

Highlights of Virginia State Bar Council Meeting

October 17, 2008

At its regular meeting on October 17, 2008, the Virginia State Bar Council heard the following significant reports and took the following actions:

Disciplinary Assessments Increased

The council voted unanimously to raise assessments charged to disciplined lawyers and petitioners for reinstatement. The assessments will help offset the costs of the disciplinary system. The charges changed from \$200 to \$500 for district subcommittee cases, \$500 to \$750 for district committee cases, \$750 to \$1,000 for Disciplinary Board and three-judge court cases, and \$750 to \$1,500 for reinstatement cases. The new fees became effective immediately.

Opt-Out Virginia Lawyer Directory Approved

The council voted unanimously to provide on the VSB website a Virginia Lawyer Directory that will include public contact information for all active-status Virginia lawyers in good standing, except those who opt out of the list. Visitors will be able to look up a lawyer's name, address, and telephone number of record by searching for the lawyer's last name. E-mail addresses will not be included in the directory. The Opt-Out selection is on the Member Login site at <http://www.vsb.org>. The Virginia Lawyer Directory is scheduled to go online January 6, 2009.

Mandatory Legal Malpractice Insurance Rejected

The council voted 60–11 against a proposal to make legal malpractice insurance mandatory for attorneys in private practice who represent the public. The council voted to commend the work of the Special Committee on Lawyer Malpractice Insurance and Darrel Tillar Mason, who headed the mandatory insurance study and developed the proposal at the council's instruction.

Budget Cuts

VSB Executive Director Karen A. Gould reported that the scheduled 2 percent raise for the staff has been eliminated for this fiscal year because of the elimination of raises for all state employees. The bar has taken other measures to reduce expenses by closing the VSB's office in Alexandria next year, freezing staff positions that become vacant, posting more information on the VSB website and communicating by e-mail to reduce printing costs, and incorporating numerous smaller savings suggested by the staff. President-elect Jon D. Huddleston reported that the VSB drew down \$215,526 from its operating reserve in fiscal 2007–08, leaving a reserve balance of \$2.9 million, or 25.04 percent of the bar's operating expenditures. This was an improvement over the projected draw upon reserves of almost \$285,000. The economies have postponed the need to request an increase in the dues ceiling from the General Assembly, he said.

Conrad Receivership

The receivership of Stephen Thomas Conrad has cost \$455,366.35 in legal fees and expenses to date, Gould reported. The receiver has identified more than \$4 million in defalcations and 315 clients victimized. The Clients' Protection Fund has received 120 petitions. Conrad was convicted in federal court of one count of wire fraud and was sentenced to eleven years in prison. His Woodbridge personal injury practice has been liquidated. Lien litigation and an insurance company lawsuit are pending. Once all funds obtainable have been received, the receiver will petition the court to establish a procedure for distribution of remaining funds, which currently total \$101,000.

Professional Regulation

Edward L. Davis, in his first report to the

council since he became bar counsel on June 19, described several new policies he has implemented to move cases through the system more efficiently. One new practice is a mandatory monthly conference between the bar prosecutors, district committee chairs, and liaisons from the Committee on Lawyer Discipline to discuss each assistant bar counsel's progress on district committee dockets.

From June 30 to October 10, the total number of open cases increased from 981 to 1,042, and total cases certified for trial rose from 115 to 120. Thirty-three cases have ended in a plea or trial, and eight cases were closed when three attorneys consented to revocation.

In furtherance of the VSB diversity initiative, Davis has personally invited potential candidates to serve as volunteers on district disciplinary committees, and he will contact minority bar associations to invite others to step forward.

Fastcase Review

A committee is reviewing who is using Fastcase, any problems they may be experiencing, and how problems can be resolved. The committee is determining whether Fastcase is the best service available for the price. All VSB lawyers have access to the basic service without charge as a membership benefit. To access the service, go to the Fastcase link on <http://www.vsb.org>.

VSB E-mail Policy Revised

The council unanimously voted to expand its e-mail policy so that a message can be sent to members if the executive director or a majority of officers deems the message appropriate. Also, e-mails can be sent to carry out the work of bar conferences, sections, committees, and task forces as necessary to carry out their work. E-mail addresses of VSB

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Virginia Lawyer Referral Service Offers Chance to Market Practice, Help Community

The decline of Wall Street is producing many challenges to lawyers and clients on Main Street.

