

# An Honorable Profession with a Silver Lining

by Frank Overton Brown, Jr.

I feel privileged to be a part of the silver lining of our honorable profession—the 8,000 member Senior Lawyers Conference (SLC) of the Virginia State Bar. Every member of the VSB who is fifty-five years of age or older and is in good standing is automatically a member of the SLC; there is no application necessary and there are no additional dues required of SLC members. The SLC membership contains a wealth of knowledge, experience, wisdom

and others also did other things, such as drafting the Constitution, writing the Declaration of Independence and founding the University of Virginia. If there had been a Senior Lawyers Conference at the time, and if they had all been otherwise eligible, 11 would have been members by virtue of being fifty-five years old or older at the time that they began serving as President. This was at a time when someone fifty-five years of age was a relatively

did, but we have opportunities in other ways to enhance our profession in the spirit of public service, whether we are active or retired. Among them are: serving the interests of our clients well; being involved in family, civic, charitable and educational matters; improving our legal system, including the delivery of legal services; taking an interest in and being active in the organized bar and its governance; presenting continuing legal education programs; voting in elections and participating in our government and the other ways discussed in this article.

*“[t]here is much more in a profession than a traditionally dignified calling. The term refers to a group . . . pursuing a learned art as a common calling in the spirit of public service . . .*

*—Roscoe Pound, dean of the Harvard Law School from 1916 to 1936*

and goodwill. The conference is a significant pool of talent—able to contribute to the best interests of the bench, the bar and the public. In this article, I mention some of the areas in which members of the SLC and other members of the bar contribute to our honorable profession, and I encourage lawyers to do so by: having a spirit of public service; maintaining respect and civility; providing pro bono service; educating the public about health care decision-making; mentoring younger lawyers; planning for a lawyer’s disability or death and communicating about matters that are important to you.

## Having a Spirit of Public Service

Of the first 16 Presidents of the United States, Washington through Lincoln, 13 were lawyers. Some of them practiced law

old person; today, a person who is fifty-five years of age probably has a life expectancy of age 81—depending upon health care, lifestyle and other factors. Many plan to work long past the former traditional retirement age of sixty-five years. That is a long time in which to make more contributions in life (A recent nationwide survey of fifty- to seventy-year-olds who are still employed indicated that 57% view retirement, in part, as an opportunity to do volunteer or charity work; 83% indicate that a major factor in their decisions to work in retirement is the desire to stay mentally active and 56% indicate that a major factor is the desire to help other people. There was also some mention about the performance of the stock market over the last several years).

Most of us will never have the opportunity to render public service in our senior years in the same way that our early Presidents

## Maintaining Respect and Civility

Roscoe Pound, dean of the Harvard Law School from 1916 to 1936, wrote that “[t]here is much more in a profession than a traditionally dignified calling. The term refers to a group . . . pursuing a learned art as a common calling in the spirit of public service—no less a public service because it may incidentally be a means of livelihood.” Of course, practicing law is a livelihood; otherwise most of us would not be able to be part of it, but someone once observed that the coin in which we as professionals are really paid is in the respect of those whom we respect—respect for the bench, respect for the bar and respect for those whom we serve.

The late Judge E. Ballard Baker, who sat with distinction on the Henrico Circuit Court and the Virginia Court of Appeals, once told me that when he first went on the bench, an older judge asked him to think of the respect that he would show to the most senior and respected member of

the bar, and then to treat everyone who came into his courtroom with that same respect. Judge Baker did (I think that it was in his very nature) and Judge Baker was respected by everyone who came before him. Respect is an essential component of civility, and civility is an essential component of professionalism. It is part of our legacy to this honorable profession that we encourage our peers and those who follow us to maintain respect, civility and professionalism.

## Providing Pro Bono Service

In 1840, Alexis de Tocqueville wrote: “When an American asks for the cooperation of his fellow citizens, it is seldom refused; and I have often seen it afforded spontaneously, and with great goodwill . . . if some great and sudden calamity befalls a family, the purses of a thousand strangers are at once willingly opened and small but numerous donations pour in to relieve their distress.” Today, the American public’s need for legal services may be associated with some great and sudden calamity of a general nature, such as Hurricane Isabel, or some very personal calamity or need. Today, the cooperation of lawyers is needed in providing pro bono services to the public. Lawyer volunteers have been trained by the Virginia State Bar’s Young Lawyers Conference for the Emergency Legal Services Program. The effectiveness of this program was demonstrated recently in the aftermath of Hurricane Isabel.

Lawyers make financial and in-kind contributions to various charitable and relief organizations, including legal services. Lawyers, their families and friends contributed more than \$53,000 to the Greater Richmond Bar Foundation in 2002, and Fellows contributed more than \$20,000 to the Virginia Law Foundation in its fiscal year ending September 30, 2003. Lawyers volunteer through the Virginia State Bar home page at [www.vsb.org](http://www.vsb.org), which links to other volunteer opportunities.

