

# Virginia Attorneys Recognized for Pro Bono 9-11 Work

by Dawn Chase

Abingdon personal injury attorney Mary Lynn Tate is among several Virginia lawyers who have been recognized for their pro bono representation of victims of the September 11, 2001, terrorist attacks.

Tate described her case:

“My client was a tiny little boy. His name was Kahleb, and he was six months old at the time of 9-11. His mother was a petty officer in the navy. She was from a navy family.”

The mother had enlisted in 1995, and her tours of duty included serving a year in Bahrain in the Middle East. In September 2001 she was on duty with the Naval Operations Support Center at the Pentagon.

“On September 10, she had taken Kahleb for his six-month checkup,” Tate said. On September 11, Kahleb’s mother was killed when a plane crashed into the Pentagon.

Tate at that time was, as she is now, on the Executive Committee of the Association of Trial Lawyers of America, which sprang into action by conference call mere hours after the terrorist attacks in Arlington, New York City and Pennsylvania.

The sequence of events is chronicled in *Thousands of Heroes: The Rest of us Can Only Help*, ATLA’s report to Congress.

Within days of the attacks, it became clear that the total pool of insurance money for all possible defendants would not be enough to pay 9-11 victims or their families more than a few cents on the dollar. And the airline industry was facing economic collapse.

ATLA and others worked with Congress to develop a way to both compensate the victims and assist the airlines. Eleven days after the attacks, President George W. Bush signed the “Airline Transportation



Mary Lynn Tate of Abingdon was recognized this summer by the Association for Trial Lawyers of America for her work helping a September 11 victim. With her are (from left) Richmond Bieder, president of Trial Lawyers Care; Kenneth Feinberg, Special Master of the September 11th Victim Compensation Fund; and U.S. Supreme Court Justice Stephen Breyer.

Safety and System Stabilization Act,” which included the September 11th Victim Compensation Fund.

The legislation put control of the fund’s claims process under a Special Master, whose decisions were not subject to judicial review. The fund was independent of the appropriations process, so Congress could not influence the fund.

The day the legislation was passed by Congress, ATLA’s then-president, Leo V. Boyle, promised “free legal services to any family wishing to pursue justice through the fund established by this unprecedented, humanitarian legislation.”

To that end, ATLA created Trial Lawyers Care, a nonprofit group that managed, trained and supported the pro bono lawyers who stepped forward to serve. Tate served on the board of directors of TLC.

She volunteered her legal assistance as well. “I received the first case referred to TLC,” she said. As the rules required, she charged no fee, and she paid out-of-

pocket her own costs, including transportation from Abingdon to Northern Virginia to meet with Kahleb’s family.

After Kahleb’s mother’s death, Kahleb was put into the custody of his grandparents. Kahleb’s father was out of the picture. In February 2002, Kahleb’s grandfather died of lung cancer, leaving only his grandmother to care for him.

Tate’s first job with Kahleb’s family was to help them make a choice: Under the new law, they could apply for relief through the fund, or they could file a lawsuit.

Her analysis led her to conclude that, “in most cases, it made more sense to go through the fund.” Under the guidelines the fund established, some compensation was virtually guaranteed.

A successful lawsuit, on the other hand, would have to prove liability, causation and damages, in an adversarial setting. The task of identifying which airline,

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## Suffolk Attorney Wins “Scales of Justice Award”

Whitney G. Saunders, a former president of The Virginia Bar Association, is the 2004 winner of the Virginia Legal Aid Society’s “Scales of Justice Award.”

Saunders, who practices with Saunders Babineau and Brewbaker PC in Suffolk, was recognized for helping develop financial support in his community for legal assistance in civil cases, said David B. Neumeyer, executive director of VLAS.

Saunders “has gone far out of his way in a variety of respects to help us increase resources,” Neumeyer said. Saunders’s first contact with VLAS was when he was president of the Suffolk Bar Association about ten years ago, and he attended the legal aid luncheon during the Virginia State Bar annual meeting at Virginia Beach.

