

— VSB Attorney Profile —

Jane A. Fletcher



This is one in a series of *Virginia Lawyer* magazine profiles of State Bar attorneys. Jane A. Fletcher is beginning her fifteenth year with the Virginia State Bar. She began her tenure as an assistant bar counsel in 1989, prosecuting disciplinary cases. In 1994, she took on the job of developing the bar's Intake office, then in its infancy. The Intake office is the bar's gateway for complaints about lawyers. All complaints are reviewed by Intake office staff. Jane headed the Intake office for over nine years. Recently, she took a new responsibility—serving as counsel to the Clients' Protection Fund—while remaining with the Intake office as deputy intake counsel.

Jane was born in Dunn, N.C., and grew up on a farm. She received a bachelor of arts degree from Guilford College in 1981, and her law degree from Washington & Lee University in 1984, where she was a Burks Scholar and captain of the Jessup International Moot Court Team. Before joining the VSB, she worked for law firms in Washington, D.C., Abingdon and Richmond. Her husband, Paul Fletcher, is also a lawyer and publisher and editor-in-chief of *Virginia Lawyers Weekly*, a newspaper for attorneys. The Fetters have two teenage children.

VZ: What were your earliest impressions of lawyers and how did you come by them?

JF: My earliest impressions of lawyers were based on small-town general practitioners, who I saw as sort of "Rocks of Gibraltar." Even through the eyes of a child, I could tell that these folks were pillars of the community, pretty much universally respected. People went to these lawyers for basic legal help: wills, real

estate matters, traffic tickets and disputes with neighbors—you name it. The courthouse seemed like an imposing, mysterious place and it seemed natural to respect people who worked there on a daily basis.

I did not aspire to be a lawyer while I was growing up. At one time, I wanted to be a pharmacist. I now see that the two professions have a lot in common and reflect what I feel is important about my profession. The pharmacists in my community were consulted more frequently than the doctors, and everyone trusted them implicitly. I would like to think that people have the same trust and reliance in their lawyer, and I guess I wanted to play that role in my community.

Your activities in law school, including being on a moot court team and a teaching fellow for first-year students, indicate that you were pretty enthusiastic about your career choice. When did you know you were bound for the law?

When I started college, I had no intention to be a lawyer or *anything* similar. I intended to pursue something in the scientific world, possibly in the environmental field, which was popular in the socially conscious '70s. However, a couple of things derailed me: advanced calculus and taking law-related courses (to fulfill humanities requirements). I decided I had no interest in mastering calculus AND I was turned onto law by two professors (one of whom was a lawyer-turned-economist, and the other, an Anglophile who was pursuing his Barrister's license in England). I discovered an interest in how law has woven its way into the fabric of every aspect of life, from constitutional law to property disputes. Law is kind of like a magnet—if you have an affinity for

it, it is difficult to escape and I found I didn't really want to.

Attending Washington & Lee Law School was pivotal in helping me maintain my interest in law. At W&L, you simply cannot escape the sense of tradition and the importance of honor. The law school is a close-knit community. Students knew not only classmates, but also their professors, and often, the professors' families. That sense of community is not just social, but laps over into the professional life, as well. You are expected to not lie, cheat or steal and to not tolerate anyone who does. Success in one's profession is important—but not at the expense of honor. At W&L, it is hard to "fly under the radar." At my law school graduation in 1984, Dean Roy Steinheimer emphasized that the most important thing we would have as lawyers would be our reputations and that protecting our reputations and maintaining our sense of honor would become part and parcel of our life's work.

In analyzing thousands of complaints here at the bar, I have seen many respondents who started out with good intentions. But they let small problems become big ones. I have tried to learn lessons from my work and approach each case as if it is the most important one I will ever encounter. As I have told many lawyers, the client for whom you have worked the hardest, cut your bill the most, and gone the extra mile to help often files complaints. However, we as lawyers owe a duty to society to

take the high road and “do the right thing,” even for vindictive and ungrateful clients. This attitude pervades our work at the bar, and it is, in large measure, what makes working for the Virginia State Bar so satisfying and professionally rewarding.

How did your private practice prepare you for your job at the bar?

I was fortunate to work with some really fine lawyers early in my career, especially in my practice in Abingdon. They took the time to work closely with me, to discuss legal theories and strategies and to critique my work. They also allowed me to take on a lot of responsibility (sometimes more than I wanted), including working directly with clients and witnesses, handling depositions and court hearings, and appearing in court on large and (probably more importantly) small, cases. That experience has been invaluable in allowing me to know something about the realities and problems inherent in the “real practice of law.” Some lawyers are prone to criticize the bar and its staff for not knowing what it’s like in “the real world.” My private practice experience informed me about the realities of difficult clients, demanding judges and colleagues, billing problems, and the realities of juggling a busy law practice and a family (my first child was born while I was in private practice).

What is the hardest part about the intake counsel’s job? How long does it take for you—on average—to determine if a complaint is worthy of investigation?

The most difficult part of Intake work is taking a very limited amount of information, usually supplied by the complainant, and making a decision on whether the matter should be dismissed outright or investigated further. Intake attorneys, and VSB attorneys in general, must constantly

play devil’s advocate—debate with our colleagues and ourselves and examine all sides of an issue—without the benefit of a fully-developed argument, as is the case in a court proceeding. We strive to be fair to both the complainant and the respondent, and do the right thing with the complaint. Then comes the task of explaining our decision to everyone involved. You might say working in the Intake office requires a lot of balancing.

What is the staffing of the intake office?