In addition to providing pro bono services through an organized program or legal aid society, many of us provide these services on an ongoing and unpublicized basis, as a regular part of our law practices—by furnishing services to those in need, either free of charge or at a substantially reduced fee. Lawyers of all ages, and particularly senior lawyers with our considerable knowledge, expertise, judgment and experience, provide pro bono services on a daily basis. But more volunteers are always needed. In an effort to enlarge the pool of available volunteers, the Senior Lawyers Conference and the Young Lawyers Conference have proposed an amendment to Paragraph 3 (Classes of Membership) of Part 6, Section IV of the Rules of Court, to create a new class of membership in the Virginia State Bar: “Emeritus Member.” If this rule amendment is adopted, an emeritus member (one who is retiring or is retired from the active practice of law) will be able to provide pro bono services through an approved legal services organization, under the supervision of a practicing attorney, without having to pay VSB dues. The emeritus member will be required to meet annual CLE requirements and other requirements of the rule amendment, and will not be able to practice law, except in the limited manner provided by the amendment.

## Educating the Public about Health Care Decision-Making

All of us are familiar with the Terri Schiavo case in Florida, which has attracted national and international attention. Most legal experts agree that, if Terri Schiavo, when she was capable, had executed an *Advance Medical Directive* (living will) and a *Durable Health Care Power of Attorney*, designating a decision-making agent for her, her intentions would have been clearly known. The problems and costs that have arisen could have probably

been avoided. Lawyers can render a valuable pro bono public service by educating the public about making and implementing health care decisions. The SLC serves as the statewide coordinator for National Health Care Decisions Week in October of each year. Senior lawyers work with the Conference of Local Bar Associations and other interested bar groups on local programs held throughout Virginia to educate the public about planning for end-of-life health care decisions. Programs explain health care advance directives, organ and tissue donations and execution of documents. The SLC encourages individual lawyers and local bar groups to participate in this program, and provides resource materials. After having been educated about the features of health care advance directives, more than 90% of members of the public wish to avail themselves of this important decision-making document. The SLC provides local bar groups and individual lawyers with information regarding this program, which is a “win-win” event for the public, for lawyers and for the medical community.

I conducted such a program at a local church in October, 2003, and it was greatly appreciated. Members were pleased to be able to receive health care decision-making and organ donor information, including a copy of Virginia’s statutory *Advance Directive* under *Virginia Code* Section 54.1-2984. Information on the National Health Care Decisions program is available through Paulette Davidson of the VSB at (804) 775-0521.

## Mentoring Younger Lawyers

In mythology, Mentor was a friend of Odysseus, to whom Odysseus entrusted the education of his son, Telemachus. In this odyssey, which is the journey through our honorable profession, a mentor is a more senior, experienced lawyer who undertakes to guide a more junior, less



The Hon. Robert R. Merhige, Jr., retired judge, U.S. District Court, Eastern District of Virginia, moderated a panel at the First Day in Practice Seminar on October 30. The group's topic was "Civility and Courtroom Etiquette." Pictured also is VSB Senior Lawyer's Conference Liaison Pat Sliger.

experienced lawyer along the way. The lawyers may or may not be in the same firm, the mentoring may be formal or informal, and the younger lawyer may have more than one mentor. The lessons learned are not just in the lessons taught directly by the mentor, but are also in the examples set by the mentor's own conduct. In my early days of practice, I had several significant attorney mentors, and, in return, I have been the mentor for other attorneys. Part of the strength of this profession is founded on the collegiality of lawyers who are willing to help one another, sometimes on an *ad hoc* basis, and sometimes on a planned basis. In his article entitled, "The Mentor Challenge In Changing Times," in the October 2002 issue of *Virginia Lawyer*, senior lawyer Jack W. Burtch, Jr.—a recognized authority on mentoring—wrote: "The values instilled through mentoring form character, transform ethical mandates into habits of practice and integrate personal and professional life to the benefit of both . . . The Virginia Bar Association, through its Law Practice Management Division, has developed a set of values to support a lawyer's balanced life. These include: ever-increasing competence as a lawyer; absolute integrity and truthfulness in dealing with others; an understanding and embracement of professional ethics; good listening

skills, good 'people skills' and sound judgment; a balanced life, which includes family and friends, community ties and service outside the practice of law; respect for others, with appreciation of and openness to people of diverse backgrounds and opinions; a commitment to lifelong learning; a commitment to using our skills and

education to make our communities safer, our institutions stronger and people's lives better; a commitment to teaching and mentorship by which the values of the legal profession are passed on to future generations; a guiding sense of spiritual values; physical health and emotional well-being; civility in professional and personal interactions; and collegiality and fellowship with other lawyers. The encouragement and wisdom of an experienced mentor can help keep these values in focus." A structured form of mentoring on a large scale basis is sponsored every October by the Virginia State Bar General Practice Section through its First Day In Practice Seminar, which is held on the day after the new lawyers are sworn in by the Virginia Supreme Court. I have had the privilege for several years to be a lecturer at the seminar, and I have listened to other experienced lawyers lecture there. It is gratifying to see this organized mentoring take place and to see the positive effect that it has on the new lawyers.

