

Virginia Lawyer Register

The Official Publication of the Virginia State Bar

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DISCIPLINARY PROCEEDINGS

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Circuit Courts				
Lorenzo Lee Bean III	Sterling, VA	Public Reprimand w/Terms	May 28, 2009	4
***Walter Franklin Green IV	Harrisonburg, VA	Public Admonition w/Terms	June 23, 2009	4
**David Loren Shurtz	Arlington, VA	Suspension – 18 months	April 16, 2009	4
*Michael Patrick Weatherbee	Arlington, VA	Public Reprimand	January 29, 2009	4
John W. Wine	Marshall, VA	Public Reprimand	April 22, 2009	4
Disciplinary Board				
Richard Wolfe Arnold Jr.	Louisa, VA	CRESPA Penalty - \$500	June 23, 2009	4
James Andrew Carter II	Hampton, VA	Suspension – 5 years	March 26, 2009	4
Kevin Michael Cunningham	Tega Cay, SC	Revocation	March 27, 2009	5
Royal Daniel III	Washington, DC	Revocation	April 24, 2009	5
Joseph Kelly Haley III	Petersburg, VA	Revocation	April 24, 2009	5
Anne Marston Lynch	Portsmouth, VA	Suspension – 1 year w/terms	May 15, 2009	5
James Edward Moyler Jr.	Williamsburg, VA	Revocation	April 13, 2009	5
Raul Novo	Chesterfield, VA	Suspension – 2 1/2 years	May 31, 2009	5
Tonja Michelle Roberts	Danville, VA	Suspension – 1 year w/terms	June 2, 2009	5
Leslie Dana Silverman	College Park, MD	Suspension – 60 days	June 1, 2009	5
Jackson Willard Snyder II	Potomac, MD	Suspension – 1 year and 1 day	May 27, 2009	5
Alan Sherwin Toppelberg	Arlington, VA	Suspension – 1 year	April 24, 2009	6
District Committees				
Russell Nardy Allen	Richmond, VA	Public Reprimand	July 9, 2009	6
Howard Norman Bierman	Arlington, VA	Public Admonition	April 15, 2009	6
Peyton Moncure Chichester III	Richmond, VA	Public Reprimand	April 21, 2009	6
Donald Jerome Gee	Richmond, VA	Public Reprimand w/Terms	May 28, 2009	6
Phillip Stone Griffin II	Winchester, VA	Public Admonition	May 27, 2009	6
Mark Michael Kantro	Norfolk, VA	Public Reprimand w/Terms	May 27, 2009	6
Christopher Broughton Shedlick	Falls Church, VA	Public Reprimand w/Terms	June 8, 2009	6
Keith Hamner Waldrop	Goochland, VA	Public Admonition	June 8, 2009	6
Impairment Suspension				
Harvey D. Coleman	Virginia Beach, VA		Effective Date July 2, 2009	n/a
Suspension – Failure to Pay Disciplinary Costs				
Andrew George Adams III	Richmond, VA		Effective Date May 11, 2009	n/a
Charles William Austin Jr.	Richmond, VA		Effective Date May 4, 2009	n/a
Steven Scott Biss	Petersburg, VA		Effective Date April 21, 2009	n/a
Kristina Marie Cardwell	Virginia Beach, VA		Effective Date July 20, 2009	n/a
Ronald Marc Cohen	Arlington, VA		Effective Date April 22, 2009	n/a
Wade Trent Compton	Lebanon, VA		Effective Date July 6, 2009	n/a

Virginia Lawyer Register

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Editor: Rodney A. Coggin
Assistant Editor: Dawn Chase
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The Virginia State Bar publishes the *Virginia Lawyer Register* five times annually. The *Register* is primarily a compilation of disciplinary actions against attorneys licensed to practice law in the commonwealth; administrative suspensions; legal ethics opinions; and proposed amendments to the Rules of the Supreme Court of Virginia. All documents submitted to the state bar for inclusion in the Register are

subject to alteration as to typography and formatting, in order to conform to the requirements of the *Register*, without changing the intent of any document.