We presently have two full-time lawyers, two part-time lawyers and three staff assistants assigned to the intake section. The current level of staffing is a far cry from that in place in 1994, when I transferred to the Intake office after working at the bar for five years as an assistant bar counsel. I told then-bar counsel, Mike Rigsby, that I would be interested in filling the intake counsel position (then called assistant bar counsel/intake). The position was vacant after the two part-time attorneys that started the office in the early-’90s left the bar. (Before about 1992, the intake function was performed by nonlawyer staffers at the bar.) At that time, “Intake” consisted of one staff assistant and me. We were receiving more than 2,000 complaints a year even then, so the additional staff was very much needed and appreciated.

How long do files remain open, generally?

We try to make the initial assessment on a complaint within days after we receive it. Its ultimate resolution might take several weeks, depending on whether we have to get more information from the complainant, or if we have to contact the respondent to flesh out the details of the situation.

How many complaints are there per year, and how much have they increased?

In 1994, we received about 2,500 complaints, and in the most recent fiscal year, received just shy of 4,000. Over the years, complaints about lawyers seem to be on a continuous upward trend. Of course, the overall number of lawyers practicing in Virginia has also steadily increased.

How many go to some kind of arbitration rather than an investigation?

Over the years, we have handled more and more cases through the “proactive,” or “abbreviated investigation” process. This allows the intake office to handle a matter without putting it through the more formal “preliminary investigation” process. In an abbreviated investigation, we may contact the lawyer and ask him or her to take some limited action, like contact the client about the status of her case, explain the fee, or respond to the client’s request for his or her client file. During the last fiscal year, we handled more than 600 cases through this limited process, about 85 percent of them successfully, and were able to close out the matters within weeks of receiving the complaints after attaining some resolution of the matters that led to the complaints. Complainants and respondents generally benefit from this process—the complainant by having his or her real concerns addressed, and the lawyer by not having an open disciplinary file while the bar conducts a more detailed investigation. Furthermore, for the cases we are able to resolve in this process, we note this lower-level resolution in our computer records, which seems to comfort lawyers who want to maintain a good “disciplinary record.”

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How did the idea of the Clients' Protection Fund begin? How is it funded? What makes it such a special asset to the bar and the commonwealth's citizens?

The Clients' Protection Fund is vital to further the mission of the bar. Once an attorney is disciplined, or voluntarily surrenders his or her license to avoid discipline, it is tempting to say our job is over. However, the lawyer's clients get no tangible benefit from the discipline against the lawyer. They might get the satisfaction of seeing justice done, but they may have suffered financial loss because of the lawyer's misdeeds, and that's where the Clients' Protection Fund comes in. The fund is a remedy of last resort for clients who are not able to obtain reimbursement from other sources, such as a bond, surety agreement, or the lawyer involved.

The Clients' Protection Fund is funded with a portion of the mandatory dues paid by all licensed lawyers practicing in Virginia. It truly represents the commitment of the members of the Virginia State Bar to compensate for the misdeeds of a few lawyers.

The decision to award a petitioner compensation is a matter of discretion and is made after an investigation by members of the Clients' Protection Fund Board. Although I have been a part of this process for a brief time, I have already been impressed by the board members' energy and dedication. They take their mission very seriously, and bring a great deal of experience and insight to the decision-making process. As with other committees and boards of the bar, some of the CPF board members are not lawyers, which should give an additional level of comfort to the public—people from various backgrounds and walks of life will be reviewing their requests for compensation.

Why was the position of counsel to the Clients' Protection Fund created, and why are you interested in tackling this new area of responsibility?

Over the years, the fiscal department of the bar has assisted the Clients' Protection Fund, keeping track of petitions and the decisions the board makes, and monitoring the assets of the fund. The fiscal staff, led by Assistant Executive Director Susan Busch, is outstanding. Their handling of the administrative work of the fund is truly impressive. However, over the years the number of petitions has increased, and some of the issues faced by the board have become more complex, like so many aspects of law practice. It was thought that the board might benefit from the assistance of a lawyer member of the bar staff, especially someone with experience in the disciplinary department. Like most lawyers who have been practicing for a while, I am eager for new challenges. This new position offers me a chance to take what I've learned from my time as a bar prosecutor and from "growing" the intake office and use that experience in a new arena—one that has a major public service component.

Now that you wear two hats, how will you do it all?

Fortunately, I don't have to do it all. An important lesson I learned from my mentors in private practice was that you have a duty to delegate and a responsibility to trust those people to whom you have delegated. Dedicated and experienced people staff the Intake office. Since I became Intake counsel in 1994, we have made great strides in using technology to process complaints more quickly and to track them better. We have moved from maintaining our dockets on legal pads to a computer-driven system by adapting "off-

the-shelf" computer programs to our unique needs, allowing us to "do more with less" and with greater efficiency and speed. Furthermore, the new Intake counsel, Jim Bodie, has a lot of energy and experience he brings from private practice. With the dedicated Intake staff and a prodigious use of technology, the Intake office should be positioned to make an even greater contribution to the overall regulatory mission of the bar. I feel very comfortable assuming a lesser role in the Intake function and focusing attention on my additional new duties as counsel to the Clients' Protection Fund.

Do your children have any aspiration to go into the law?

Neither of my children shows an inclination to practice law (one tends toward languages, and the other, math), although we occasionally have some interesting dinner table discussions on legal issues (after all, how can you escape it?). My husband and I would like for our children to "follow their dreams," as long as they can pay their own bills. Life is too short to spend your days despising your work, and that is one lesson I hope I have instilled in my children.