

# Highlights of Virginia State Bar Council Meeting

## June 16, 2005

At its regular meeting on June 16, 2005, at Virginia Beach, the council of the Virginia State Bar heard the following significant reports and took the following actions:

### **On-Line Legal Research Member Benefit**

President David P. Bobzien reported on the status of the proposed on-line legal research member benefit for all lawyers in Virginia. Acting on legal advice obtained from the Office of the Attorney General and outside antitrust counsel, the Supreme Court of Virginia adopted new Paragraph 21, Part Six, Section IV of the Rules of the Court declaring it to be the policy of the commonwealth to increase access to legal services for the citizens of the commonwealth and lower the costs of the services. On the basis that an on-line legal research member benefit program will help accomplish those policy objectives, the rule authorizes and directs the Virginia State Bar to contract for such services for its members. The rule becomes effective July 13, 2005, after which the bar will solicit proposals from vendors. The program could become operative this fall or early next year.

### **Code of Virginia Revision Under Way**

The chair of the Virginia Code Commission, Senator William C. Mims, and the director of the Division of Legislative Services, E. M. Miller, described the planned publication in 2007 of a new *Code of Virginia*. The project will streamline the code, move provisions in some instances from one title to another, and significantly renumber code sections. This will be accomplished at no net increase in cost to the subscribers to the *Code of Virginia*, since a number of years will pass before any replacement volumes will be needed for the new code of 2007.

### **New Rules for Non-Virginia Lawyers**

Chair Marni Byrum provided information on the work of her Multijurisdictional Practice Task Force, which continues to develop rule changes that would more clearly delineate the circumstances under which lawyers from other states in this country and foreign lawyers could temporarily and occasionally deliver legal services in Virginia. The task force is also working on revisions to the *pro hac vice* admission rule in Virginia. Proposed rule changes are expected to be ready by February 2006 for action by the council.

### **Advertising Legal Specialties**

The council voted unanimously to approve and recommend to the Supreme Court of Virginia amendments to Rule of Professional Conduct 7.4, which would allow a lawyer to advertise his or her specialty without the disclaimer now required by the rule if the lawyer is certified as a specialist by an organization accredited by the American Bar Association. The rule change was recommended by the Standing Committee on Lawyer Advertising and Solicitation.

### **Limited Right of Appeal Proposed**

Upon recommendation of the Standing Committee on Lawyer Discipline, the council, by a vote of 46-10, approved and recommended to the Supreme Court of Virginia proposed amendments to Paragraph 13 of the Rules of Court which would create a limited right of appeal by bar counsel in instances where a decision of a tribunal in the disciplinary system is plainly contrary to the law. The bar would not be able to challenge on appeal the sanction imposed on a respondent or the sufficiency of the evidence supporting the findings of the tribunal.

### **Unbundling of Legal Services**

The council unanimously approved changes proposed by the Standing Committee on Legal Ethics and the Special Committee on Access to Legal Services in Rules of Professional Conduct 1.2 and 1.5, as well as Supreme Court of Virginia Rule 1:5. The changes would explicitly authorize Virginia lawyers to assist persons with discrete-task, limited representation under certain circumstances. The proposed changes will now be recommended to the Supreme Court of Virginia.

### **VSF Budget Approved**

The council unanimously approved the 2005-2006 budget for the Virginia State Bar, projecting revenues of \$9,873,735 and expenditures of \$11,574,631. Funds from the bar's reserve in the amount of some \$1 million will be used to complete the bar's extensive computer software rewrite and integration project during the 2005-2006 bar year, enabling the bar finally to retire its antiquated VAX hardware.

### **Resolutions**

The council unanimously adopted resolutions thanking and honoring David P. Bobzien for his service as president during 2004-2005, the Office of the Fairfax County Attorney for supporting David in his bar work, Theophlise L. Twitty of Portsmouth and Marcus D. Minton of Petersburg for many years of service as Virginia State Bar volunteer leaders, and Carlos Wilson for his many years of welcoming Virginia State Bar members to their annual meeting in his capacity as guest services manager of the Cavalier Hotel in Virginia Beach.