### Planning for a Lawyer's Disability or Death

The SLC has a program to encourage lawyers to protect their own and their clients' interests by planning for the

lawyer's own death or disability. In the "Attorney Resources" section of the SLC Web site at [www.vsb.org/slc](http://www.vsb.org/slc), there is a specimen durable special power of attorney, which may be downloaded, modified and used by a lawyer to designate another lawyer to act in the event of his or her own disability during lifetime. There is also a specimen agreement (see Appendix A following this article), which may be downloaded, modified and used by a lawyer to designate another lawyer to act in the event of his or her own disability, incapacity, incompetence or death. There is specimen language to be included in a lawyer's will to incorporate the agreement by reference into the lawyer's will (see Appendix B following this article). Because client confidentiality has been a concern, it is encouraging that the Virginia Supreme Court has amended Rule 1.6, effective January 1, 2004, to add the following paragraph (4) to paragraph 1.6 (b), which states: (b) To the extent a lawyer reasonably believes necessary, the lawyer may reveal . . .

"(4) such information reasonably necessary to protect a client's interests in the event of the representing lawyer's death, disability, incapacity or incompetence;"

Lawyers may help the profession by doing the type of planning indicated, by encouraging other lawyers to do such planning and by being available to assist other lawyers in this regard.

### Communicating about Matters That Are Important to You

The purposes of the SLC are to uphold the honor of the profession of law, to apply the knowledge and experience of the profession to the promotion of the public good, to encourage cordial discourse and interaction among the members of the VSB and to pursue its mission and goals as follows, as stated in the SLC bylaws:

“The SLC shall serve the particular interests of senior lawyers and promote the welfare of seniors generally. In serving the interests of senior lawyers the SLC will plan and present programs and activities and produce publications of interest to senior lawyers, and coordinate activities for senior lawyers by, for, and with state and local bar associations. To promote the welfare of seniors generally, the SLC will study issues of concern to seniors, prepare and present programs and publications designed to explore and develop such issues, advocate appropriately on behalf of such issues and cooperate with other entities interested in such matters.”

The SLC chair is an *ex officio* member of the VSB council and of its executive committee. The contact information for the SLC chair and the members of the board of governors may be found at [www.vsb.org/slc](http://www.vsb.org/slc). Please communicate to the chair and members about matters which are of concern to you.

An important ongoing service of the SLC, in conjunction with the YLC, is the *Senior Citizens Handbook*, which is currently being updated and will soon be available for distribution. Senior lawyers and young lawyers volunteer in the production and distribution of this publication, which is a valuable public service.

The SLC Web site, at [www.vsb.org/slc](http://www.vsb.org/slc), contains a wealth of resources for attorneys and the public. In addition, the SLC newsletter is published four times per year on the site; as newsletter editor, I welcome attorney volunteers who wish to write an article for the newsletter, to be shared with other members of the profession.

The board of governors of the SLC (there are 24 members of the board from various judicial circuits throughout the state) wishes to solicit the input of members regarding what matters are important to them. To that end, there is a questionnaire



**Frank Overton Brown, Jr.**, is a member and past chair of the board of governors of the Senior Lawyers Conference of the Virginia State Bar, and has served on the Virginia State Bar Council. In 1989, he received the Virginia State Bar Senior Lawyers Section Distinguished and Meritorious Service Award for outstanding contributions to the law affecting older Virginians, legal education of senior lawyers, enhancement of the status of senior citizens, legal assistance to the aging, and activities pro bono publico. Engaged in the private practice

of law in the Richmond Metropolitan Area, he concentrates his practice in the areas of wills, trusts, estate planning, estate and trust administration and related tax matters. Brown is the author of the *Virginia Probate Handbook*, published by West Publishing Company and is a Fellow of the American College of Trust and Estate Counsel. Both a charter member of the University of Richmond Estate Planning Advisory Council for more than 30 years, and a co-founder of the University of Richmond Estate Planning Seminar, which has been held annually at the University of Richmond for more than 30 years, he served for eight years as an adjunct professor of law at the University of Richmond Law School. He served for eight years as commissioner in chancery of the Circuit Court of the City of Richmond, and is a regular CLE program lecturer, including the VSB First Day In Practice Seminars and the Bar Leaders Institutes. Among his many civic duties, Brown has served as chair of the Henrico County Strategic Plan Team, chair of the Henrico County Planning Commission, chair of the Henrico Area Mental Health and Retardation Services Board, vice chair of the Advisory Committee for Handicapped Children to the Henrico County School Board, member of the board of directors of the Capital Area Agency on Aging, and member of the board of directors of Housing Opportunities Made Equal. He is a Life Member of the Virginia Congress of Parents and Teachers and a member of Leadership Metro Richmond. He holds bachelors, masters, and Juris Doctor degrees from the University of Richmond.

at Appendix C of this article. Please copy it, complete it, and mail or fax it to Patricia Sliger, SLC Liaison, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, VA 23219-2800, Fax (804) 775-0501.

