyer of their decision to accept an offer of settlement which has already been made, but then dies with only a single



beneficiary under intestate succession. That beneficiary may automatically have a right to the assets of the estate of the decedent by operation of law upon the death of the decedent, and if the lawyer has communicated with and obtained the agreement of the single beneficiary (in addition to the deceased client prior to their death) the lawyer's responsibility to their client (which includes the deceased client, the decedent's estate, and now the single beneficiary) is to accept such offer of settlement, *so long as* the nature and substance of the claim is not affected by the client's death. In such cases, when there is no claim for future losses such that the death of the client does not affect the value of a case, the valuation has been completed *by both parties*, and all that remains is resolution of the matter. Then, lawyer's ethical duty to their deceased client, and the decedent's beneficiary is to ensure that the information of the client's death is not used to improperly devalue a case when the valuation has already been completed.

A similar situation arises when a lawyer represents a decedent's estate in a wrongful death matter and the administrator of the estate is not a beneficiary of the estate (e.g. when a sibling of a decedent is the administrator of the estate and the decedent has minor children who are the only statutory beneficiaries). In that situation, the death of the individual "client" (the administrator of the estate) has no effect on the claim or the lawyer's responsibility to the decedent's estate and its beneficiaries which continues after the death of the administrator.

So, as the above examples make clear, there are certain circumstances in which a lawyer's ethical duties to their client do not conflict with the lawyer's duties to the court, opposing counsel, or a third-party, but the proposed LEO, in its present form, does not account for those situations. As stated above, this is a very important issue for VTLA members and we ask that the draft LEO be withdrawn, or its adoption postponed, so that VTLA members may provide further input to create a better and more accurate LEO on this issue. Alternatively, we ask that the Committee consider incorporating some of the issues identified above into the proposed LEO.

If you have any questions, please contact me and I will make sure we get you any clarifications you may need.

Thank you for your consideration.

Respectfully submitted,



Valerie M. O'Brien

cc: Anthony T. Greene, Esq., Co-Chair VTLA Ethics and Professionalism Committee
Joel McClellan, Esq., Co-Chair VTLA Ethics and Professionalism Committee
T. Vaden Warren, Jr., Esq., VTLA President

TAB 15

TO: VSB Executive Committee and Council
 FROM: Emily F. Hedrick, Ethics Counsel
 DATE: October 13, 2023
 RE: Proposed Rule 8.4(f) – prohibiting agreement not to file a bar complaint

This proposed amendment to Rule 8.4 adds a new paragraph (f):

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;
- (d) state or imply an ability to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official; ~~or~~
- (e) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or-
- (f) enter into an agreement with a client or former client limiting or purporting to limit the right of the client or former client to file or pursue any complaint before a lawyer regulatory or disciplinary authority.

The proposed rule prohibits a lawyer from making an agreement with a client or former client limiting the client or former client's right to file or pursue a lawyer disciplinary complaint. The committee determined that an explicit rule on this issue is necessary because such an agreement is already considered improper under Rule 8.1(d), but that rule is not clear enough to put lawyers or clients on notice that the conduct is prohibited.

As a self-regulating profession, it is important that lawyers not be allowed to limit clients' abilities to file a bar complaint and have the lawyer's conduct evaluated by the VSB. Many lawyers who commented in opposition to the proposal raised the idea of VSB resources being wasted by reviewing baseless or retaliatory complaints, or of disputes between lawyers and clients not being able to be resolved efficiently because lawyers will not be able to obtain a full release of any claims from the client. The committee believes this is an appropriate limitation on lawyers – the VSB has adequate resources to review complaints and to continuously evaluate throughout the disciplinary process whether a complaint states a potential violation of the RPCs that could be proven by clear and convincing evidence. The disciplinary function is not simply about a dispute between a lawyer and a client, and there is a broader interest in ensuring that potential lawyer misconduct is brought to light. Lawyers are permitted to settle civil claims with

clients under the appropriate circumstances, but should not be permitted to shield their conduct from regulatory investigation and action by agreement with a client or former client not to report it.

From: [Lauren Ellerman](#)
To: [publiccomment](#)
Subject: EXTERNAL SENDER Proposed 8.4f
Date: Thursday, June 1, 2023 2:43:52 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Dear VSB – I think the proposed rule makes a ton of sense and parallels the arbitration rules for sexual harassment victims (we shouldn't be allowed to sweep bad behavior under the rug with hush agreements), but I don't think it's location as 8.4f makes the best sense. While it may be misconduct, I think it should be its own separate category or included under Rule 1:6 – that relates to client / attorney relationship and confidentiality.

I just fear it's inclusion under 8.4 is random and easy to ignore.

Thank you.

Lauren Ellerman

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From: [Raighne Delaney](#)
To: [publiccomment](#)
Subject: EXTERNAL SENDER Proposed Rule 8.4(f) Comment
Date: Thursday, June 1, 2023 2:55:30 PM
Attachments: [image004.png](#)
[image005.png](#)
[image006.png](#)

Proposed Rule 8.4(f) would define misconduct to include reaching an agreement with a client that limits the client's right to pursue a bar complaint.

I'm not sure this is wise. These agreements take place in the context of civil settlements of disputes with clients.

While I can certainly see the theoretical wisdom of preventing a lawyer from covering up serious misconduct with a settlement agreement, practically speaking, 1) the more serious misconduct cases will be made subject of bar complaints anyway, and 2) most legal malpractice claims arise from fee disputes, and those malpractice claims always involve claims of ethical breaches. When the fee dispute is settled, one would think that the claimed malpractice / ethical breaches would die with the settlement.

Thus, I suspect that the practical effect of this rule will be to promote vindictiveness rather than justice.

Raighne C. Delaney



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From: [Todd Hoyle](#)
To: [publiccomment](#)
Subject: EXTERNAL SENDER Rule 8.4 comment
Date: Thursday, June 1, 2023 3:49:19 PM

I think as attorneys we should always hold ourselves to the highest ethical standard, but I think it is unnecessary to try and limit the tools at our disposal to address a possible complaint by a client.