## Richmond Attorney Named President-Elect of Virginia State Bar

Karen A. Gould, an insurance defense lawyer who practices in Richmond and a longtime volunteer for the Virginia State Bar, has been chosen president-elect of the VSB.

She will serve in the position for a year, and then be installed as bar president for the 2006–2007 fiscal year.

Gould, born in Cleveland and raised in Richmond from the age of six, began her legal career as a law clerk for U.S. District Judge Glen Williams of Abingdon before joining the Virginia Attorney General's Office in 1980. She entered private practice in 1984. She is now with the firm Childress, Gould & Russell PC.

Her practice focuses on professional liability defense of health-care providers, workers' compensation defense, defense of employers in employment matters and other litigation, as well as defense of

health-care providers before health regulatory boards.

She received a bachelor's degree from the University of Virginia in 1976 and a law degree from the University of South Carolina in 1979.

Gould has served on the VSB Council since 2000, and was put on the Executive Committee in 2002. She has been chair of the VSB's Budget and Finance Committee, Disciplinary Board and Mandatory Continuing Legal Education Board. She also served on the disciplinary committee that hears matters in the Third District.

She is married to Malcolm Rudolph West, a lawyer and corporate secretary for the New Market Corporation. They have a daughter.

She is a member of St. Stephen's Episcopal Church, and she serves on the President's



Advisory Committee for Minnesota Lawyers Mutual Insurance Company.

Gould ran unopposed for the president-elect office. She succeeds Phillip V. Anderson, who was installed as the sixty-seventh president of the VSB on June 17 during the bar's annual meeting in Virginia Beach.

## IN MEMORIAM

### Ellen Spring Moore [Balazs]

Christiansburg  
March 1966–March 2005

### Ernest A.E. Gelhorn

Washington, D.C.  
March 1935–May 2005

### Ross James Kellas

Manassas  
December 1951–November 2004

### Calvin Forrest Tiller

Richmond  
November 1953–April 2005



Participating in Senior Law Day in Covington on May 24 were William A. Parks Jr., president of the Allegheny-Bath-Highland Bar Association; Clifton Forge attorney R. Meade Snyder; and William T. Wilson of Covington. The seminar, held in the Allegheny County Courthouse, was attended by one hundred persons who heard presentations on senior citizens topics by an eight-member panel of attorneys. Wilson moderated the panel.

## LOCAL AND SPECIALTY BAR ELECTIONS

### Campbell County Bar Association:

George William Nolley, President  
Bryan Kenneth Selz, Vice President  
Frank Austin Wright Jr.,  
Secretary-Treasurer  
George William Nolley, Conference Rep.

### Henrico County Bar Association:

Andrew Michael Condlin, President  
John Kimpton Honey Jr., President-elect  
Ellen Ruth Fulmer, Vice President  
Christopher Hunt Macturk, Secretary  
James Walter Hopper, Treasurer  
William Jacob Viverette, Conference Rep.

### Norfolk & Portsmouth Bar Association:

Stanley Graves Barr Jr., President  
James Ashford Metcalfe, President-elect  
John Lockley Deal, Secretary  
Donald Charles Schultz, Treasurer  
John Y. Richardson Jr., Conference Rep.

### Bar Association, City of Richmond:

Michael Nehemiah Herring, President  
Hugh McCoy Fain III, President-elect  
Walter W. Stout III, Hon. Vice President  
Carolyn Anne France White,  
Secretary-Treasurer  
Vernon Eugene Inge Jr., Conference Rep.

### Virginia Beach Bar Association:

Jeffrey Hugh Gray, President  
Robert Martin Tata, President-elect  
Elizabeth S. Hodges, Secretary  
Glen Alton Huff, Treasurer  
Timothy Sean Brunick, Conference Rep.

