

Highlights of the Virginia State Bar Council Meeting

June 19, 2008

At its meeting on June 19, 2008, in Virginia Beach, the Virginia State Bar Council heard the following significant reports and took the following actions:

Mandatory Malpractice Insurance Proposal

The council voted to publish for comment a proposed rule that would require certain lawyers to carry malpractice insurance and set minimal limits for that insurance. The requirement would be imposed on lawyers “engaged in the private practice of law *regularly* representing clients (individuals or entities) drawn from the public.” The word “regularly” was added to prevent a chilling effect on pro bono work by corporate attorneys and others who do not draw their paying clients from the public. The council instructed that the publication include a disclaimer that the proposal has not been endorsed by the council. The proposal will be published on the VSB website and in the *Virginia Lawyer Register* so that members can comment before the October council meeting.

New Bar Counsel

Edward L. “Ned” Davis, a fifteen-year assistant bar counsel, was endorsed without opposition for the position of bar counsel. He succeeds George W. Chabalewski. (See story on page 21.)

VSB Website More Interactive

Virginia State Bar members now can use the VSB website to change their addresses of record and certify attendance at VSB-approved continuing legal education courses. VSB Executive Director Karen A. Gould demonstrated the new services, accessible through the members-only section of the website, <http://www.vsb.org>.

VSB Budget Approved

Budget and Finance Committee member Jan L. Brodie outlined measures the VSB has taken to decrease its expenses, as the agency is spending deeply out of its reserves and facing the likelihood of requesting authority to increase dues in the near future. Economies include the Supreme Court of Virginia’s decision to cut the VSB staff’s cost-of-living raise to 2 percent and eliminate exceptional performance raises proposed for this year.

ALPS Financial Rating Improves

President Howard W. Martin Jr. reported that insurance evaluator A.M. Best has replaced the “negative outlook” with a “stable outlook” designation in its rating of ALPS, the bar’s endorsed legal malpractice insurance carrier. Best also affirmed ALPS’s A-minus (excellent) rating. Company officials hope that the “minus” designation will be lifted in the near future.

Emergency Legal Services Rule

The council unanimously endorsed a proposed rule that would allow flexibility in providing legal services in the case of a declared disaster. Under the proposal, the Supreme Court of Virginia may allow out-of-state lawyers to provide pro bono legal services to Virginians. The Court also may allow out-of-state lawyers displaced by disaster to practice temporarily in Virginia so they can continue to serve clients in their home jurisdictions.

The proposal grew out of the experience after hurricanes Katrina and Rita, when unauthorized practice of law rules limited out-of-state lawyers’ ability to help residents of the affected Gulf Coast states. The Virginia proposal (http://www.vsb.org/docs/ELS-Rule_

022808.pdf) will now go to the Supreme Court of Virginia for its consideration.

UPL Opinions Endorsed

The council endorsed:

- UPL Opinion 213—Attorney on Associate Status Representing Multiple Ownership Interest in Negotiation and Drafting of Easement (see http://www.vsb.org/docs/UPL_213_draft_040808.pdf), by a vote of 45–1.
- UPL Opinion 214—Nonlawyer Representation, for Compensation, of a Party to Arbitration (see http://www.vsb.org/docs/UPL_214_draft_040808.pdf), by a unanimous vote.

Memorials and Resolutions

The council endorsed a resolution in memory of Fairfax Circuit Judge David R. Stitt, an active volunteer with the VSB. On the bench, Stitt “served with toughness, compassion, fairness, and humor,” the resolution stated.

Mark D. Braley, director of Legal Services Corporation of Virginia, was recognized for his successful efforts in the 2008 General Assembly to increase money available for legal aid through court filing fees. The increase “will ensure that fewer low-income Virginians will be turned away due to staff vacancies in legal aid offices, that legal aid attorneys earn a living wage and no longer need to work second jobs to make ends meet, and that a greater number of dedicated legal aid staff will be able to work and retire with dignity,” according to the resolution.

VSB Assistant Executive Director Susan C. Busch was commended for her

Council Highlights continued on page 21

Leesburg Attorney Is President-elect of the Virginia State Bar

Jon D. Huddleston, a general practitioner with Sevila, Saunders, Huddleston & White PC in Leesburg, has become president-elect of the Virginia State Bar for the 2008–09 fiscal year.

He ran without opposition for the post, and assumed it during the VSB Annual Meeting June 19-22 in Virginia Beach. In June 2009 he will succeed Manuel A. Capsalis of Arlington as head of the agency of forty-two thousand lawyers.

Huddleston's practice focuses on family law, serious traffic offenses, and civil litigation.

He has been involved in Virginia State Bar activities since he was licensed in 1986. He served on the board of governors of the Young Lawyers Conference

in the 1990s, and he rose through the ranks of the Conference of Local Bar Associations to become chair in 1996.

He served seven years on the VSB Council, a year on its Executive Committee, and as vice chair of its Budget and Finance Committee. He also was on the faculty of the Harry L. Carrico Professionalism Course that all Virginia lawyers must take.

Huddleston also is a member of the board of directors of the Virginia Law Foundation and a member of the Virginia Trial Lawyers Association and the American Bar Association.

In Loudoun County, he has coached with the Central Loudoun Basketball League since 2003 and with Loudoun Soccer in the house and travel leagues

for more than fifteen seasons. He received a coach of the year award in 2006.

A native of Virginia Beach, he received bachelor's and law degrees from the College of William and Mary.