There are likely an unlimited number of reasons, some good and some bad, why a client might threaten to file a bar complaint. Attorneys without any coercive behavior should be allowed to attempt to address those concerns directly with a client and as part of any agreed upon consensus for resolution, the attorney should be able to have the comfort that that client isn't going to turn around and still file a complaint .

Self regulation is great but why would we intentionally leave attorneys exposed to complaints that otherwise may have been addressed through mediation or alternative dispute resolution?

Thanks-Todd

Todd C. Hoyle, Esq.
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(804)295-4380

From: [Barry Waldman](#)
To: [publiccomment](#)
Subject: EXTERNAL SENDER Changes to Rule 8.4(F)
Date: Friday, June 2, 2023 8:00:19 AM
Attachments: [Outlook-ipshtx4n.png](#)
[Outlook-wgmvmxdj.png](#)

While I am thankful I have not had to resort to similar tactics, as society changes, clients change. I have found far too often among colleagues that I find are competent, they are threatened by clients with Administrative complaints, often in the context of having a past due balance or other financial difficulty.

In reality, the majority of the instances I have heard about from colleagues where threat of a bar complaint has been made, arise when the client has a bill they can't pay and seemingly want leverage on their attorney.

The sheer headache, potential administrative difficulty, and damage to reputation (even if unfounded), a complaint can have would make the imposition of this provision yet another way that smaller practitioners, who are the subject of far more voluminous Bar Counsel activity, once again are more vulnerable.

While the intent of the change may be laudable, it will once again disproportionately impact those attorneys who represent individuals, and smaller firms. Protecting the public is a worthy goal, doing so in this fashion fails to consider the frequency of the "difficult client" motivated by financial breakdowns with their attorney. I encourage a different approach.

Thank you.

-Barry

Barry J. Waldman, Esq.

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From: [James McCauley](#)
To: [publiccomment](#)
Subject: EXTERNAL SENDER Proposed Rule 8.4(f)
Date: Monday, June 12, 2023 8:53:14 AM

I am in favor of proposed Rule 8.4(f) but would broaden its scope. Lawyers should not be able to settle a case with an agreement that restricts or prohibits a party from filing a bar complaint. For example if a settlement to a legal malpractice claim is negotiated, a lawyer should be prohibited from requiring a party to the settlement to agree not to file or pursue a bar complaint. Such conduct could also be inconsistent with the duty to report misconduct under Rule 8.3(a).

See, e.g., *In re Himmel*, 533 N.E.2d 790 (Ill. 1988) (lawyer who failed to report unprivileged knowledge of another lawyer's misconduct suspended for one year despite the fact that his client asked him and agreed not to report the matter to grievance authority; client information was confidential but not privileged).

I would like to see the proposed rule expanded to say:

(f) enter into an agreement with a person limiting or purporting to limit the rights of that person to file or pursue any complaint before a lawyer regulatory or disciplinary authority.

-

James M. McCauley

Bar No. 21778

-

Sent from [Mail](#) for Windows

From: [Lee](#)
To: [publiccomment](#)
Subject: EXTERNAL SENDER Proposed Rule 8.4(f)
Date: Sunday, July 9, 2023 8:29:41 PM

Greetings:

The Bar should proceed with the proposed Rule change. I cannot think of a legitimate reason for a provision in the client contract barring them from filing a bar complaint. Such provisions would protect far more bad behavior by attorneys than they would prevent bad behavior by clients. Part of being a lawyer is acting consistently with the Rules (and avoiding bar complaints to begin with).

Lee Warren
VSB 77446 '08

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July 19, 2023

Mr. Cameron M. Rountree
Virginia State Bar
1111 E. Main St., Suite 700
Richmond, VA 23219-0060

Dear Mr. Rountree,

I am writing to express my strong opposition to the proposed new Rule 8.4(f), prohibiting agreements not to file a bar complaint.

I believe it is perfectly appropriate, ethical, and practical for an attorney to attempt to reach an amicable solution of a difference with a client or former client. Since lawyers accused of an ethical violation are presumed innocent, and since a majority of complaints are dismissed, the chances are great that an attorney seeking such an agreement is protecting himself from the vexation of a frivolous complaint. I have had experience myself with clients who were either unreasonable or who failed to understand the facts who have made such threats against me. Frivolous complaints waste the time of both the attorney and bar counsel, not to mention the stress and probable expense involved.

I note that the "accord and satisfaction" is a widely accepted practice in criminal cases, where a criminal charge may be dropped in exchange for restitution or other satisfaction made to the party who feels aggrieved. I see no valid interest whatsoever being served by denying a similar common-sense remedy between lawyers and clients.

This proposed Rule is unnecessary at best and most ill-advised at worst. Thank you for your consideration.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Hilton Oliver", written over a horizontal line.

Hilton Oliver



From: [JOHN MELL](#)
To: [publiccomment](#)
Subject: EXTERNAL SENDER Rule 8:4(f)
Date: Saturday, July 29, 2023 2:21:50 PM

Good afternoon. A blanket prohibition against bar Complaints should not be permitted. However, certain limitations should be allowed. A time limitation to file the complaint is appropriate. A time limitation should be integrated as part of the Rules by the Bar. Prohibition of Retaliatory Complaints in response to collection efforts of attorney fees should be permissible in the attorney client contract. 8.4(f) blanketing prohibition against contracts prohibiting bar Complaints is not constitutional. The right to contract free from government regulation is protected by the Due Process Clause of the Fourteenth Amendment.

Thank you, John Mell

From: [Brandon H. Zeigler](#)
To: [publiccomment](#)
Cc: [Kellam T. Parks](#)
Subject: EXTERNAL SENDER Rule 8.4 Comment
Date: Monday, July 31, 2023 11:05:24 AM

To Whom It May Concern:

I cannot agree with the proposed rule as written as it covers several aspects of an attorney client relationship and is overbroad as written.