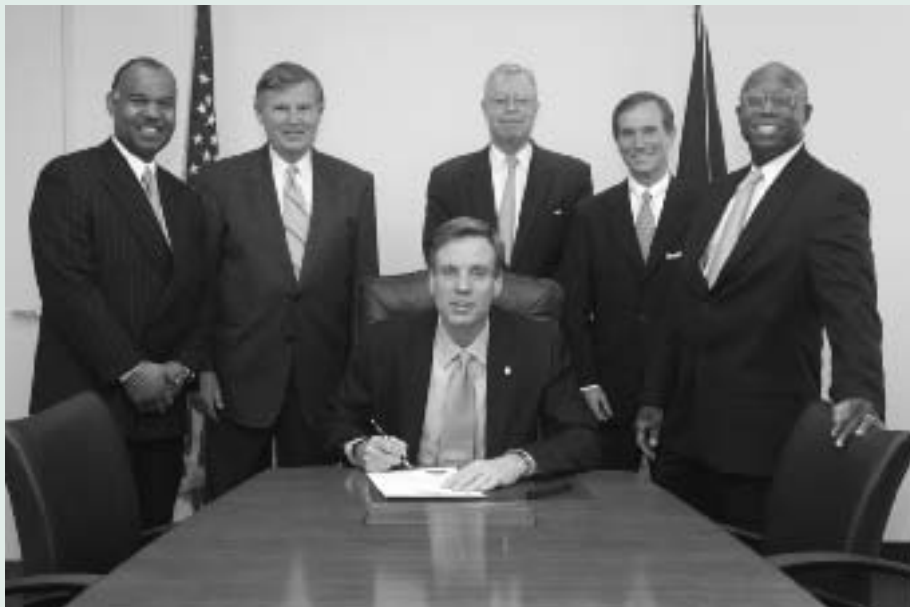
### Virginia Trial Lawyers Association:

Richard E. Railey Jr., President  
Sandra Martin Rohrstaff, Vice President  
Andrew Michael Sacks, Vice President  
Charles Joseph Zauzig III, Vice President  
Gerald Arthur Schwartz, Vice President  
Edward Lefebvre Allen, Treasurer  
Matthew B. Murray, Treasurer

## Greater Richmond Bar Foundation Elects Officers

The Greater Richmond Bar Foundation has elected the following officers for the 2005–06 year: John M. Oakey Jr., president; Anne D. McDougall and Brian R. Marron, vice presidents; Daniel L. Rosenthal, treasurer; and D. Gregory Carr, secretary. Reelected to two-year terms on the foundation's board were Rosenthal, Charles F. Witthoefft, Gina M. Burgin, Carr, Stephanie E. Grana, Jack L. Harris and Christopher M. Malone.

The foundation operates the Pro Bono Clearinghouse, which provides free legal services to nonprofit groups in the Richmond area. The foundation also helps fund pro bono legal services through the Central Virginia Legal Aid Society, and it supports law-related educational projects. More information can be obtained by calling Carol K. Murray at (804) 780-2600.



Governor Mark R. Warner (seated) declared May 2–6 Juror Appreciation Week in Virginia. Looking on were (l–r) Fourth Circuit Court of Appeals Judge Roger L. Gregory; David Craig Landin and C. Edward Betts, former presidents of The Virginia Bar Association; Virginia State Bar President David P. Bobzien; and Virginia Chief Justice Leroy R. Hassell Sr. The proclamation is part of an educational effort by the American Bar Association, under the presidency of Richmond lawyer Robert Grey. Gregory and Landin served on Grey’s Commission on the American Jury. The commission’s work is described on the ABA’s Web site, [www.abanet.org/jury/home.html](http://www.abanet.org/jury/home.html).

CHIEF JUSTICE’S INITIATIVE TO IMPROVE  
THE INVOLUNTARY COMMITMENT  
PROCESS IN VIRGINIA

**SAVE THE DATE**  
**Friday, December 9, 2005**

REFORMING THE INVOLUNTARY  
COMMITMENT PROCESS: A  
MULTIDISCIPLINARY CONFERENCE

for  
Sheriffs, Judges, Special Justices,  
Lawyers, and  
Mental Health Practitioners

Holiday Inn Select Koger Conference Center,  
Richmond

See more info on page 61.