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DISCIPLINARY PROCEEDINGS

Respondent's Name	Address of Record	Action	Effective Date	pg
Suspension – Failure to Pay Disciplinary Costs		Effective Date	Lifted	
Royal Daniel III	Washington, DC	July 13, 2009		n/a
Kelly Ralston Dennis	McLean, VA	April 23, 2009		n/a
Maxime Austria Frias	Virginia Beach, VA	May 18, 2009		n/a
Steven Lieberman	Norfolk, VA	May 15, 2009		n/a
Stephen Lee McPherson	Chesapeake, VA	May 13, 2009		n/a
Brian Merrill Miller	Fairfax, VA	April 23, 2009		n/a
John Lawson Moss	Tazewell, VA	June 25, 2009		n/a
James Spaulding Powell	Golden, CO	May 8, 2009		n/a
Peter Campbell Sackett	Lynchburg, VA	July 6, 2009		n/a
Uzair Mansoor Siddiqui	Manassas, VA	April 20, 2009		n/a
Lindsey Owen Sutherland	Fairfax, VA	July 8, 2009		n/a
Lindsey Owen Sutherland	Fairfax, VA	May 13, 2009		n/a
Suspension – Failure to Comply with Subpoena		Effective Date	Lifted	
Christopher Jason Agresto	Leesburg, VA	May 15, 2009	May 20, 2009	n/a
Richard Anthony Bednar	Woodbridge, VA	July 7, 2009		n/a
Jason Matthew Head	Virginia Beach, VA	June 25, 2009	July 20, 2009	n/a
Gary Lance Smith	Winchester, VA	April 29, 2009	May 21, 2009	n/a
William L. Stables Jr.	Harrisonburg, VA	April 15, 2009	May 14, 2009	n/a
John Arthur Sutherland	Fairfax, VA	July 13, 2009		n/a

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

**Supreme Court granted stay of suspension pending appeal.

***Respondent withdrew the appeal.

For easier access to the documents cited in this magazine, the *Virginia Lawyer Register* is posted with live Internet links at http://www.vsb.org/docs/valawyer magazine/Register_2009-08.pdf.

DISCIPLINARY SUMMARIES

The following are summaries of disciplinary actions for violations of the Virginia Rules of Professional Conduct (RPC) (Rules of the Supreme Court of Virginia, Part 6, § II, eff. Jan. 1, 2000) or another of the Supreme Court rules (Rules). References to the reformatting Rules Part 6, Section IV Paragraph 13 are indicated by (eff. May 1, 2009). References to Paragraph 13 before the reformatting are indicated as (eff. before May 1, 2009).

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

CIRCUIT COURTS

LORENZO LEE BEAN III

Sterling, Virginia

07-070-1277

On May 28, 2009, a three-judge panel in the Fauquier County Circuit Court imposed a public reprimand with terms on Lorenzo Lee Bean III for violating a professional rule that governs safekeeping property. Mr. Bean failed to deposit \$60,000 in client funds into an attorney escrow account, as the rules require. This was an agreed disposition of misconduct charges. RPC 1.15(a)(1)(2)

http://www.vsb.org/docs/Bean_05-28-09.pdf

WALTER FRANKLIN GREEN IV

Harrisonburg, Virginia

07-070-070541

On December 18, 2008, the Virginia State Bar Seventh District Committee imposed a public admonition with terms on Walter Franklin Green IV for violating disciplinary rules that govern unauthorized practice of law and communicating false or misleading information concerning a lawyer's services. Mr. Green continued to advertise his services as an attorney on his website while his license to practice law was suspended. Mr. Green appealed the decision but later withdrew the appeal. On June 23, 2009, the Rockingham County Circuit Court dismissed the appeal. RPC 5.5(a)(1); 7.1(a)(1)

Dismissal of appeal:

http://www.vsb.org/docs/GreenAppeal_07-08-09.pdf

District committee order:

http://www.vsb.org/docs/Green_07-20-09.pdf

DAVID LOREN SHURTZ

Arlington, Virginia

07-041-1154

On April 16, 2009, Mr. Shurtz filed an appeal of the following case with the Supreme Court of Virginia. On April 16, 2009, the Court granted a stay of the suspension pending the appeal.