## An Honorable Profession

It is interesting to view the roots of our honorable profession in America from the perspective of an Englishman (or more precisely, an Irishman), Edmund Burke, whose own father was a solicitor, and who in his 1775 Speech On Conciliation With The Colonies, said: “In no country perhaps in the world is the law so general a study. The profession itself is numerous and powerful; and in most colonies it takes the lead . . . This study renders men acute, inquisitive, dexterous, prompt in attack, ready in defence, full of resources. In other countries, the people, the more sim-

ple, and of a less mercurial cast, judge of an ill principle in government only by an actual grievance; here they anticipate the evil, and judge of the pressure of the grievance by the badness of the principle. They augur misgovernment at a distance, and snuff out the approach of tyranny in every tainted breeze.” These were insightful and portentous words indeed.

The education of lawyers and the profession of law have evolved substantially since Colonial times, and the law remains an important profession in our society, touching, as it does, practically every person's life. I am proud to be a member of this honorable profession and its silver lining, and I encourage all who are, and will be, senior lawyers to continue to help maintain and strengthen it. ☺

APPENDIX A

[NOTE TO USER: THIS AGREEMENT SHOULD BE USED IN CONJUNCTION WITH A LAST WILL AND TESTAMENT WHICH CONTAINS APPROPRIATE INCORPORATION BY REFERENCE LANGUAGE.]

AGREEMENT
FOR ATTORNEY AT LAW REGARDING LAW PRACTICE
(PREPARED BY JOHN DOE, ATTORNEY AT LAW,
345 BARRISTER LANE, RICHMOND, VIRGINIA 23228)

This Agreement is entered into this 19th day of November, 2003, by and between JOHN DOE, a Virginia licensed attorney-at-law and member of the Virginia State Bar, whose Virginia State Bar Number is 00000, and whose Social Security Number is 999-99-9999, whose date of birth is September 5, 1927, of the County of Henrico, Virginia, presently residing at 123 Anywhere Street, Richmond, VA 23228, and whose law practice office address is 345 Barrister Lane, Richmond, Virginia 23228 (and who, for purposes of this Agreement is referred to as the "First Party"), and THOMAS R. JONES, a Virginia licensed attorney-at-law and member of the Virginia State Bar, whose Virginia State Bar number is 00001 (and who, for purposes of this Agreement is referred to as the "Second Party"). THOMAS R. JONES, JR., a Virginia licensed attorney-at-law, whose Virginia State Bar member number is 00999, is the Third Party to this Agreement, and is a party to this Agreement in a "stand-by" capacity. In the event of THOMAS R. JONES' disappearance, disability, incapacity, incompetence, inability to act on THOMAS R. JONES' own behalf, or THOMAS R. JONES' death, then THOMAS R. JONES, JR. shall succeed to all of rights, responsibilities, powers and obligations of Second Party hereunder; in the event that THOMAS R. JONES, JR. is so serving in THOMAS R. JONES' place and stead, then all references herein to Second Party shall be deemed to include THOMAS R. JONES, JR..

RECITATIONS AND AGREEMENT

- 1. First Party recognizes the importance of protecting the interests of First Party and of First Party's clients, in the event of First Party's disappearance, disability, incapacity, incompetence, inability to act on First Party's own behalf, or First Party's death.
2. First Party wishes to plan for the orderly handling of the law practice of the First Party, in the event of First Party's disappearance, disability, incapacity, incompetence, inability to act on First Party's own behalf, or First Party's death.
3. First Party has requested Second Party and Third Party to enter into this Agreement, to act in accordance with this Agreement regarding First Party's law practice, in the event of First Party's disappearance, disability, incapacity, incompetence, inability to act on First Party's own behalf, or First Party's death.
4. Second Party and Third Party are willing to enter into this Agreement with First Party.
5. First Party intends that this Agreement survive First Party's disappearance, disability, incapacity, incompetence, inability to act on First Party's own behalf, or First Party's death. First Party intends to incorporate the powers conferred upon Second Party herein, by reference into First Party's Last Will and Testament, in which Last Will and Testament First Party intends to appoint Second Party as an Executor, and Third Party as a contingent Executor. First Party intends that Second Party (or Third Party, as the case may be), as Executor, will continue to exercise Second Party's powers hereunder.
6. First Party reserves the right, during First Party's lifetime, to revoke, amend, alter or modify this Agreement by a written instrument, other than a Last Will and Testament, delivered to Second Party, provided, however, that Second Party's duties hereunder shall not be increased and Second Party's rate of compensation hereunder shall not be decreased without Second Party's written consent.
7. Second Party and Third Party may resign hereunder during First Party's lifetime by a written instrument delivered to First Party.
8. For purposes of this Agreement, First Party's "law practice" is defined as:

(HERE DESCRIBE THE NATURE AND EXTENT OF THE ENTITY OR ENTITIES INVOLVED, THE INTERESTS INVOLVED AND THE SPECIFIC ASSETS OR PROPERTY INVOLVED) \_\_\_\_\_
\_\_\_\_\_.
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_).