## O’Kelly E. McWilliams III Named Young Lawyer of the Year

O’Kelly E. McWilliams III, a former president of the Virginia State Bar’s Young Lawyers Conference, is the 2005 recipient of the R. Edwin Burnette Jr. Young Lawyer of the Year. The award recognizes dedicated service to the conference, the legal profession, and the community. It is named for a former president of the YLC and the VSB, who is now a Lynchburg judge.

McWilliams was raised in Richmond and was graduated from Longwood University in 1990. He received a law degree from George Mason University in 1993. He practices employment law with the firm Mintz, Levin, Cohn, Ferris, Glovsky and Popeo PC in Washington, D.C.

From the beginning of his career, McWilliams assumed leadership positions

not only at the VSB, but also with the American Bar Association, which awarded him a Minority in the Profession Committee scholarship. He since has worked to encourage other minority lawyers to apply for the funding and get involved in issues on a national level.

During his tenure as president of the VSB’s Young Lawyers in 2001–2002, McWilliams helped the conference launch the Oliver HillSamuel Tucker Pre-Law Institute to encourage minority youth to consider legal careers, a Tolerance Education Program, and a Professional Development Conference geared toward newly licensed lawyers.

He was nominated for the award by the Reverend Dr. Norman A. Tate, his pastor at Heritage Fellowship United Church of

Christ in Reston. McWilliams teaches a financial management course

and counsels congregants at the church, and he mentors young men in the congregation. He also coaches mock trial teams of African American boys from Southeast Washington, through a camp sponsored by his fraternity, Kappa Alpha Psi, and he supports Fairfax County’s Medical Care for Children Partnership.

McWilliams, 36, and his wife, attorney Karen Turner McWilliams, recently celebrated their 10th wedding anniversary. They have two children.



# The Virginia Office for Protection & Advocacy: Advocating for the Rights of Persons with Disabilities

by Pamela J. Branch, Acting Managing Attorney, VOPA

For over twenty years, Virginia has been in the business of providing legal and advocacy services to persons with mental, physical and cognitive disabilities. The Virginia Office for Protection and Advocacy, formerly the Department for Rights of Virginians with Disabilities, continues to work hard to educate the public about the rights and contributions of persons with disabilities so they will one day experience life without abuse, neglect and discrimination, and realize their goals of full societal participation.

Since July 16, 2002, we have been an independent state agency doing business all over the commonwealth. Our major

accomplishments include fighting for an effective reporting system to identify persons in state facilities who have experienced a serious injury or death; implementing a statewide accessibility campaign to insure persons with disabilities are able to vote; and making state agencies own responsibility for providing appropriate community supports and services to children and adults who desire to and are able to live in the community. We represent parents with children in special education, advocate for persons who have employment-related barriers due to disability, and we reach out to persons whose cultural and language barriers derail effective disability-related services.

As we honor the twentieth anniversary of the passage of the Virginians with Disabilities Act this year and reflect on all of the work still to be done, we hope that the Virginia bar will look to our agency for guidance in representing persons with disabilities. We also have attorneys and advocates available to speak at bar association events and for continuing legal education courses.

The main office of Virginia Office for Protection and Advocacy is located at 1910 Byrd Avenue, Suite 5, Richmond, Virginia 23230. For more information, call (804) 662-7243 or 800-552-3962 (TTY/Voice).

## Roanoke Bar Leader Gene Elliott Is “Local Bar Leader of the Year”

Eugene M. Elliott Jr., an active Roanoke Bar Association member for thirty-three years and president in 2003, has been named “Local Bar Leader of the Year” by the Virginia State Bar’s Conference of Local Bar Associations.

The award recognizes dedication of local bar leaders who offer important service to the bench, bar and public. It also emphasizes close cooperation between the Virginia State Bar and local bar leaders. The award was presented during the Virginia State Bar’s annual meeting June 17 in Virginia Beach.

Elliott’s work has led to—among other things—thousands of dollars in James N. Kincanon Scholarships awarded to students who are pursuing a career in law. He has been a trustee and currently is chair of the Roanoke Bar Association Foundation, which, since its formation in 1997, has awarded over \$22,000 in scholarships and community grants. Faced with declining returns on investments in recent years, Elliott led the Roanoke Bar Association to offer continuing legal edu-

cation classes to its members at a discount, with the money going to the good works of the foundation. The association drew from local lawyers and judges to teach the classes, thus adding a regional note to the education the lawyers received.