On March 26, 2009, a three-judge court in Arlington County Circuit Court suspended David Loren Shurtz's license to practice law for eighteen months, effective April 16, 2009. Mr. Shurtz violated disciplinary rules that govern communication, conflict of interest – prohibited transactions, and misconduct that reflects adversely on a lawyer's honesty, trustworthiness, or fitness to practice law. The violations occurred during his representation of a client in a personal injury case. RPC 1.4(b), (c); 1.8(e)(1), (e)(2); 8.4(b), (c)

http://www.vsb.org/docs/Shurtz_05-14-09.pdf

MICHAEL PATRICK WEATHERBEE

Arlington, Virginia

05-041-4811

On May 11, 2009, Mr. Weatherbee filed an appeal of the following case with the Supreme Court of Virginia.

On January 29, 2009, a three-judge panel of the Arlington County Circuit Court imposed a public reprimand on Michael Patrick Weatherbee for violating the disciplinary rule that governs meritorious claims and contentions. The misconduct occurred in a medical malpractice case, in which Mr. Weatherbee incorrectly named a physician as a defendant. RPC 3.1

http://www.vsb.org/docs/Weatherbee_4-30-09.pdf

JOHN W. WINE

Marshall, Virginia

07-070-1360

On April 22, 2009, a three-judge court in the Fauquier County Circuit Court imposed a public reprimand on John W. Wine for violating the professional rule that requires a lawyer to adequately explain fees to a client. The misconduct occurred in an estate administration. This was an agreed disposition of charges against Mr. Wine. RPC 1.5(b)

http://www.vsb.org/docs/Wine_05-14-09.pdf

DISCIPLINARY BOARD

RICHARD WOLFE ARNOLD JR.

Louisa, Virginia

07-000-1134

On June 25, 2009, the Virginia State Bar Disciplinary Board found that Richard Wolfe Arnold Jr. violated the Virginia Consumer Real Estate Settlement Protection Act and regulations and fined him \$500. Mr. Arnold did not maintain an escrow account for deposit of clients' settlement funds as required by CRESPA and the Virginia Rules of Professional Conduct. This was an agreed disposition of the charges. Virginia Code § 6.1-2.23.C; 15 VAC 5-80-50.B

http://www.vsb.org/docs/Arnold_07-20-09.pdf

JAMES ANDREW CARTER II

Hampton, Virginia

06-060-2563, 06-060-3160, 06-060-3942, 06-060-4118, 07-060-1738, 07-060-064820, 08-060-072335

On March 26, 2009, the Virginia State Bar Disciplinary Board suspended James Andrew Carter II's license to practice law for five years for violating professional rules that govern competence, diligence, communication, confidentiality of information, conflict of interest, safekeeping property, declining or terminating representation, fairness to opposing party and counsel, respect for rights of third persons, bar admission and disciplinary matters, and misconduct that reflects adversely on a lawyer's honesty, trustworthiness, or fitness to practice. RPC 1.1; 1.3(a), (b); 1.4(a), (b), (c); 1.6(a); 1.7(b); 1.15(a), (c)(4); 1.16(a)(2), (d), (e); 3.4(d); 4.4; 8.1(c); 8.4(b),(c)

http://www.vsb.org/docs/Carter_4-29-09.pdf

DISCIPLINARY SUMMARIES

KEVIN MICHAEL CUNNINGHAM

Tega Cay, South Carolina

09-000-078512

On March 27, 2009, the Virginia State Bar Disciplinary Board revoked Kevin Michael Cunningham's license to practice law in Virginia, based on his disbarment by consent in South Carolina. Mr. Cunningham's Virginia license was summarily suspended on February 27, 2009, pending a hearing. Rules Part 6, §IV, ¶13.I.7 (eff. before May 1, 2009).

http://www.vsb.org/docs/Cunningham_4.-15-09.pdf

ROYAL DANIEL III

Washington, D.C.