The affidavit of Second Party or Third Party that First Party has disappeared, is disabled, incapacitated or incompetent, is unable to act on First Party's own behalf, or is deceased shall be conclusive proof of the facts stated in such affidavit. The affidavit of Third Party that Second Party has disappeared, is disabled, incapacitated or incompetent, is unable to act on Second Party's own behalf, or is deceased shall be conclusive proof of the facts stated in such affidavit. In determining whether First Party has disappeared, is disabled, incapacitated, incompetent, is unable to act on First Party's own behalf, or is deceased, the Second Party or Third Party may act upon such evidence as Second Party or Third Party shall deem reasonably reliable, including, without limitation, communications with members of First Party's family or other reliable sources, or written opinions of one or more medical doctors duly licensed to practice medicine. First Party hereby relieves Second Party and Third Party from any liability for actions taken in good faith under this instrument. All actions taken pursuant to this Agreement by Second Party or Third Party shall be taken in compliance with all applicable Virginia laws governing attorneys-at-law and all rules and regulations of the Virginia Supreme Court and the Virginia State Bar, including, without limitation. Rules of Professional Conduct adopted by the Virginia Supreme Court and Legal Ethics Opinions; to the extent that any provision of this Agreement should be in conflict with any such laws, rules, regulations, or legal ethics opinions, such laws, rules, regulations, or legal ethics opinions shall govern. This Agreement and the authority of the Second Party or Third Party hereunder shall not terminate in the event of First Party's disappearance, disability, incapacity, or incompetence, inability of First Party to act on First Party's own behalf, or First Party's death. Second Party and Third Party agrees to manage all property associated with First Party's law practice, real and personal (when the term "property" is hereinafter used, it shall include, whenever applicable, both real and personal property, tangible, intangible and mixed, and any interest or right therein) and to act in and conduct all matters related to First Party's law practice, and for that purpose and in First Party's name, place and stead, and for First Party's use and benefit, and as First Party's act and deed, to do and execute, or to concur with persons jointly interested with First Party therein in the doing or executing of, all or any acts, deeds and things, that is to say:

1. **Power To Inventory And To Conduct His/Her Own Conflict Of Interest Check.** To inventory all client case files and client property under First Party's control, and to conduct his/her own conflict of interest check before delving into client files; in the event that Second Party identifies such a conflict of interest, Second Party shall appoint a Successor or Substitute as provided in paragraph 14 below, to deal with that file.
2. **Power To Notify Clients.** To notify all of First Party's clients of First Party's disappearance, disability, incapacity, incompetence, inability to act on First Party's own behalf, or First Party's death, and to take whatever action Second Party deems advisable to protect the interests of First Party's law practice and the interests of First Party's clients, until such time as First Party's clients have obtained substitute counsel or have engaged Second Party as substitute counsel.
3. **Power To Safeguard Clients' Files and Property.** To safeguard client's files and property, and to deliver client's files and property as directed in writing by the clients, obtaining proper receipts therefor.
4. **Power To Deal With Financial Institutions.** To open accounts for First Party's law practice with, to add to, withdraw from, or close accounts for First Party's law practice (including operating or general accounts, and attorney escrow or trust accounts) in financial institutions, including, without limitation, banks, trust companies, brokerage firms, mutual fund companies, or other institutions, or to draw upon any such financial institution, corporation, firm, association or individual for any sum or sums of money or other property to which First Party may be entitled as First Party might or could do; to execute and deliver any instruments, checks or other negotiable instruments with respect to the accounts with such financial institutions; to contract for any services rendered by such financial institutions; upon receipt of any checks, drafts, dividends, interest, income or moneys, to deposit the same in the appropriate account in First Party's name in any financial institution;
5. **Power To Enter First Party's Law Office.** To enter First Party's law office and to use the office equipment and supplies as necessary;
6. **Power Regarding Mail And Courier Deliveries.** To receive, to sign for, and to open First Party's law practice mail and courier deliveries and to process and respond to them, as necessary; To deal with the United Postal Service;
7. **Power To Examine Files And Records.** To examine files and records of First Party's law practice and to obtain information as to any pending matters requiring attention;
8. **Power To Obtain Client Consent To Obtain Extensions Of Time.** To obtain client consent to obtain extensions of time and to contact opposing counsel and courts/agencies to obtain extensions of time;
9. **Power To Apply For Extensions Of Time.** To apply for extensions of time regarding any pending matters;
10. **Power To Prepare And File Accountings and Bills.** To prepare and file or submit accountings and bills to First Party's clients and others;