First, as the Court of Appeals and the Supreme Court of Virginia have held, the attorney-client relationship is one based on contract. Ideally, a written retainer agreement but sometime an oral one. Based on this premise, the rule as drafted is too broad in my opinion as there are 3 distinct stages of an attorney-client relationship.

1. New Client Relationship: It is perfectly appropriate that there should be an ethical bar to any initial agreement that would limit, restrict, or prevent a client from filing a bar complaint.
2. Existing Client Relationship: An attorney should not avoid discipline via a contract/waiver from a current client. For example, the attorney should not be able to waive certain fees or continuing with the case on a pro bono bases in return for not having a complaint filed against them.
3. Past Client Relationship: Because the relationship is based in contract, I find it appropriate for an attorney and past client to resolve their differences by a settlement agreement.

The VSB is tasked with ensuring a minimum competency across all attorneys. This theory supports the idea that there should not be a contractual bar or limit on a client filing a complaint. This is why I agree that at the onset or during the representation, the VSB should prohibit a contractual waiver preventing the client from advising the VSB of conduct that is alleged to fall below the acceptable line. However, it is not infrequent that a client who is either dissatisfied with the outcome of the case or the resulting bill, does not manufacture a complaint and complains about things that were not an issue while the representation was ongoing.

Based on the VSB statistics, this most frequently appears in domestic relations case and criminal defense matters. If a past client makes this allegation, then I find it appropriate for the attorney and client to resolve their differences by contract. In this scenario, and based on the timing of the complaint, it is clear that from a client's perspective the alleged conduct was not serious enough for the then-active client to file a complaint. This lack of action during the representation is a clear indication

that the client found the representation at least acceptable if not agreeable. For this reason, a client and attorney should be able to resolve their post-relationship status by agreement.

This issue begs the next question. Why is there not a statute of limitations for a Bar complaint. I was recently a witness for an attorney who was charged with misconduct 20 years ago. His defense was significantly hindered because he destroyed his file over a decade after the case ended and a decade prior to the complaint being filed. Until relatively recently, even the most serious crimes in Virginia had statute of limitations. The Virginia Legislature has approved a 5-year Statute of Limitations on written contracts. Because the client relationship is found in contract, it is likewise reasonable that the client has 5 years from the termination of the relationship to file a complaint. That would allow the attorneys to destroy their files with confidence.

Thank you,

BHZ

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From: [Chanel A. Gray](#)
To: [publiccomment](#)
Subject: EXTERNAL SENDER Proposed | Rule Prohibiting Agreements Limiting Bar Complaints
Date: Monday, July 31, 2023 11:05:09 AM
Attachments: [image001.png](#)

Good morning:

I support the proposed amendment to Rule 8.4.

Thank you.



Chanel Ann Gray, Esq.

Assistant City Attorney

City Attorney's Office

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From: [Kelly Salzmnn](#)
To: [publiccomment](#)
Subject: EXTERNAL SENDER Comment Regarding Proposed Rule 8.4(f)
Date: Monday, July 31, 2023 3:30:14 PM
Attachments: [Outlook-zgtvzzup.png](#)

Good afternoon Director Rountree,

I offer the below comments to the rule on my own behalf and not on behalf of the Legal Aid Justice Center.

I write to wholeheartedly support the rule that would make clear that it is misconduct to "enter into an agreement with a client or former client limiting or purporting to limit the right of the client or former client to file or pursue any complaint before a lawyer regulatory or disciplinary authority."

I'm, frankly, surprised that there is any confusion about this. There is a power imbalance in any retainer agreement by virtue of the fact that our clients come to us in a time of need - whether criminal or civil - specifically because of our legal expertise. To then use that expertise to attempt to shield ourselves from complaint and oversight cannot be allowed. We are a self-governing profession and it is our responsibility to ensure that we take that governance seriously. To allow attorneys to use a position of power in order to subvert that process would seriously undermine the public's trust that we should remain a self-governing profession.

Thanks for the opportunity to comment.

My best -

Kelly

Kelly Salzmnn (she/her/ella), Attorney/Abogada
 Legal Aid Justice Center
 6402 Arlington Blvd., Suite 1130
 Falls Church, VA 22042
 571-620-5260/kelly@justice4all.org
www.justice4all.org



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received this message by mistake, please reply to this message so that we can ensure such a mistake does not occur in the future, and then delete it.

From: attyabeg@aol.com
To: [publiccomment](#)
Cc: [publiccomment](#); [Hall, Kristi](#)
Subject: Re: EXTERNAL SENDER Rue Prohibiting Agreements Limiting Bar Complaints/Rule 8:4 adding new par. (f)
Date: Friday, August 11, 2023 10:36:40 AM

Thank you. I did want to add that if an individual is represented by counsel, not pro se, it seems to me that it is presumptuous to assume that his lawyer is not able to discern what is best in the client's best interest. Further, it's also no secret that a number of these Bar complaints, costly to the VSB to investigate, are prompted by financial considerations; i.e., enhancing one's negotiating position.

August Bequai, Esq.
 1750 Tysons Blvd., Suite 1500
 McLean, VA 22102
 (T) (703) 893-4806
 (c) (571) 277-5996
attyabeg@aol.com

In a message dated 8/10/2023 8:26:10 AM Eastern Daylight Time, PublicComment@vsb.org writes:

Good morning, Mr. Bequai:

Thank you for your comments to the Legal Ethics Committee's proposed amendment to Rule 8.4. The committee next meets on September 15, 2023, at which it will consider all of the comments received to date.

Please let me know if you have any questions.