There, he heard firsthand accounts from legal aid attorneys about the difficulty they

were having fundraising. He took up legal aid’s cause with the United Way of South Hampton Roads, and with boards he sat on—the Community Action Coalition, Beasley Foundation and Pruden Foundation.

The award was presented October 11 in Suffolk.



John Rickman (l), director of fiscal services for the Supreme Court of Virginia, and Richard Goemann, executive director of the Virginia Indigent Defense Commission, were among presenters in the Indigent Defense Summit last month at the University of Richmond School of Law. Public defenders, private attorneys, law professors and lay advocates from around the state developed white papers to address Virginia’s problems providing criminal defense for poor people. Rickman and Goemann talked about financial issues. The summit was sponsored by the law school and the Virginia Indigent Defense Coalition. Copies of the white paper can be obtained by contacting the coalition at (804) 343-1712 or [www.vidcoalition.org](http://www.vidcoalition.org).

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### Free and Low-Cost Pro Bono Training

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Visit the Pro Bono page on the VSB Web site for free and low-cost pro bono trainings and volunteer opportunities:

[www.vsb.org/probono/](http://www.vsb.org/probono/)

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Blue Ridge Legal Services President Dana J. Cornett (center) poses with four members of the Harrisonburg-Rockingham Bar Association who won awards for significant contributions through Blue Ridge’s Pro Bono Referral Program. They are (l-r) William L. Stables Jr., Thomas A. Howell, Laura S. Evick and Sherwin J. Jacobs. The awards were presented during a Professionalism Seminar sponsored in October by the bar association.

## 9-11 Work *continued from page 23*

airport authority and terrorists were responsible would have been expensive, she said. And there would have been no assurance of recovery.

When the family decided to apply to the fund, Tate prepared for the task as she does the causation and damages portions of a wrongful death case. She assembled a team of experts—a psychologist, psychiatrist, economist and life-care planner—who assessed Kahleb’s future needs based on his physical and emotional condition.

She took the case before a hearing officer designated by the Special Master. She argued that Kahleb would need more than the guidelines provided. And she prevailed.

Under the guidelines, Kahleb would have received \$600,000. After hearing Tate’s arguments, the examiner awarded him over \$1.2 million.

Tate received no payment from the work. The experts, who worked for reduced rates, were paid out of the award.

Tate was one of more than 1,100 lawyers who represented more than 1,700 victim families through TLC, which calls itself the “largest pro bono effort ever undertaken.” The attorneys provided over \$200 million in legal services free of charge.

ATLA estimates that participating lawyers—who came from every state, six

Canadian provinces, Mexico, Australia and England—donated an average of one hundred hours each.

How was the September 11 case different from other tragic personal injury situations?

Tate said the families were experiencing intense grief. TLC volunteers were given special training in how to interview clients and counsel them in grief situations. “Families were so traumatized, it was really hard for them to get out of bed everyday.”

Tate, who has handled other horrific wrongful death cases, has seen that

response before. But she experienced something new in Kahleb’s case.

“It was different, because it was like representing your own family, in the sense that these people suffered these losses because somebody attacked all of us,” she said.

“So you have an anger factor.”

Tate was one of five Virginia lawyers who attended ATLA’s annual meeting this summer and were recognized as TLC volunteers. The others were Steven M. Garver and Robert T. Hall, both of Reston; Michael G. Phelan of Richmond; and Gerald A. Schwartz of Alexandria.