11. **Power To Preserve Client Confidences And Secrets.** To preserve confidences and secrets of First Party's clients and to protect the attorney-client privilege;
12. **Power To Screen Files For Conflicts Of Interest.** To screen First Party's client files for conflicts of interest on the part of Second Party or any other attorney to whom a client is referred;
13. **Power To Mediate And Arbitrate.** To submit to mediation and/or arbitration on First Party's behalf;
14. **Power To Appoint Successor Or Substitute.** If Second Party is unable or unwilling to act on First Party's behalf under this instrument, either as to a specific matter, or overall, then Second Party is empowered to appoint in writing another discreet and competent attorney-at-law licensed in the State of Virginia as a Successor or Substitute to act on First Party's behalf, with full powers to act under the terms of this Agreement;
15. **Power To Collect Accounts Receivable.** To collect accounts receivable belonging to First Party's law practice;
16. **Power To Deal With Creditors.** To determine the nature and amounts of all claims of creditors, including clients, of First Party's law practice and to deal appropriately with said creditors;
17. **Power To Sell First Party's Law Practice.** To sell First Party's law practice, partially or in its entirety, including good will, in accordance with Rule 1.17 of the Rules of Professional Conduct. Second Party is empowered to purchase First Party's law practice, partially or in its entirety, but only if the purchase price paid is the fair market value of First Party's law practice, as determined by an independent third party;
18. **Power To Request Appointment Of Receiver.** If deemed necessary and appropriate in Second Party's discretion, to seek the appointment of Second Party or other discreet and competent attorney-at-law as receiver, in accordance with the provisions of Virginia Code Section 54.1- 3900.01;
19. **Power To Terminate Attorney-Client Relationship And To Appear Before Court Or Other Tribunal To Request Withdrawal Of Appearance.** To terminate the attorney-client relationship with a client by proper notice to the client, and to appear before court or other tribunal to request withdrawal in a pending matter;
20. **Power To Sell, Encumber And Dispose Of Real and Personal Property.** To sell, pledge or otherwise encumber or dispose of any real or personal property belonging to First Party's law practice;
21. **Power To Purchase Real And Personal Property.** To buy, or otherwise acquire, any property, including stocks, bonds, Treasury-securities, or other investments, all in a prudent manner;
22. **Power To Invest And Manage.** To invest or reinvest, lease or let, or otherwise manage any of the property of First Party's law practice, real and personal, tangible and intangible; to make investments and re-investments on behalf of First Party's law practice, being bound by the Prudent Investor Rule, including, without limitation, taking the following actions: exercising all rights with respect to investments which First Party's law practice now owns or may hereafter acquire, including, without limitation, the right to buy, sell, grant security interests in, or otherwise deal with such investments; opening, establishing, utilizing, or closing investment and brokerage accounts; to sell, assign, endorse and transfer any stocks, bonds, options or other securities of any nature whatsoever standing in the name of my First Party's law practice, and to execute any and all documents necessary to effectuate the foregoing, including, without limitation, stock and/or bond powers and certificates, and affidavits of domicile;
23. **Power To Sue And Defend.** To commence or carry on, or to defend, at law or in equity, all actions, suits or other proceedings touching First Party's law practice, or touching anything in which First Party's law practice may be in any wise concerned;
24. **Power To Demand And Receive.** To demand, settle, collect, sue for, receive, enforce payment of, submit to arbitration or mediation, compromise, receive, give receipts or discharges for, or make such other appropriate disposition regarding such matters related to First Party's law practice as Second Party deems appropriate, of all moneys, rights to payment, property (real and personal, tangible and intangible), securities, debts, chattels, causes of action, or other property whatsoever now belonging or hereafter to belong to First Party's law practice;
25. **Power To Settle, Compromise, Arbitrate Or Mediate.** To settle or compromise, or submit to arbitration or mediation, all debts, taxes, accounts, claims, causes of action or disputes between First Party's law practice and any other person or entity, regardless of the identity of the person or entity involved;