09-000-078723

On April 24, 2009, the Virginia State Bar Disciplinary Board revoked Royal Daniel III's license to practice law, based on his April 17, 2008, disbarment by the Colorado Supreme Court. Mr. Daniel's Virginia license has been suspended since March 26, 2009, pending a hearing. Rules Part 6, §IV, ¶13.I.7 (eff. before May 1, 2009)

http://www.vsb.org/docs/Daniel-Royal_5-26-09.pdf

JOSEPH KELLY HALEY III

Petersburg, Virginia

07-033-1995

On April 24, 2009, the Virginia State Bar Disciplinary Board revoked Joseph Kelly Haley III's license to practice law. Mr. Haley stipulated that he violated professional rules that govern competence, diligence, safekeeping property, declining or terminating representation, fairness to opposing party and counsel, and misconduct that reflects adversely on the lawyer's fitness to practice. The violations occurred in a guardianship of an incapacitated adult. RPC 1.1; 1.3(a); 1.15(c)(3),(4); 1.16(a)(2); 3.4(d); 8.4(b)(c)

http://www.vsb.org/docs/Haley_5-26-09.pdf

ANNE MARSTON LYNCH

Portsmouth, Virginia

08-101-071408, 08-010-071625, 08-010-072683, 08-010-072684, 08-010-074537

On May 15, 2009, the Virginia State Bar Disciplinary Board suspended Anne Marston Lynch's license to practice law for one year and imposed terms. In five cases, Ms. Lynch violated professional rules that govern diligence, communication, and bar disciplinary matters. The cases involved criminal defense representations and a real estate matter. RPC 1.3(a); 1.4(a); 8.1(c),(d)

http://www.vsb.org/docs/Lynch_06-11-09.pdf

JAMES EDWARD MOYLER JR.

Franklin, Virginia

09-010-076281

On April 13, 2009, the Virginia State Bar Disciplinary Board revoked James Edward Moyler's license to practice law. Mr. Moyler admitted that he had acknowledged in court proceedings that he had "loaned" himself more than \$3.5 million from an estate for which he was executor. The bar had scheduled an April 14, 2009, expedited hearing after learning that he had been ordered by the Southampton County Circuit Court to account for funds in at least two estates. Rules Part 6, §IV, ¶13.L (eff. before May 1, 2009)

http://www.vsb.org/docs/Moyler_4-17-09.pdf

RAUL NOVO

Chesterfield, Virginia

08-031-074033, 08-031-074806

On May 8, 2009, the Virginia State Bar Disciplinary Board suspended Raul Novo's license to practice law for thirty months, effective May 31, 2009, for violating professional rules that govern competence, diligence, communication, conflict of interest, and misconduct that reflects adversely on the lawyer's fitness to practice. The violations occurred in a personal injury representation and a divorce case. This was an agreed disposition of misconduct charges. RPC 1.1; 1.3(a); 1.4(a),(b); 1.7(a)(2); 8.4(c)

http://www.vsb.org/docs/Novo_5-21-09.pdf

TONJA MICHELLE ROBERTS

Danville, Virginia

08-090-073958, 08-090-074552

On May 6, 2009, the Virginia State Bar Disciplinary Board suspended Tonja Michelle Roberts's license to practice law for one year, effective June 2, 2009, and imposed terms. Ms. Roberts violated professional rules that govern diligence, communication, declining or terminating representation, and bar admission and disciplinary matters. The violations occurred in cases that involved a bankruptcy and payment to a health care provider in a personal injury representation. In both cases, Ms. Roberts failed to respond to the bar's investigation. As a term of her discipline, Ms. Roberts must return the \$750 fee paid by a client. This was an agreed disposition of misconduct charges. RPC 1.3(a),(b); 1.4(a),(b); 1.16 (d); 8.1(c)

http://www.vsb.org/docs/Roberts_T_06-09-09.pdf

LESLIE DANA SILVERMAN

College Park, Maryland

07-052-2031, 07-052-2323

On May 21, 2009, the Virginia State Bar Disciplinary Board suspended Leslie Dana Silverman's license to practice law for sixty days, effective June 1, 2009. Ms. Silverman violated professional rules that govern diligence, safekeeping property, and unauthorized practice of law. In two cases, she represented clients in Virginia while her Virginia license was administratively suspended, and she did not deposit client funds into an attorney escrow account, as the rules require. In one case, she failed to appear in court on behalf of the client. This was an agreed disposition of misconduct charges. RPC 1.3(a); 1.5(a)(2); 5.5(a)(1)