### Other Virginia-licensed lawyers who participated in TLC include:

**Alexandria:** Thomas J. Curcio, Michael J. Miller, Kenneth W. Smith

**Arlington:** John P. Ellis

**Charlottesville:** Michael Bryan Slaughter, T. Vaden Warren Jr.

**Fairfax:** John C. Cook, Leah Marie Garcia, Benjamin W. Glass III, Sandra M. Rohrstaff

**Falls Church:** Patricia Phillips Shields

**Fredericksburg:** Russell H. Roberts

**Manassas:** John D. Whittington

**Norfolk:** Jeffrey A. Breit

**Reston:** Elaine C. Bredehoff, Grant J. Nelson

**Richmond:** Kristina M.K. Fitzgerald, James B. Thorsen, Hunter H. Whitehead, Thomas W. Williamson Jr.

**Virginia Beach:** Carlton F. Bennett, Richard J. Colgan

**Woodbridge:** Charles J. Zauzig III

**Elsewhere:** Bruce D. Burtoff of Fort Lauderdale, Florida

## Attention Solo and Small Firm Practitioners in Southwest Virginia

On March 18, 2005, following the Bar Leaders Institute, there will be an afternoon of programming and free CLE beginning at 1:30 P.M. The location is the Southwest Virginia Higher Education Center in Abingdon, Virginia. This program will be presented by Virginia State Bar members, officers and nationally known experts. This opportunity is afforded you as a result of efforts by The Honorable Leroy R. Hassell, Sr., Chief Justice of the Supreme Court of Virginia, to offer resources to solo and small firm practitioners at no cost. The afternoon will conclude with a town hall meeting led by Chief Justice Hassell. Details to come in future issue of *Virginia Lawyer* and *Virginia Lawyer Register* and online at [www.vsb.org](http://www.vsb.org).



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LOOK FOR DETAILS IN FUTURE ISSUES OF  
*Virginia Lawyer* magazine and at [www.vsb.org](http://www.vsb.org)

# Retired Lawyers Can Now Do Pro Bono Work for the Poor

Retired lawyers: Even if your shingle is packed away in the attic and you no longer pay dues to the Virginia State Bar, you can now do pro bono work for the poor.

The Supreme Court of Virginia has approved a new emeritus membership status, which went into effect September 1.

As an emeritus lawyer, you would work under the supervision of an attorney with an approved legal assistance organization, such as a Virginia-licensed legal aid society.

You do not pay bar dues, but you must satisfy the VSB's mandatory continuing legal education requirements for active members.

To qualify as an emeritus attorney, you must:

- Have been in the active practice of law for at least ten of the fifteen years before you apply for membership status. "Active practice" includes private practice, in-house counsel, public employment as a lawyer or full-time teaching at an American Bar Association-accredited law school.
- Be in good standing, with no discipline for professional misconduct by the VSB or the courts within the previous fifteen years.
- Sign a statement that you have read the Virginia Rules of Professional Conduct and that you will submit to the disciplinary jurisdiction of the Supreme Court and the VSB.
- Agree to receive no compensation, except for out-of-pocket expenses, for the legal services you provide.

Emeritus lawyers can, under supervision, appear in Virginia courts, prepare and sign court filings and give legal advice. They must have the client's consent and written approval from the supervising attorney. Judges have discretion to determine the extent of an emeritus attorney's participation.

The approved rule can be read at [http://www.courts.state.va.us/scv/amendments/080204\\_para\\_3\\_sec\\_4\\_part\\_6\\_effective\\_090104.pdf](http://www.courts.state.va.us/scv/amendments/080204_para_3_sec_4_part_6_effective_090104.pdf).

Emeritus attorneys will handle typical legal aid cases, said Maya M. Eckstein, secretary of the VSB Young Lawyers Conference, who worked with Clarence M. Dunnaville Jr. of the Senior Lawyers Conference to develop the rule. In Richmond, cases likely will include landlord-tenant, domestic violence and consumer protection matters.

Eckstein and the Central Virginia Legal Aid Society will put together a recruitment plan for emeritus lawyers in the Richmond area, she said. Until other jurisdictions do likewise, a retired lawyer who wants to volunteer could approach a local legal aid clinic about applying for emeritus membership.

For the application process, which is being developed by the VSB, the legal assistance organization must certify to the VSB that the attorney will be supervised, and the VSB must determine that the attorney has fulfilled the membership requirements.