Best,



Kristi R. Hall

Ethics Executive Assistant/Paralegal

Virginia State Bar

1111 East Main Street, Ste. 700 | Richmond, VA 23219-0026

804/775.0557 | Fax 804/775.0597 | hall@vsb.org | www.vsb.org

The Virginia State Bar is a state agency that protects the public by educating and assisting lawyers to practice ethically and competently, and by disciplining those who violate the Supreme Court's Rules of Professional Conduct, all at no cost to Virginia taxpayers.

From: attyabeq@aol.com <attyabeq@aol.com>
Sent: Wednesday, August 9, 2023 9:52 PM
To: publiccomment <PublicComment@vsb.org>
Subject: EXTERNAL SENDER Rue Prohibiting Agreements Limiting Bar Complaints/Rule 8:4 adding new par. (f)

While the proposed addition to the rule is well meaning, nevertheless, there is also the real world to deal with. It will create more red tape and drain limited resources from Bar Counsel's policing efforts. If an individual is represented by counsel, he/she should be left to their own whim as to any settlements. In short, I oppose the proposal. Thank you.

August Bequai, Esq.

1750 Tysons Blvd., Suite 1500

McLean, VA 22102

(T) (703) 893-4806

(c) (571) 277-5996

attyabeq@aol.com

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From: [Steven Krieger](#)
To: [publiccomment](#)
Subject: EXTERNAL SENDER Rule 8.4(f) - Comment
Date: Saturday, August 12, 2023 2:44:34 PM

Cameron,

Thank you for giving the public an opportunity to provide comment on proposed Rule 8.4(f).

I certainly understand the Bar's concern about a lawyer including a prohibition limiting the client's right to file a bar complaint into a fee agreement at the beginning of representation.

However, the language in the proposed rule goes much further: "...enter into an agreement with a client or former client limiting or purporting to limit the right of the client or former client to file or pursue any complaint before a lawyer regulatory or disciplinary authority."

This language also limits lawyers and clients from entering into a settlement agreement after the representation has begun (or even concluded) that would prohibit a bar complaint, which is problematic and discourages resolution between the parties.

You can imagine a situation where a dispute arises between a lawyer and client and the lawyer agrees to return some portion of a fee that the lawyer believes was properly earned to a client or lawyer agrees to waive an outstanding balance to simply resolve the dispute and allow both parties to move forward. In many settlement agreements, the parties agree to a mutual release of all claims. If the client could sign a settlement agreement and later file a bar complaint, the lawyer would be less likely to enter into the agreement. This could result in a dramatic increase in bar complaints as disputes that were previously resolved are no longer getting resolved because the lawyer has to account for the possible bar complaint (whether justified or not).

Further, the act of trying to settle a dispute, or even having a fully executed settlement agreement where both parties waive all claims, would actually be an ethics violation itself where an ethics violation may not have previously even existed.

Here's a hypo to illustrate: Client believes Lawyer did not adequately keep client informed. Lawyer agrees to give Client X dollars to resolve dispute. The parties sign a settlement agreement waiving all claims. Later, the Client decides to file a bar complaint. The bar investigates the claim of not being adequately informed and finds no misconduct, but determines that the settlement agreement was a violation, so the lawyer has a violation.

The Bar is reasonably concerned about a lawyer prospectively limiting liability at the beginning of representation, but once a dispute has arisen, I don't think the Bar should be inserting itself into the parties' efforts to resolve a dispute. The Virginia Courts feel very strongly that parties are free to enter into agreements and I think the Bar should take a very similar view.

As such, I'd strongly urge the Bar to modify the proposed language to allow parties to resolve their disputes without having to worry about a subsequent bar complaint.

Steven

--

Steven A. Krieger
Attorney at Law

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Phone: 703.831.7707
Fax: 571.512.5814
www.stevenkriegerlaw.com
steven@stevenkriegerlaw.com



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From: [Katarina Nguyen](#)
To: [publiccomment](#)
Cc: [Hall, Kristi](#)
Subject: Re: EXTERNAL SENDER Re: Public Comment in Opposition to Proposed New Rule 8.4(f)
Date: Monday, August 14, 2023 11:23:19 AM

Hi Ms. Hall,

Thank you, and there was one last thing I meant to add to the very end of my comment:

Attorneys would not want to enter into settlement agreements to resolve disputes with clients because (a) they could end up facing a bar complaint anyway, but also (b) the act of entering into a settlement agreement that contains a general mutual release would, in and of itself, be considered a violation of Rule 8.4(f) as it's written.

Thank you, again, for your consideration,

On Mon, Aug 14, 2023 at 11:16 AM publiccomment <PublicComment@vsb.org> wrote:

Good morning, Ms. Nguyen,

Thank you for your comments to the Legal Ethics Committee's proposed amendment to Rule 8.4.

The committee next meets September 15, 2023, and will consider your comments at that time.

Please let me know if you have any questions.

Best,



Kristi R. Hall

Ethics Exec. Assist./Paralegal/FOIA Officer
 Virginia State Bar

1111 East Main Street, Ste. 700 | Richmond, VA 23219-0026

804/775.0557 | Fax 804/775.0597 | hall@vsb.org | www.vsb.org

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From: Katarina Nguyen <katarina@stevenkriegerlaw.com>
Sent: Monday, August 14, 2023 10:55 AM
To: publiccomment <PublicComment@vsb.org>
Subject: EXTERNAL SENDER Re: Public Comment in Opposition to Proposed New Rule 8.4(f)

Dear Sir or Madam,

Although I understand and agree that it would be inappropriate for an attorney to require a client to sign a waiver of their right to file a bar complaint as part of the retainer agreement, the current proposed language of Rule 8.4(f) goes well beyond that. It generally uses the word "agreement", which would also apply to settlement agreements that the attorney and client enter into as part of the dispute resolution process.

A standard provision of any settlement agreement is a general mutual release of claims in exchange for the settlement. This is so that both parties can rest assured that the matter is forever resolved and both parties can move on without worry.