http://www.vsb.org/docs/Silverman_06-01-09.pdf

JACKSON WILLARD SNYDER II

Potomac, Maryland

09-000-079415

On June 30, 2009, the Virginia State Bar Disciplinary Board suspended Jackson Willard Snyder II's license to practice law for a year and a day, effective May 27, 2009. Mr. Snyder was convicted on February 9, 2009, in the U.S. District Court for the District of Maryland after he pled guilty to making false statements on a financial disclosure form. His license was summarily suspended on May 27, 2009, pending a board hearing. This was an agreed disposition of misconduct charges. Rules Part 6, §IV, ¶13-6.H (eff. May 1, 2009)

http://www.vsb.org/docs/Snyder_7-7-09.pdf

DISCIPLINARY SUMMARIES

ALAN SHERWIN TOPPELBERG

Arlington, Virginia

09-000-078935

On April 24, 2009, the Virginia State Bar Disciplinary Board suspended Alan Sherwin Toppelberg's license to practice law for one year, the same discipline imposed by the District of Columbia Court of Appeals for professional misconduct in that jurisdiction. His Virginia license was summarily suspended on April 3, 2009, pending a hearing. Rules Part 6, §IV, ¶13.I.7 (eff. before May 1, 2009)

http://www.vsb.org/docs/Toppelberg_5-26-09.pdf

DISTRICT COMMITTEES

RUSSELL NARDY ALLEN

Richmond, Virginia

09-032-079048

On July 9, 2009, a Virginia State Bar Third District Subcommittee imposed a public reprimand on Russell Nardy Allen for violating the disciplinary rule that governs diligence. Mr. Allen missed filing deadlines for three appeals. He informed the clients of the subsequent dismissals of the appeals, then obtained delayed appeals on all three cases. RPC 1.3(a)

http://www.vsb.org/docs/Allen_07-20-09.pdf

HOWARD NORMAN BIERMAN

Arlington, Virginia

08-041-072548, 08-041-072921, 08-041-072923, 08-041-074232, 08-041-074233, 08-041-073082

On April 15, 2009, a Virginia State Bar Fourth District, Section I, Subcommittee imposed a public admonition on Howard Norman Bierman for violating the professional rule that governs diligence. In six cases involving foreclosure sales, he failed to timely file required documents with commissioners of accounts in Virginia Beach, Staunton, and Chesterfield County, and he failed to respond to inquiries from the commissioners. This was an agreed disposition of misconduct charges. RPC 1.3(a)

http://www.vsb.org/docs/Bierman_05-14-09.pdf

PEYTON MONCURE CHICHESTER III

Richmond, Virginia

08-031-071258

On April 21, 2009, a Virginia State Bar Third District Subcommittee imposed a public reprimand on Peyton Moncure Chichester III for violating professional rules that govern diligence and communication in representing a client in a case of alleged housing discrimination. This was an agreed disposition of misconduct charges. RPC 1.3(a),(b); 1.4(a),(b)

http://www.vsb.org/docs/Chichester_05-14-09.pdf

DONALD JEROME GEE

Richmond, Virginia

06-032-2891, 07-032-0580

On May 28, 2009, a Virginia State Bar Third District Subcommittee imposed a public reprimand with terms on Donald Jerome Gee for violating disciplinary rules that govern diligence, communication, fees, responsibilities regarding nonlawyer assistants; safekeeping property; and misconduct by violating the Rules of Professional Conduct or attempting to do so. The violations occurred in personal injury cases.

This was an agreed disposition of misconduct charges. RPC 1.3(a); 1.4(a); 1.5(a)(1-8)&(c); 1.15(a)(1),(2)&(c)(4); 5.3(a); 8.4(a)

http://www.vsb.org/docs/Gee_06-11-09.pdf

PHILLIP STONE GRIFFIN II

Winchester, Virginia

No. 06-070-2954

On May 27, 2009, the Virginia State Bar Seventh District Committee imposed a public admonition on Phillip Stone Griffin II for violating disciplinary rules that govern making false statement of fact or law to a tribunal and engaging in conduct that reflects adversely on a lawyer's fitness to practice. The violations occurred during an action to collect unpaid attorney's fees from a former client. RPC 3.3(a)(1); 8.4(c)