“As a result of changes in investments and proceeds from the CLE programs, this year the foundation will award \$12,500 in scholarships to students pursuing a career in the law,” according to the nomination letter from Roanoke lawyer Steven L. Higgs.

Elliott’s other volunteer activities include:

- Helping to establish the commonwealth’s first Youth Court program, in association with the Greater Roanoke Valley Character Coalition. The “court” is a peer-run tribunal that holds youth offenders accountable to victims and the community and encourages problem-solving, communication and development of analytical skills.
- Setting up Barrister Book Buddies in Roanoke. The program, through which

seventy-five attorneys read to elementary school classes, serves the dual purpose of encouraging reading and improving the image of lawyers.

- Rescuing the Mill Mountain Zoo when it fell into financial trouble. When the City of Roanoke targeted the zoo for closing, Elliott became the zoo’s first president.

Serving as president and a member of the executive board of the Virginia Museum of Transportation. Elliott is leading an effort to preserve and restore steam and diesel locomotives dating back to the early 1900s.

Elliott and his wife Laura have three children. He is a graduate of Marshall University and Washington and Lee School of Law. He practices commercial real estate, domestic relations and estate planning law.



## Donald Butler Wins Family Law Section's Lifetime Achievement Award

Contributions to the development of family law in Virginia have won Richmond lawyer Donald K. Butler a Lifetime Achievement Award from the Virginia State Bar's Family Law Section. The award, established in 1993, honors an individual who has made a substantial contribution to the practice and administration of family law in the commonwealth.

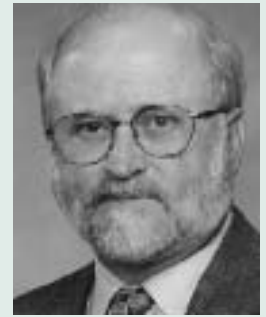
Attorneys Matthew N. Ott and Nancy Douglas Cook of Richmond nominated Butler. According to materials submitted with the nominations, Butler's legal career reflects singular and numerous instances of professional achievement and recognition by the VSB and the legal community for over thirty years.

"Donald Butler is a professional among professionals," Ott said in his nomination letter. "He has been a dedicated mentor to

many family law attorneys throughout Virginia, and has made a significant contribution to the practice of family law as it is today," Cook said in her letter to the VSB.

Butler holds a bachelor's degree from the University of Richmond. He received his law degree from the T.C. Williams School of Law at the University of Richmond in 1970. Butler has experience as a trial lawyer since 1970, handling civil, criminal and family law cases in Virginia, including the Virginia Court of Appeals, the Supreme Court of Virginia, the U.S. District and Circuit courts and the U. S. Supreme Court. He lectures frequently on family law to other lawyers. He has spoken at seminars sponsored by the Virginia Trial Lawyers Association, the Continuing Legal Education Committee of the Virginia State Bar, the Bar Association of the City of Richmond, the Arlington Bar

Association and the Tidewater Family Law Bar Association. He has also lectured at the University of Richmond and George Mason University law schools. He has lectured on the subject of equitable distribution to the judges and justices of the Virginia circuit courts, Court of Appeals and Supreme Court of Virginia. Butler also speaks at churches and civic organizations in Virginia on the subject of marriage and divorce.



## Lawrence Hoover Jr. Given Tradition of Excellence Award

In recognition of his outstanding service to the legal profession and to the community, the General Practice Section of the Virginia State Bar has selected Lawrence H. Hoover Jr. of Harrisonburg as the recipient of its eighteenth annual Tradition of Excellence Award for 2005.

The award is presented annually to an attorney who has dedicated time and effort to activities that assist the community while improving the standing and image of general practice attorneys in the eyes of the public.