But the proposed language would invalidate a general mutual release as it applies to an attorney. So if an attorney and client get into a dispute over billing matters and they reach a resolution, memorialized into a settlement agreement with a general mutual release, the client would, no matter what, still be permitted to file a bar complaint against the attorney even though the client voluntarily and freely entered into the settlement.

This would mean that even if the attorney did not actually commit an ethics violation (i.e., the attorney only agreed to settle the dispute because the attorney prefers to resolve disputes with clients amicably, even if the attorney does not agree with the client's position), the fact that there was a settlement agreement with a general mutual release would violate the new Rule 8.4(f). Moreover, even if the bar determines that there was no ethics violation as it related to the billing dispute, the settlement agreement would mean that the bar would determine the attorney violated Rule 8.4(f). And this doesn't just apply to billing disputes--any dispute that could potentially be a basis for a legal malpractice claim, but which gets resolved, would be caught up in Rule 8.4(f) as it's currently written.

I strongly believe that Rule 8.4(f) needs to be rephrased so that it clearly only refers to limiting liability at the start of the representation, such as part of the retainer agreement. It should also clearly indicate that, if a dispute has arisen between the attorney and client, then settlement agreements resolving such disputes are exempt from Rule 8.4(f).

Without these changes, attorneys will be completely disincentivized from trying to resolve disputes with clients. Attorneys will ask themselves, "What's the point of settling if I'm just going to wind up having to fight a bar complaint anyway?" Without these changes, we'll see a significant rise in bar complaints, Rule 8.4(f) violations in connection with settlement agreements, and/or lawsuits between attorneys and clients.

Thank you for your consideration,

--

Katarina A. Nguyen

Attorney at Law

Mailing Address:

Steven Krieger Law, PLLC

5501 Merchants View Square, Suite 157

Haymarket, Virginia 20169

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--

Katarina A. Nguyen
Attorney at Law

Mailing Address:

Steven Krieger Law, PLLC
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Haymarket, Virginia 20169

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From: [Rebecca Simpson](#)
To: [publiccomment](#)
Subject: EXTERNAL SENDER Comment on proposed changes to Rule 8.4
Date: Monday, August 21, 2023 12:35:47 PM

While I have no problem limiting a lawyer's ability to wield power over clients at the beginning of representation by purporting to limit the client's ability to protect him or herself by filing of a bar complaint, I think the proposed amendment goes too far. The proposal prevents a lawyer from entering into a settlement agreement with a former client or current client, the terms of which would include the client's agreement not to file a bar complaint.

I think this approach discourages resolution of disputes between parties (lawyers and clients). Prospective limitation of liability by an attorney is inappropriate, and should be prohibited by the bar. However, please consider modifying the language of the amendment so that it will clearly permit lawyers who are in a dispute with a client to resolve the dispute with all the available tools of dispute resolution, including assurances that no bar complaint be filed. Thank you.

Kindly,
Rebecca T. Simpson, Esq.

REBECCA SIMPSON LAW, PLLC
P.O. Box 101591, Arlington, VA 22210
ph 571-926-4357 | fax 571-386-2685
rebeccasimpsonlaw.com



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TAB 16



Virginia State Bar

1111 E. Main Street, Suite 700
Richmond, Virginia 23219-0026
Telephone: (804) 775-0500

To: Virginia State Bar Executive Committee and Council

From: Brian D. Lytle, Chair, Clients' Protection Fund Board

Date: October 13, 2023

Re: Approval of 2023-2024 Interim Appointment to the Clients' Protection Fund Board

This memorandum is to request approval, by the Virginia State Bar (VSB) Executive Committee and Council, of the appointment of Jacqueline M. Reiner to the Clients' Protection Fund (CPF) Board.

Part 6, Section IV, Paragraph 16 of the Rules of the Supreme Court of Virginia invests in Council the authority to appoint members of the CPF Board. CPF Board member Eugene M. Elliott, Jr. was appointed by Council with his term ending on June 30, 2024. Mr. Elliott has retired from the CPF Board, leaving a vacancy from his date of resignation, July 17, 2023, through the end of his term, June 30, 2024.

President Chidi James selected from a panel of interested individuals, Jacqueline M. Reiner to fill this vacancy. Ms. Reiner was admitted to practice law in Virginia in 1997 and is an active member in good standing. She is a solo practitioner practicing primarily in the areas of criminal defense, sexually violent predator civil commitments, and protective orders.

Ms. Reiner is currently the Immediate Past Chair of the VSB's Criminal Law Section and a faculty member for the VSB Harry L. Carrico Professionalism Course and is a former member of the VSB Mandatory Continuing Legal Education Board.

We respectfully request the Executive Committee to recommend and Council to appoint Jacqueline Reiner to fill the uncompleted term of Eugene M. Elliott, Jr. on the CPF Board.

TAB 17

Professionalism Course Extension Request Recap

Executive Committee Meeting

October 12, 2023

Kayann S. Chambers
Washington, DC

Active Status: 11/4/2021 (licensed by reciprocity)

Professionalism Course Due Date: 11/4/2023

Ms. Chambers is requesting an extension until January 2024 so that she may attend a later course. She is currently on medical bedrest until mid-November due to complications from her pregnancy.

Doctor's note attached.

This request falls into Executive Committee Professionalism Course Extension Guideline #3:

***3. Illness Excuse:** These requests usually arise when an attorney cannot attend the last course within the one-year period because of an unexpected illness. Depending on the situation, the EC may grant extra time to take the course without penalty or may instruct the member to take the course within the delinquency period and pay the fee. Maternity leave and caring for newborns does NOT fall into this category.*

Ms. Chambers was given twenty-four months from her licensing to attend the course. She is up to date on her dues and her MCLE hours for 2022 were completed on time.

Although pregnancy and newborn care are not ordinarily an Illness excuse, medical bed rest should be considered.

Staff recommends granting this extension until March 2024.