26. **Power To Borrow.** To make or endorse promissory notes, or to renew the same from time to time, without personal liability on the part of Second Party;
27. **Power To Deal With Taxes And Tax Agencies.** To inspect, prepare, execute or file income, information, or other tax returns or forms and to act on behalf of First Party's law practice in dealing with any office of the Internal Revenue Service, any office of the Virginia Department of Taxation, or any office of any other tax department or agency in connection with any income, withholding, employment or other tax matters (including, without limitation: signing a waiver agreeing to a tax adjustment or an offer of waiver of restriction on assessment or collection of a tax deficiency, or a waiver of notice of disallowance of claim for credit or refund; signing a consent to extend the statutory time period for assessment or collection of a tax; signing a closing agreement under section 7121 of the Internal Revenue Code; receiving a refund check and negotiating it on behalf of First Party's law practice; representing First Party at a conference with the tax agency; filing a written response on First Party's behalf with the tax agency; signing employment tax returns; receiving confidential tax information); designating in writing any other person or agent to act on First Party's behalf regarding the foregoing tax matters;
28. **Power To Employ And Dismiss.** To employ or dismiss agents, accountants, attorneys, or others, and to compensate them;
29. **Power Regarding Insurance.** To apply for, take out, renew, maintain, pay premiums on, modify, make claims against, collect benefits from, surrender, or cancel fire, casualty, professional liability, or other liability insurance policies on First Party, on Second Party, or any property of First Party's law practice; to apply for, take out, renew, maintain, pay premiums on, modify, make claims against, take loans against, collect benefits from, surrender or cancel policies of disability insurance, long term care insurance, office overhead insurance, life insurance, or other insurance; the foregoing powers apply to private and public insurance plans, including, without limitation, Medicare, Medicaid, SSI, and Workers Compensation;
30. **Power To Execute Instruments.** Regarding First Party's law practice, to execute, acknowledge or deliver in First Party's name, or to sign First Party's name to, any deed, contract, instrument, certificate or document, including giving all necessary covenants, warranties and assurances, and to sign, seal, acknowledge and deliver the same; to execute disclosures, disclaimers, affidavits or any other documents on First Party's behalf;
31. **Power Regarding Safe Deposit Boxes.** Regarding First Party's law practice, to rent or surrender safe deposit boxes, and to enter any safe deposit boxes which First Party may now or hereafter have and to remove any of the contents therefrom or to place items therein;
32. **Power To Deal With Any Governmental Agency.** Regarding First Party's law practice, to act on First Party's behalf in dealing with any governmental department or agency;
33. **Power To Resign As Fiduciary And To Appoint Successor Fiduciary.** When authorized by the governing instrument, to resign any position which First Party may hold as fiduciary, and to appoint a successor fiduciary in First Party's place and stead, including the appointment of Second Party as such successor fiduciary;
34. **Power To Petition Court To Permit First Party's Resignation as Fiduciary And For Appointment Of Substituted Or Successor Fiduciary.** To petition the Court of appropriate venue and jurisdiction on First Party's behalf to permit First Party's resignation as fiduciary and to request the appointment of a substituted or successor fiduciary in First Party's place and stead, including the appointment of Second Party as such successor or substituted fiduciary;
35. **Power To Maintain, Repair, Or Demolish Property.** To contract with and to pay contractors or workmen to maintain, make repairs to, or demolish any property which First Party may own in connection with First Party's law practice;
36. **Power To Enforce Acceptance Of Agreement.** To initiate any litigation that may be necessary in order to require third parties to recognize the validity of this Agreement and to seek damages, including punitive damages, for injury to First Party and First Party's law practice because of any nonrecognition;
37. **Power To Coordinate And Cooperate With Any Other Fiduciary Acting On First Party's Behalf.** To coordinate and cooperate with any other fiduciary acting on First Party's behalf, in order to carry out the powers conferred on Second Party herein;
38. **Power To Notify Professional Liability Insurance Carriers.** To notify any professional liability insurance carriers of First Party's disappearance, disability, incapacity, incompetence, inability to act on First Party's own behalf, or death, and to cooperate with such insurance carriers regarding matters related to First Party's insurance coverage, including the addition of Second Party as an insured under said policy or policies.

Except as otherwise limited in this instrument, First Party does give and grant unto Second Party full power and authority to do and perform all and every lawful act, deed, matter and thing whatsoever in and about First Party's law practice and property associated with First Party's law practice as effectually to all intents and purposes as First Party might or could do in First Party's own proper person if personally present, the above specially enumerated powers being in aid and exemplification of the powers herein granted regarding First Party's law practice and not in limitation or definition thereof; and First Party hereby ratifies all that Second Party shall lawfully do or cause to be done by virtue of these presents.

And First Party hereby declares that any act or thing lawfully done hereunder by Second Party shall be binding on First Party, and on First Party's heirs, legal and personal representatives, and assigns, whether the same shall have been done before or after First Party's death, or other revocation of this Agreement, unless and until reliable intelligence or notice thereof shall have been received by any party who, upon the faith of this instrument, accepts Second Party as authorized to represent First Party. First Party intends that this Agreement be a substitute for the necessity of any court or agency proceeding to appoint a guardian, conservator, trustee, representative payee, receiver, or other similar fiduciary for First Party's law practice, since First Party wishes to avoid the necessity for such a proceeding; however, should it become necessary for the court or agency to appoint such a guardian, conservator, trustee, representative payee, receiver, or other fiduciary, First Party nominates Second Party to be such guardian, conservator, trustee, representative payee, receiver, or other fiduciary. First Party intends that the powers conferred under this Agreement shall not be subsumed, nullified, or in any way impaired by the court or agency appointment of such a guardian, trustee, conservator of First Party's person or estate, representative payee, receiver, or any other similar fiduciary. First Party intends that any such fiduciary shall not be entitled to revoke, impair, or alter this Agreement.

Any provision of the law to the contrary, no person or entity (other than a court of competent jurisdiction and the Virginia State Bar) shall have the authority to require Second Party to disclose any information relating to the actions taken or not taken by Second Party hereunder, and no person or entity (other than a court of competent jurisdiction and the Virginia State Bar) shall have the authority to inspect or to permit the inspection of the records maintained by Second Party hereunder. Nonetheless, Second Party may consent to the disclosure of such information and/or the inspection of such records if Second Party in fact is required to do so by court order or the order of the Virginia State Bar.

Second Party shall be entitled to the payment of reasonable compensation from First Party's law practice for the services which Second Party renders under this Agreement.