http://www.vsb.org/docs/Griffin_06-09-09.pdf

MARK MICHAEL KANTRO

Norfolk, Virginia

08-021-071117, 08-021-074925

On May 27, 2009, a Virginia State Bar Second District Subcommittee imposed a public reprimand with terms on Mark Michael Kantro for violating professional rules that govern competence, diligence, communication, and terminating representation. The misconduct occurred in two appeals of probation revocations. This was an agreed disposition of misconduct charges. RPC 1.1; 1.3(a),(b); 1.4(a-c); 1.16(b-d)

http://www.vsb.org/docs/Kantro_06-11-09.pdf

CHRISTOPHER BROUGHTON SHEDLICK

Falls Church, Virginia

07-051-070816

On June 8, 2009, a Virginia State Bar Fifth District, Section I, Subcommittee imposed a public reprimand with terms on Christopher Broughton Shedlick for violating professional rules that govern responsibilities regarding nonlawyer assistants, professional independence of a lawyer, unauthorized practice of law, communication and advertising about a lawyer's services, and firm names and letterheads. The misconduct involved the management of Mr. Shedlick's law office and his advertisements, which used the name and likeness of a disbarred attorney. This was an agreed disposition of misconduct charges. RPC 5.3(a),(b),(c)(1),(2); 5.4(a)(1-3); 5.5(a)(2); 7.1(a)(1); 7.5(a),(d)

http://www.vsb.org/docs/Shedlick_7-7-09.pdf

KEITH HAMNER WALDROP

Goochland, Virginia

08-070-070513

On June 8, 2009, a Virginia State Bar Seventh District Subcommittee imposed a public admonition on Keith Hamner Waldrop for violating professional rules that govern diligence and communication. The misconduct occurred in a court-appointed criminal representation. This was an agreed disposition of misconduct charges. RPC 1.3(a); 1.4(a)

http://www.vsb.org/docs/Waldrop_7-7-09.pdf

PARAGRAPH 13 AMENDMENTS

The Supreme Court of Virginia amended its Rules, Part 6, Section IV, Paragraph 13, regarding definitions and bonds required for filing of reinstatement petitions. The amendments became effective August 1, 2009.

Definitions

The definitions of “terms” and “costs” have been amended. (§13.A)

Details: <http://www.vsb.org/site/regulation/p13-definition-of-terms>,
<http://www.vsb.org/site/regulation/p13-definition-of-costs>

Reinstatement Bond

The bond that petitioners must post for payment of costs related to reinstatement proceedings has been increased from \$3,500 to \$5,000. (§13.I.8.b(2))

Details: <http://www.vsb.org/site/regulation/p13-increase-amount-reinstatement-bond>

PARAGRAPH 19 AMENDMENTS

Procedure for Administrative Suspension

The Supreme Court amended its procedures under its Rules, Part 6, Section IV, Paragraph 19, for the administrative suspension of a Virginia State Bar member, effective August 1, 2009. The changes:

- Impose an additional fine of \$100 on February 1 for noncompliance of the Court’s certification requirements for VSB members
- Eliminate a requirement that notices of noncompliance be sent to the member by certified mail. The notices will be sent by regular mail.

Details: <http://www.vsb.org/site/regulation/para19-102108>

FINAL OPINIONS

LEGAL ETHICS OPINION I845

Use of Covert Tactics by the Virginia State Bar in Unauthorized Practice of Law Investigations

Details: <http://www.vacle.org/opinions/1845.htm>

LEGAL ETHICS OPINION I848

Use of Credit Cards for Legal Services

Details: <http://www.vacle.org/opinions/1848.htm>

MCLE ADMINISTRATIVE SUSPENSIONS

A list has been posted of Virginia State Bar members who have been administratively suspended for failure to comply with the Mandatory Continuing Legal Education requirements prescribed in Part 6, Section IV, Paragraph 17, 13.2, and 19, Rules of the Supreme Court of Virginia, Organization and Government of the Virginia State Bar.

The VSB has been unable to contact some of these persons. The bar requests that members report the location and practice status of any person on the list by contacting the MCLE Department at (804) 775-0577 or MCLE@vsb.org. The posted list is current as of July 21, 2009.

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

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

Virginia State Bar President Jon D. Huddleston has appointed a nominating committee to consider nominees for board vacancies in 2010 to be filled by the Supreme Court of Virginia. The committee consists of Manuel A. Capsalis, chair; John Y. Richardson; Judith L. Rosenblatt; Aubrey J. Rosser Jr.; and Edna Ruth Vincent.