Rina Cheri Tucker Harris
Fairfax

Active Status: 11/30/2021 (licensed by reciprocity)

Professionalism Course Due Date: 11/30/2023

Ms. Harris is requesting an extension due to her COVID diagnosis. She has been unable to attend previously due to her husband's health.

This request falls into Executive Committee Professionalism Course Extension Guideline #3:

***3. Illness Excuse:** These requests usually arise when an attorney cannot attend the last course within the one-year period because of an unexpected illness. Depending on the situation, the EC may grant extra*

time to take the course without penalty or may instruct the member to take the course within the delinquency period and pay the fee. Maternity leave and caring for newborns does NOT fall into this category.

Ms. Harris was given twenty-four months from her licensing to attend the course. She is up to date on her dues and her MCLE hours for 2022 were completed on time.

Staff recommends granting this extension until December 2023 (the next available course).

William B. Newman
Norfolk

Active Status: 11/10/2021 (licensed by bar exam)
Professionalism Course Due Date: 11/10/2023

Ms. Newman is requesting an extension until the next available because he has trials on both upcoming course dates.

This request falls into Executive Committee Professionalism Course Extension Guideline #2:

***2. Convenience Argument:** Rarely is an extension granted to allow an attorney to attend a course at a more convenient location. The attorney is usually required to attend during the 60-day Notice of Delinquency period and pay the \$25 fee. Again, the facts and circumstances of each situation may require a different result. For instance, circumstances warranting a request to attend a program closer to home which may require an extension would be if the attorney had been ill and is still unable to travel long distances; or if a child or other family member at home is terminally ill.*

Mr. Newman is requesting an extension until the next available course so that he may complete trials that were previously scheduled. He is up to date on his dues and his MCLE hours for 2022 were completed on time.

Staff recommends denying this extension. He may attend the next course Under Notice of Delinquency and should pay the \$25.00 delinquency fee.

Andrea N. Coffee
Virginia Beach (AOR, Lives in Wyoming)

Active Status: 7/18/2019 (Admitted as Virginia Corporate Counsel)
Professionalism Course Due Date: 11/19/2023

Ms. Coffee is requesting an extension so that she may attend a later course, referable in the Spring. She cites the travel time and costs and possible delays in travelling from Wyoming during winter.

This request falls into Executive Committee Professionalism Course Extension Guideline #2:

2. Convenience Argument: *Rarely is an extension granted to allow an attorney to attend a course at a more convenient location. The attorney is usually required to attend during the 60-day Notice of Delinquency period and pay the \$25 fee. Again, the facts and circumstances of each situation may require a different result. For instance, circumstances warranting a request to attend a program closer to home which may require an extension would be if the attorney had been ill and is still unable to travel long distances; or if a child or other family member at home is terminally ill.*

Ms. Coffee was given three years from her Active date to complete the course due to the COVID-State of Emergency. She is up to date on her dues and her MCLE hours for 2022 were completed late.

Staff recommends denying this extension. She may attend the next course Under Notice of Delinquency and should pay the \$25.00 delinquency fee.

Alan S. Graf
Asheville, NC

Active Status: 12/10/2020 (licensed by reciprocity)
Professionalism Course Due Date: 12/10/2023

Mr. Graf is requesting an extension until June 2024 so that he may attend the course in Roanoke. He has a medical condition that makes travel difficult.

This request falls into Executive Committee Professionalism Course Extension Guideline #3:

3. Illness Excuse: *These requests usually arise when an attorney cannot attend the last course within the one-year period because of an unexpected illness. Depending on the situation, the EC may grant extra time to take the course without penalty or may instruct the member to take the course within the delinquency period and pay the fee. Maternity leave and caring for newborns does NOT fall into this category.*

Mr. Graf was given three years from his Active date to complete the course due to the COVID-State of Emergency. He is up to date on his dues and his MCLE hours for 2022 were completed on time.

Staff recommends granting this extension until June 2024.

Stengel, Maureen

From: Kayann Chambers <kayann.chambers.esq@gmail.com>
Sent: Monday, September 25, 2023 9:58 AM
To: Stengel, Maureen
Subject: Re: EXTERNAL SENDER RE: Mandatory Professionalism Course Reminder
Attachments: image005.jpg; Dr. Keller Accom Letter .pdf

Maureen:

Thank you for taking my call!

As discussed, I have a high risk pregnancy riddled with medical complications, and therefore unable to travel and/or attend any in person functions. See Accommodation letter attached. I therefore request an extension until January 2024.

Thank you!

On Mon, Sep 25, 2023 at 9:40 AM Kayann Chambers <chambers@dc-law.net> wrote:

From: Professionalism Course <ProfessionalismCourse@vsb.org>
Sent: Friday, September 22, 2023 2:16:31 PM
To: Kayann Chambers <chambers@dc-law.net>
Subject: RE: EXTERNAL SENDER RE: Mandatory Professionalism Course Reminder

We do not have a remote option. If you want to call me to discuss, I am happy to talk to you.

Maureen D. Stengel

Director, Bar Services

Virginia State Bar

Stengel@vsb.org | (804) 775-0517

From: Kayann Chambers <chambers@dc-law.net>
Sent: Friday, September 22, 2023 1:51 PM
To: Professionalism Course <ProfessionalismCourse@vsb.org>
Subject: EXTERNAL SENDER RE: Mandatory Professionalism Course Reminder

Hello,

Name: Kayann S Chambers |

| PCP: Joy Chiffona Melton | Legal Name: Kayann S Chambers

Letter Details



The GW Medical Faculty Associates

GW UNIVERSITY MEDICAL FACULTY ASSOCIATES
OB/GYN - Foggy Bottom South Pavilion
2150 Pennsylvania Ave NW
5th Floor
Washington DC 20037-3201
202-741-2500

07/14/2023

To Whom It May Concern:

I am the treating physician for Kayann S Chambers.