People need legal advice as they cope with financial setbacks and associated stresses. Lawyers feel the pressures of marketing their practices in a less affluent environment, and of doing what they can to help their neighbors.

The Virginia Lawyer Referral Service (VLRS), a program of the Virginia State Bar, can help with each of these challenges. But the service itself needs support, in the form of participation by lawyers in rural areas.

The program offers a one-half-hour consultation with a lawyer close to home for a fee of \$35, which the program keeps to offset its costs of operation. The consultation can be in person or by telephone.

After the consult, if the referral wants to pursue a case and the attorney agrees to take it on, lawyer and client negotiate terms of the representation. Or either one can end the relationship, with no obligations.

To select the attorney, the VLRS staff in Richmond turns to a roster of lawyers who pay \$75 a year to provide consultations in up to thirty-five areas of law. The lawyers must be Virginia State Bar members in good standing with no open disciplinary complaints, and they must have legal malpractice insurance.

For the \$75, the service performs several marketing tasks for its participating attorneys. The VLRS

- advertises for people who have legal problems and want to talk to a lawyer;
- takes their calls. The three-person staff fielded 26,000 calls last year, of whom 7,500 paid for consultations.
- prescreens each caller to determine whether his or her needs involve legal problems;

- collects the \$35 fee up front, which minimizes no-shows and frivolous callers;
- gets client through the lawyer's door.

The referral consultations require no paperwork and no collection of money by the lawyer. A lawyer can limit the number of referrals he or she will accept in a given time, and change that number as his workflow requires.

So once the client is in the office, what is the benefit to the lawyer?

It could be a paying client. "There are some nuggets in the ore. They just have to be mined," said Daniel L. Rosenthal, a Richmond attorney who until recently served on the VLRS Committee.

Some people with resources turn to the VLRS because they're not sure how to select an attorney, and they want one referred by the bar. These people include out-of-state callers who have a legal matter involving Virginia law. Some people with resources want to gather information at minimal cost before they decide whether to become involved in a legal case.

It might be an opportunity to generate goodwill, by giving enough information during the half-hour consult to solve the referral's immediate problem. "A lot of people who think they have a legal problem can be helped by referral to an agency or consumer affairs," Rosenthal said.

If something else arises down the line, the client will remember that lawyer. "It's certainly helpful to maintaining the respect that the profession deserves," he said.

Rosenthal added that some lawyers use VLRS referrals to build a client-generating list. They send newsletters or other promotional materials to keep their firm in the referral's mind.

It might be a pro bono opportunity. Many lawyers are doing what they can to assist people in their communities. By giving half-hour increments of their time to help people answer questions and resolve conflicts, lawyers can alleviate some of the stress that comes with difficult times.

Rosenthal said that VLRS-referred clients are managed like any other. "Set the time aside, as you would in any practice, to return calls. It's really the same as screening any new case that comes in."

To maximize the time, have the referral send documents — a lease or contract, for example — so you can review it before the conversation.

The VLRS's biggest current challenge is to recruit enough lawyers to serve all areas of the state, but rural Virginia, including some of the state's most impoverished areas, is falling short.

VLRS lawyers are needed in the following counties:

- 1st Circuit:** Accomack and Northampton
- 6th Circuit:** Surry and Sussex
- 9th Circuit:** King and Queen
- 10th Circuit:** Buckingham, Charlotte, Cumberland, Halifax, and Lunenburg
- 11th Circuit:** Nottoway
- 15th Circuit:** Caroline, Essex, King George, Richmond, and Westmoreland
- 16th Circuit:** Fluvanna, Greene, and Madison
- 21st Circuit:** Henry and Patrick
- 25th Circuit:** Bath, Botetourt, Craig, and Highland
- 26th Circuit:** Clarke and Shenandoah
- 27th Circuit:** Bland, Floyd, Giles, and Grayson
- 29th Circuit:** Buchanan, Dickenson, and Tazewell
- 30th Circuit:** Scott

To learn more about the VLRS or sign up as a participating attorney, go to http://www.vsb.org/docs/VLRS_app.pdf. For questions, contact Toni Dunson at (804) 775-0591 or dunson@vsb.org.

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members are exempt from public disclosure upon request.

Diversity Task Force

Joseph A. Condo, chair of the Task Force on Diversity, said the group conceptually supports amending the VSB mission statement to include a commitment to diversity. It also supports formation of a Diversity Conference whose chair would sit as an ex officio member of the council and executive committee, and three of whose members would fill at-large council seats.