## CALL FOR NOMINATIONS

*20th Annual Conference of Local Bar Associations*

Awards of Merit  
Competition

*10th Annual Conference of Local Bar Associations*

LOCAL BAR LEADER  
of the YEAR AWARD

The deadline for the receipt of nominations is May 2, 2005.

For more information on these awards, see [www.vsb.org/awards.html](http://www.vsb.org/awards.html).



# CALL FOR NOMINATIONS



## 2005 Oliver White Hill Law Student Pro Bono Award

The Oliver White Hill Law Student Pro Bono Award was inaugurated by the Virginia State Bar in February 2002. Established to honor extraordinary law student achievement in the areas of pro bono publico and under-compensated public service work in Virginia, the Hill Law Student Award is administered by the bar's Special Committee on Access to Legal Services.

Presentation of the award is reserved for extraordinary achievements of outstanding students. The Access Committee will annually review nominations to determine if there should be a designee. The committee presented the initial law student award at the 2002 Pro Bono Conference during the Lewis F. Powell, Jr., Pro Bono Award Ceremony.

**The deadline for receipt of nominations by the bar is 5:00 p.m., Friday, January 14, 2005.** The Access Committee invites submissions from law school deans, law school professors and others, including non-bar members and organizations, who are sufficiently familiar with candidates whose work meets or exceeds the criteria found at [www.vsb.org/awards.html](http://www.vsb.org/awards.html).

There is no nomination form to complete. Please forward narratives and references, identifying the candidate and the candidate's law school, and explain how the nominee meets award criteria. Entries are due by 5 p.m., **Friday, January 14, 2005**, to Maureen Petrini, Director of VSB Access to Legal Services. Electronic submissions may be e-mailed to [petrini@vsb.org](mailto:petrini@vsb.org) or faxed to Mrs. Petrini at (804) 775-0582. Mailed submissions must be received by the deadline at the bar's main address, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2800. Please inquire by telephone, (804) 775-0522, if you have not received acknowledgment of receipt of a nomination within five days.

## CALL FOR NOMINATIONS

### 2005 LEWIS F. POWELL, JR., PRO BONO AWARD

The Lewis F. Powell, Jr., Pro Bono Award was established by the Special Committee on Access to Legal Services of the Virginia State Bar to honor those attorneys and attorney groups that have made outstanding pro bono contributions. The Access Committee annually reviews all nominations and decides upon the recipient. **The deadline for receipt of nominations is January 14, 2005.** The award, a framed, limited edition print of the painting "Patrick Henry Arguing the Parson's Cause," will be presented at a ceremony during the Fifteenth Annual Pro Bono Conference.

#### CRITERIA

The recipient of the award must meet one or more of the following criteria:

- ◆ Demonstrated dedication to the development and delivery of pro bono legal services in the Commonwealth of Virginia;
- ◆ Contributed significantly toward the development of innovative approaches to the delivery of volunteer legal services;
- ◆ Participated in an activity that resulted in satisfying previously unmet needs for legal services or in extending services to underserved segments of the population;
- ◆ Successfully handled pro bono cases that favorably affected the provision of other services to the poor in Virginia;
- ◆ Successfully supported legislation that contributed substantially to providing legal services to the poor; or
- ◆ Devoted significant time to furthering the delivery of legal services to the poor in Virginia by handling pro bono matters or providing training or recruiting volunteer attorneys for pro bono programs.

**The nominee must be a member of the Virginia State Bar or an organization or group comprised of such persons.** Persons whose livelihood is derived from delivering legal services to the poor are not eligible. Please submit your nomination, describing how the nominee meets the above criteria, in writing to the Virginia State Bar Access to Legal Services Committee, c/o Maureen Petrini, 707 East Main Street, Suite 1500, Richmond, Virginia 23219 by **January 14, 2005**. (There is no official entry form to complete.) Please be sure to include your name, the name and address of the nominee and phone numbers with your nomination. For more information, please contact **Maureen Petrini, Access to Legal Services Director, (804) 775-0522**. For past recipients see [www.vsb.org/awards.html](http://www.vsb.org/awards.html).