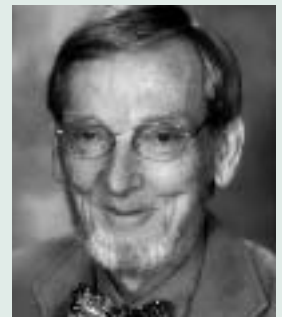
Hoover was nominated for the award by the partners at his firm, Hoover Penrod PLC: Richard A. Baugh, John N. Crist, Dale A. Davenport, Dillina W. Stickley, David A. Penrod, Jacob T. Penrod and M. Bruce Wallinger.

Hoover received his bachelor's degree from Hampden-Sydney College and his law degree from the University of Virginia School of Law. He worked as an attorney advisor and legal officer at the U.S. Department of State until 1971, when he joined the Harrisonburg office of Hoover Penrod as a mediator, trainer and teacher; he is now of counsel. His professional emphasis is in the areas of dispute resolution and estate planning and administration.

Hoover has taught negotiation and mediation skills at Bridgewater College, Washington and Lee University Law School and the University of Virginia School of Law. He is recognized in the mediation community as the "father of mediation in Virginia." In June 2004, he was one of the first recipients of

the Virginia Alternative Dispute Resolution Founder Award, presented by the Chief Justice of the Supreme Court of Virginia, Leroy R. Hassell Sr.

"During his forty-five years of active law practice, he has unselfishly served his clients, profession, community and church. He is a committed community servant who serves as a model of excellence for the general practitioner of law," the letter of nomination said.



## Hade Is New Supreme Court Executive Secretary

Karl R. Hade, a veteran employee at the Supreme Court of Virginia since 1982, has been named executive secretary of the court beginning July 22.

Hade most recently has directed the Judicial Information and Technology Department in the executive secretary's office. He holds a bachelor's degree in biology and a master's in business administration from the University of Richmond.

In announcing the appointment, Chief Justice Leroy R. Hassell Sr. said of Hade: "He has demonstrated a high level of skill in managing the largest department within the [Office of the Executive Secretary] to ensure the delivery of vital technology services to all courts throughout the commonwealth."

Retired Fairfax Circuit Judge F. Bruce Bach served as acting executive secretary until the post could be filled permanently.

Hade succeeds Robert N. Baldwin, who retired this year after serving as executive secretary since 1976. Baldwin, a lawyer, now is executive vice president and gen-



Hade



Baldwin



Mays

eral counsel to the National Center for State Courts in Williamsburg.

He is a former president of the Conference of State Court Administrators, and had served as co-chair of the NCSC's Board of Directors.

Another long-time Supreme Court employee who recently retired, Kathy L. Mays, also is working for the National Center as a consultant. Mays's former job—director of judicial planning—was split into two titles: director of judicial

planning and director of legislative and public relations.

Dr. Cyril Miller, who has worked in the Court's judicial planning department for sixteen years, was promoted to the director's post. Doris "D.J." Geiger, most recently an assistant city attorney in Virginia Beach, is the new legislative and public relations director. Her résumé includes serving as a legislative aide to Virginia Senator Kenneth W. Stolle, R-Virginia Beach and chair of the Senate Courts of Justice Committee.

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## VBA Names Executive Director

Guy K. Tower has been named executive director of The Virginia Bar Association.

Starting on September 1, he will work with the current VBA director, Charles B. "Breck" Arrington Jr., who has been the association's executive vice president since 1991. Arrington will retire in February 2006.

Tower, who lives in Virginia Beach, is a former shareholder and director of the law firm Kaufman & Canoles PC, in the Norfolk and Virginia Beach offices. He

previously practiced with Hunton & Williams in Richmond and Norfolk. He is married to the Honorable Winship C. Tower, a juvenile and domestic relations judge in Virginia Beach.

Guy Tower also is a certified mediator and co-founder of the McCammon Group, an alternative dispute resolution service. He has been an adjunct law professor at the College of William and Mary, and he served on the faculty of Old Dominion University's master of business administration program.

He holds bachelor's and law degrees from the University of Virginia.



At the VBA, he helped found and chaired the Law Practice Management Section. He served as chair of the Virginia State Bar's Business Law Section, and he was vice chair of the Virginia Joint Committee on Alternative Dispute Resolution.