The actions authorized by this Agreement are intended to create only the authority to act; this Agreement is not intended to create any obligation to act on the part of Second Party. Second Party shall neither be liable for the failure to act nor for the failure to consider taking any of the actions authorized in this Agreement. Second Party, while acting in good faith, is released from any liability to First Party or First Party's estate for any acts or failures to act of Second Party, except for willful misconduct or gross negligence. First Party agrees to indemnify and hold Second Party harmless from any liability and expense, including attorney's fees, that Second Party may incur as a result of serving under this Agreement, except for liability or expense arising from willful misconduct or gross negligence. This indemnification agreement does not extend to any acts, errors, or omissions of Second Party while rendering or failing to render professional services in Second Party's capacity as attorney for First Party's former clients, after such clients have become clients of Second Party.

This Agreement is entered into and shall be governed by the laws of the Commonwealth of Virginia; however, First Party intends that this Agreement be universally recognized and that it be universally admissible to recordation.

The captions used in this Agreement have been used for ease of reference, and are not to be used for its interpretation.

IN WITNESS WHEREOF, First Party and Second Party have hereunto set their hands and seals this the 19th day of November, 2003.

\_\_\_\_\_  
(SEAL)  
JOHN DOE, FIRST PARTY

\_\_\_\_\_  
(SEAL)  
THOMAS R. JONES, SECOND PARTY

\_\_\_\_\_  
(SEAL)  
THOMAS R. JONES, JR., THIRD PARTY

STATE OF VIRGINIA

\_\_\_\_\_, to-wit:

I, the undersigned Notary Public in and for the jurisdiction aforesaid, in the State of Virginia, do hereby certify that JOHN DOE, whose name is signed to the foregoing Agreement dated the 19th day of November, 2003 has acknowledged the same before me in my jurisdiction aforesaid. Given under my hand this the \_\_\_\_\_ day of November, 2003. My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**APPENDIX B**

[NOTE TO USER: THIS WILL PROVISION SHOULD BE USED IN CONJUNCTION WITH AGREEMENT FOR ATTORNEY AT LAW REGARDING LAW PRACTICE.]

[EXTRACT]

ARTICLE TWELVE  
APPOINTMENT OF EXECUTOR

I nominate and appoint my spouse, MARY DOE, of Henrico County, Virginia, and my attorney, THOMAS R. JONES, of Richmond, Virginia, as Executors of this my Last Will and Testament. I waive security on the bond of my Executors. My Executors shall be entitled to reasonable compensation for their services at the time that their services are rendered.

I confer upon my Executors those powers contained in Virginia Code Section 64.1-57 as in effect on the date of execution of this Last Will and Testament, which code section is incorporated herein in its entirety by this reference. Because of the fact that orderly planning for dealing with my law practice is of great importance to me and to my clients, I have entered into an Agreement, dated November 19, 2003, regarding my law practice, in which Agreement I am referred to as First Party, and in which Agreement THOMAS R. JONES is referred to as Second Party. I hereby incorporate said Agreement in its entirety into this Last Will and Testament, and I confer upon THOMAS R. JONES as Executor those powers conferred upon Second Party in said Agreement, it being my intention that in my so doing, the terms and conditions of said Agreement will survive my death. In the event that THOMAS R. JONES should predecease me, be unable or unwilling to serve as Executor, or should begin serving and not complete the service, I nominate and appoint THOMAS R. JONES, JR., attorney at law, in his place and stead, and I confer the foregoing powers upon him, including the powers under the referenced Agreement.

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**APPENDIX C  
SENIOR LAWYERS CONFERENCE QUESTIONNAIRE**

Please complete this questionnaire to help your Board of Governors determine how our Conference can best serve its members, the Bar and the public. The information submitted will not be published or shared with any other organization. PLEASE FAX OR MAIL COMPLETED QUESTIONNAIRE TO PATRICIA SLIGER, SLC LIAISON, VIRGINIA STATE BAR, 707 EAST MAIN STREET, SUITE 1500, RICHMOND, VA 23219-2800, FAX NO. (804) 775-0501.

Name \_\_\_\_\_ Date of Birth \_\_\_\_\_

Year of Admission to VSB \_\_\_\_\_ Now Retired?  Yes or  No

Name of Law Firm \_\_\_\_\_

Office Address \_\_\_\_\_

Home Address \_\_\_\_\_

E-mail Address \_\_\_\_\_

Telephone ( \_\_\_\_\_ ) \_\_\_\_\_ Fax ( \_\_\_\_\_ ) \_\_\_\_\_

Judicial Circuit \_\_\_\_\_

Type of Practice (now or formerly) \_\_\_\_\_

Suggestions for and/or interests in SLC programs, projects or activities:

Newsletter, Senior Citizens Handbook  
or other publications

Pro Bono Activities

Participation as SLC Liaison to other VSB sections

Mentoring

Community education programs

Social Activities

CLE Seminars

Legal Problems of Senior Citizens

Retirement Planning

Participation in local or specialty bar activities

Planning for Lawyer's Death or Disability

Liaison with Courts

Would you be willing to assist as a volunteer in helping to deal with the practice of a lawyer in your community who dies or becomes disabled?  Yes or  No

If yes, in what ways \_\_\_\_\_

Other suggestions or comments: \_\_\_\_\_

Would you like to be more actively involved in SLC programs, projects, and activities? \_\_\_\_\_

How? \_\_\_\_\_