Kayann S Chambers's ability to perform her job is affected by pregnancy and a reasonable accommodation is medically advisable.

Due to Kayann S Chambers's medical condition, she is unable to stand for more than 2 hours without a 15 minute break, must eat snacks every 2-3 hours, and must consume water every 15 minutes.

Kayann S Chambers is able to continue working with a reasonable accommodation.

I recommend Kayann S Chambers be provided the following accommodation: more frequent breaks, seating while performing their job, allow teleworking, and time off for medical appointments. I recommend teleworking 5 days/week.

Kayann is able to perform all her job functions seated in bed or a recliner. She is able to sit upright, prepare for depositions, mediations, and/or court hearings. She has no restriction on her cognitive stamina, or concentration. She is able to meet all deadlines imposed by the courts or the courts; rules, and actively manage her client caseload.

A reasonable accommodation is medically advisable starting 06/06/23

At this time, I anticipate that Kayann S Chambers will need an accommodation until: Estimated Date of Delivery: 11/10/23. I do not foresee any additional limitation or restrictions will be necessary

beyond and or leading up at 11/10/23 however, pregnancy is very unpredictable.

Thank you.

Jennifer Keller, MD

Electronically signed by: Jennifer Keller, MD 07/14/2023

This letter was initially viewed by Kayann S Chambers at 7/14/2023 12:06 PM.

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From: [Rina Tucker Harris](#)
To: [Stengel, Maureen](#)
Subject: EXTERNAL SENDER Professional Course - Rina Cheri Tucker Harris
Date: Monday, October 2, 2023 12:33:44 PM

Ms. Stengel,

My name is Rina Tucker Harris. I was recently admitted to the State bar in November Dr 2021. I haven't been able to take the required in-person professional course due to my husband's illness. He was hospitalized a number of times in 2022 and 2023. He was recently released from the hospital in September. Upon learning that I still may be required to take the upcoming course, I signed up for the course scheduled from October 4 in Arlington, VA. I would like an extension because I have been diagnosed with Covid and must isolate.

Thank you,
Rina Tucker Harris

Sent from my iPad

Stengel, Maureen

From: William Newman <william@jvslawyer.com>
Sent: Friday, September 22, 2023 3:26 PM
To: Professionalism Course
Subject: EXTERNAL SENDER Extension Request

Good afternoon,

I request an extension for taking the professionalism course. I received an email offering two dates before the year's end and I am in court on both. On October 4th I have a hearing in Norfolk General District Court – 3 hours from Arlington, and on December 7th I am in the middle of a weeklong jury trial in the Roanoke federal court. Please advise if I may receive an extension or if I need to continue trial.

Sincerely,
William

William B. Newman, Esquire
JOSEPH V. SHERMAN, P.C.
324 W. Freemason Street
Norfolk, Virginia 23510
(757) 214-6676
william@jvslawyer.com

Stengel, Maureen

From: Andrea N. Coffee <Acoffee@southerntrust.com>
Sent: Friday, September 22, 2023 3:14 PM
To: Professionalism Course
Subject: RE: EXTERNAL SENDER RE: Mandatory Professionalism Course Reminder

Maureen – Thank you for getting back to me so quickly. My employer is headquartered in Virginia so that is why I have the Virginia corporate counsel registration. If I don't need it living full time in Wyoming then I would be happy to surrender my 'active' status and become an associate member. Is there a committee for me to pose that question for a definitive answer?

In the meantime, if you could please help me with asking for an extension, I would greatly appreciate it. I haven't attended yet because I was unaware it was a requirement for me, and I truly thought this course is for new lawyers. Today is the first email I have received about it that I can recall in the 3 years I have been sworn in as Virginia corporate counsel. I have lived in Wyoming the entire time of my VA membership. It is not possible for me to go to Arlington on October 4 so that only leaves Richmond on December 7 if no extension is granted. Traveling from Jackson Hole to Richmond at quick glance involves 2 plane changes and takes approximately 10-12 hours each direction, and costs \$950-\$1100 depending on the times. With the time change, I would have to fly all day on December 6 and hope for no delays or cancellations with the winter weather in Wyoming, and then fly all day on December 8 back, leaving me out of work for 3 full days. This would be a very large burden for both me personally and my employer professionally to pay for in addition to hotels, taxi, and food, etc.

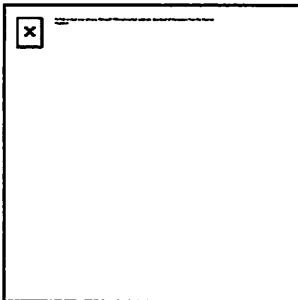
If there is any alternative option such as attending a different course online, etc. prior to the deadline, please let me know.

Thank you,
Andrea



SOUTHERN

Making Home Happen



Andrea N. Coffee

Chief Legal Officer

Office 757-518-0700
eFax 866-591-3678

Location

295 Bendix Road, Suite 400
Virginia Beach, VA 23452

 **Email me**

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Stengel, Maureen

From: Alan Graf <alanstuartgraf@gmail.com>
Sent: Tuesday, October 10, 2023 11:39 AM
To: Stengel, Maureen
Subject: Re: EXTERNAL SENDER Re: Professionalism Course Question

Ms. Stengel

I did not know about the deadline for the course until I received an email from your office. I was given two choices. Had I known about the earlier presentation in Roanoke, I would have taken that.

As to my ability to travel, I have a condition called Blepharospasm which was diagnosed by the Duke Distonia clinic, neurologist and professor Dr. Kathryn Moore. My eyelids close sporadically and are hard to open, making me at times functionally blind. Its a progressive disease which I take Botox shots in my eyelids to quell the symptoms so I can drive most of the time. It affects my ability to write briefs as well, as lately I have been asking the court for extensions, when the symptoms worsen.

I probably can make the trip by plane to Richmond, but it might be difficult, depending on whether my symptoms flare. So, if I could go to Roanoke, then I could ask my wife to drive me as that is only a 3 hour trip.