He and his wife, Cynthia N. "Cyndy" Huddleston, have two sons: Bobby, thirteen, and Jack, eight.



Free Trust Account Software Created for Virginia Lawyers

A basic software program for lawyer trust account management based on Virginia's disciplinary rules has been developed by ALPS—the Virginia State Bar's endorsed legal malpractice insurance carrier—and is being distributed for free to VSB members.

The software, ALPS Trust Manager, was developed by the company in response to the VSB Committee on Lawyer Malpractice Insurance's request for more instruction and support in trust account management for Virginia lawyers.

"We are hopeful that Virginia's lawyers will find the software an easy way to do the necessary accounting in their trust accounts," said VSB Executive Director Karen A. Gould. "This product should help Virginia's solo and small-firm lawyers successfully negotiate the procedural requirements set forth in Rule of Professional Conduct 1.15."

ALPS's goal was to create a "stand-alone product, easy to use, with a couple of factors that enable lawyers to follow through with their ethical obligations," said Mark Bassingthwaight, ALPS risk manager.

With the software, a lawyer's staff can perform the administrative duties associated with trust accounts. The lawyer has administrative privileges—he or she can oversee every change made to the account and print out a number of different activity reports.

Account reconciliations can be attached to the original bank statement, forming a paper trail that demonstrates the lawyer's compliance with rules of professional conduct that govern trust accounts.

The program was created based on Virginia's rules, which are included in the software.

ALPS Trust Manager is not a bells-and-whistles product, Bassingthwaight said. "It's just a plain-Jane trust accounting package. ... It forces accountability and may be a tool to sometimes catch fraudulent activity."

The program works only on Microsoft XP. It will not work on a Mac.

ALPS distributed the software CDs at a recent VSB Solo & Small-Firm Practitioner Forum. It now also distributes it at "The Devil Wore Green," a trust accounting seminar the VSB offers free to local bar associations. [For information on "The Devil Wore Green," call (804) 775-0557.]

ALPS will make the software available to attorneys who call the company at (800) 367-2577. Those who are not ALPS policyholders will be asked to provide information for a quote.

—Dawn Chase

Ned Davis Named Virginia State Bar Counsel



Edward L. “Ned” Davis of Richmond has been named by the Virginia State Bar Council to succeed George W. Chabalewski as bar counsel, effective immediately. The council took the vote at its June 19, 2008, meeting in Virginia Beach.

Davis, an assistant VSB bar counsel for fifteen years, was recommended by a search committee chaired by 2007–08 VSB President Howard W. Martin Jr.

The bar counsel supervises the VSB Department of Professional Regulation, which investigates and prosecutes lawyers in professional misconduct matters and oversees regulation of legal ethics, lawyer advertising and solicitation, and unauthorized practice of law. He reports to the VSB executive director and the Standing Committee on Lawyer Discipline.

As an assistant bar counsel, Davis has prosecuted many high-profile cases that involved receiverships and other complex matters. He has been assigned to VSB district disciplinary committees

throughout the commonwealth, and also has prosecuted before the VSB Disciplinary Board and three-judge circuit courts.

Before coming to the bar, he served six years in the U.S. Army Judge Advocate General’s Corps and he was deputy commonwealth’s attorney for York County and the city of Poquoson. From 1991 to 1993, he had a general practice with Stuart A. Simon & Associates in Richmond, with a focus on criminal defense and domestic relations law.

Davis also is a colonel, judge advocate, in the U.S. Army Reserve. He is active in the VSB’s Military Law Section and is scheduled to become section chair in June.

He holds a bachelor’s degree from the College of William and Mary, a law degree from the University of Richmond, and a master’s degree in strategic studies from the U.S. Army War College.

He and his wife, Amy Holt Davis — an in-house counsel to Anthem insurance company — have five children.

VSB Executive Director Karen A. Gould said, “I am delighted that the search committee recommended Ned. He has a proven record of prosecuting cases in the bar’s disciplinary system, as well as extensive management experience in the Army Reserve. He is a fair person who will oversee the disciplinary system with great strength of character.”

Martin also expressed delight at Davis’s selection. “I am confident that he will expedite movement of disciplinary cases through the system, so that the public will be protected and cases against lawyers will be handled fairly and expeditiously,” Martin said.

Renu Mago Named Virginia State Bar Assistant Counsel



Renu Mago has joined the Virginia State Bar staff as an assistant bar counsel. She will prosecute professional disciplinary cases in the ninth and tenth districts.

Mago most recently was a litigation equity partner with Vandeventer Black LLP in Richmond, with a commercial litigation and professional liability defense practice that included representing attorneys, accountants, architects, and engineers in litigation.

She also has practiced with Wright Robinson Osthimer & Tatum PC in Richmond and Eppert & Richman in Los Angeles, California. She clerked for the Civil Law and Motion Court of the Los Angeles Superior Court.

She has a bachelor’s degree in foreign affairs from the University of Virginia and a law degree from Boston University.

She is a member of several bar associations — the Metro Richmond Women’s Bar; Asian Pacific American Bar Association of Virginia; and the American, Virginia, and Richmond bar associations.

Mago is married to Mark S. Brennan, a partner with Vandeventer Black, and has two sons, aged seven and eleven.

Council Highlights continued from page 19

work since 1979 with the Clients’ Protection Fund. “Mrs. Busch has dealt with poise and fairness with all participants in the claims process before the Clients’ Protection Fund, including petitioners, attorneys, third-party claimants, and all others she has encountered,” stated the resolution, presented by the CPF Board. Busch no longer serves as staff liaison to the board.