Vacancies beginning on July 1, 2010, are listed below. Appointments are for the term specified. The nominating committee’s recommendations will be acted on by the Virginia State Bar Council in October 2009, and the names of the nominees will then be forwarded to the Supreme Court for consideration.

Nominations, along with a brief résumé, should be sent by **September 8, 2009**, to Manuel A. Capsalis, Chair, VSB Nominating Committee, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, VA 23219, or e-mailed to Valerie Breeden at breeden@vsb.org.

COUNCIL MEMBERS AT LARGE

Three vacancies (for which one incumbent is eligible for reappointment to a second term). May serve two consecutive three-year terms.

DISCIPLINARY BOARD

Six lawyer vacancies and one lay member vacancy (for which four lawyer members are eligible for reappointment to a second term). District committee experience is preferred. May serve two consecutive three-year terms.

MANDATORY CONTINUING LEGAL EDUCATION BOARD

Three lawyer vacancies (for which two current members are eligible for reappointment to a second term). May serve two consecutive three-year terms.

OCTOBER COUNCIL PROPOSALS FOR PUBLIC COMMENT

The Virginia State Bar is seeking public comment on the following proposals, which will be considered at the VSB Council meeting on October 16, 2009, in Williamsburg. Comments should be sent in writing to Karen A. Gould, Executive Director, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, VA 23219, no later than end of business on the date of deadline.

DUTIES TO PROSPECTIVE CLIENT

Deadline for comment: September 24, 2009

Proposal: To establish a new rule to govern how a lawyer should handle potential client relationships and the disqualifying information that the potential client might convey.

(Rules of Professional Conduct, new Rule 1.18)

Details: http://www.vsb.org/docs/Rule_1-18_3-26-09.pdf

COMMONWEALTH'S ATTORNEY — ADVICE TO LAW ENFORCEMENT

Deadline for comment: September 24, 2009

Proposal: To clarify that a commonwealth's attorney can advise a law enforcement officer regarding the legality of an interrogation or other investigative conduct.

(Amendment to Rules of Professional Conduct 4.2, Communications with Persons Represented by Council, Comment [5])

Details: <http://www.vsb.org/site/regulation/rule-4-2>

PARAGRAPH 10 AMENDMENTS

Deadline for comment: September 24, 2009

Proposal: To reformat and amend Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 10, regarding promulgation of legal ethics and unauthorized practice of law (UPL) opinions and rules of court.

The changes would:

- Update terminology and eliminate redundancy in procedures to provide notice and solicit public comment.
- Require that the VSB seek the Virginia attorney general's analysis of potential restraint on competition only for proposed UPL opinions that declare activity conducted by a nonlawyer to be UPL. No other UPL or ethics opinions and no other rules must be submitted for this analysis, under the amended Paragraph 10.
- Include "foreign" lawyers (as defined in Rules of Professional Conduct 5.5(d)(1)) among the attorneys that VSB ethics counsel can give informal advice and opinions to.
- Prevent ethics counsel from disclosing the content of advice and opinion provided to a lawyer, unless the lawyer consents in writing to the disclosure. The lawyer cannot withhold consent if the lawyer claims during a disciplinary investigation or hearing that he or she relied on the advice of ethics counsel.

Details: <http://www.vsb.org/site/regulation/part-six-sect-iv-par-10/>

PARAGRAPH 13 — "CHARGES OF MISCONDUCT" REFERENCES

Deadline for comment: September 28, 2009

Proposal: To amend the Procedure for Disciplining, Suspending, and Disbarring Attorneys by removing references to "charge of misconduct."

(Rules of the Supreme Court of Virginia Part 6, §IV, ¶13)

Details: <http://www.vsb.org/site/regulation/part-6-sect-iv-par-13-charge-misconduct>

PAYEE NOTIFICATION

Deadline for comment: September 28, 2009

Proposal: To require insurers that pay third-party liability claims to notify claimants when they disburse settlement proceeds of \$5,000 or more to the claimants' attorneys. This issue originally was to be considered at the June council meeting, but was postponed to extend time for comment.

(This would require legislation.)

Details: <http://www.vsb.org/site/public/payee-notification>