Thank you for your consideration of my request.

Alan

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Professionalism Course Extension Request Guidelines

The Professionalism Course Requirement

Every newly active member of the bar is required to attend the Professionalism Course within two years of their activation date. *See* Paragraph 13.1 of the Rules of Court (set forth at the end of this document). This includes new bar exam admittees, reciprocity admittees, members changing from associate or judicial status back to active (even if the rule was not in effect at the time they were originally licensed), and Virginia corporate counsel licensed under Rule 1A:5, Part I. The course is required only once in an attorney's career, regardless of subsequent status changes.

The course is offered six times:

December	Richmond
March	Alexandria
May	Norfolk
August	Roanoke
August	Richmond
October TBD	Alexandria

If an attorney does NOT attend the course within the two-year period, the Membership Department issues a Notice of Delinquency which grants the member an additional 60-days within which to attend the course. There is a \$25 delinquency fee.

Extension requests are handled by the Executive Committee typically fall into three categories:

1. **Work Conflict Excuse:** Rarely is an extension granted to allow an extension due to a work conflict. The attorney is usually required to attend during the 60-day Notice of Delinquency period and pay the \$25 fee. The facts and circumstances of a specific situation may lead to a different result, but the EC usually takes a hard line on these requests.
2. **Convenience Argument:** Rarely is an extension granted to allow an attorney to attend a course at a more convenient location. The attorney is usually required to attend during the 60-day Notice of Delinquency period and pay the \$25 fee. Again, the facts and circumstances of each situation may require a different result. For instance, circumstances warranting a request to attend a program closer to home which may require an extension would be if the attorney had been ill and is still unable to travel long distances; or if a child or other family member at home is terminally ill.
3. **Illness Excuse:** These requests usually arise when an attorney cannot attend the last course within the two-year period because of an unexpected illness

Depending on the situation, the EC may grant extra time to take the course without penalty or may instruct the member to take the course within the delinquency period and pay the fee. Maternity leave and caring for newborns does NOT fall into this category.

Waiver requests are always handled by the Executive Committee:

A full waiver of the requirement has only been granted three times. In each instance the member was required to be an active member either by an out-of-state employer or in order to perform pro bono work. Each instance involved an older, long-term member of the Virginia bar, and the waiver was granted with the stipulation that should their employment change and/or they return to Virginia as an active member, they would be required to attend the course.

Professionalism Course Rule

13.1 Suspension for Failure to Complete Professionalism Course—

Each person admitted to the Virginia State Bar on or after July 1, 1988, as an active member shall complete the course of study prescribed by the Executive Committee of the Virginia State Bar and approved by the Supreme Court of Virginia on the Rules of Professional Conduct and the lawyer's broader professional obligations, and any active member who fails to complete the course shall be suspended unless an extension is obtained for good cause shown. Such course of study shall be funded by attendance fees paid by those attending the course.

Any active member licensed after June 30, 1988, and any other member who changes his or her membership to active status shall complete the required course within twenty-four months* of becoming an active member. Failure to comply with this Rule shall subject the active member to the penalties set forth in Paragraph 19 herein.

“Good cause shown” as used herein shall include illness, hospitalization or such other cause as may be determined by the Executive Committee, whose determination shall be final. The Executive Director of the Virginia State Bar is authorized to grant extensions for compliance with this paragraph until the next Executive Committee meeting. Any determination by the Executive Committee or the Executive Director may be reviewed by the Supreme Court on request of the member seeking an extension.

**Members registered with the VSB between January 1, 2019, and April 28, 2021, who were unable to attend a course to due COVID-19 cancellations, have thirty-six months from their registration date to complete a course.*

TAB 18

RESOLUTION OF APPRECIATION

in Honor of

MARK D. BRALEY

WHEREAS, Mark D. Braley was hired as Legal Services Corporation of Virginia's Executive Director in 1992, and has successfully led efforts to increase the resources available for the expansion of access to legal services for low-income Virginians throughout the Commonwealth; and

WHEREAS, working in coordination with local legal aid programs, as well as with the Virginia State Bar and other statewide and local bar associations, Mark D. Braley has substantially increased state, local, corporate, and Interest on Lawyer Trust Accounts funding for legal aid programs; and

WHEREAS, Mark D. Braley has initiated and refined efforts to ensure that funds provided to Virginia's legal aid programs by LSCV are used effectively and efficiently to the benefit of the Commonwealth's most vulnerable community members; and

WHEREAS, Mark D. Braley has been a strong and effective advocate for legal aid on substantive issues before the Virginia General Assembly and in other venues, including an unprecedented increase in civil filing fees in 2008 and the adoption of mandatory IOLTA in 2022, resulting in historic funding increases to enhance the long-term financial security of Virginia legal aid programs; and

WHEREAS, Mark D. Braley has successfully administered more than \$100 million collected in court filing fees and more than \$60 million in general fund appropriations during his tenure; and

WHEREAS, Mark D. Braley served as a dedicated and valued member of the Virginia State Bar Access to Legal Services Committee for 19 years, facilitating collaboration between legal aid groups and the Bar while supporting existing programs and addressing unmet legal needs so as to ensure equal access to counsel, regardless of economic status; and

WHEREAS, Mark D. Braley has provided immeasurable personal and organizational support and leadership by generously giving his time, talent, and treasure to the diverse geographic network of Virginia legal aid programs in pursuit of equal justice for hundreds of thousands of low-income Virginians.

NOW, THEREFORE, BE IT RESOLVED, this 13th day of October 2023, that the Virginia State Bar Council, on behalf of the lawyers of the Commonwealth, expresses its deepest appreciation to Mark D. Braley for his extraordinary leadership and service to Virginia's legal aid programs and the residents of the Commonwealth.



Chidi I. James
President, Virginia State Bar

Cameron M. Rountree
Executive Director/Chief Operating Officer