

— VSB Attorney Profile —

Edward Lee (Ned) Davis

A native of Richmond, Davis was graduated from the College of William and Mary and received his law degree from the T.C. Williams School of Law at the University of Richmond in 1983. Following six years of active duty in the Army, he served as the Deputy Commonwealth's Attorney for the County of York and the City of Poquoson, Virginia. From 1991 to 1993, he was in private practice with Stuart Simon and Associates in Richmond, focusing on criminal defense, bankruptcy, domestic relations and real estate transactions.

Davis has been VSB assistant bar counsel since 1993. As a trial attorney for the bar, he is responsible for investigating and prosecuting cases of attorney misconduct before Virginia courts and administrative hearing panels. He prepares, files and prosecutes petitions for injunctive relief and receiverships against attorneys in the Virginia courts when necessary to prevent immediate harm to the public. In addition to his trial duties, he teaches Continuing Legal Education Courses to attorneys on the subject of professional responsibility.

Davis primarily handles cases from the First Disciplinary District, which covers Hampton, Newport News, Portsmouth and most of South Hampton Roads. He has been called upon in recent years for special assignments involving repeat offenders and high profile prosecutions in other localities. During the last fiscal year, he tried 25 cases before the Virginia State Bar Disciplinary Board, the district committees, and three-judge circuit courts. He settled 23 other cases with agreed dispositions for sanctions.

A Lieutenant Colonel, Judge Advocate, in the U.S. Army Reserves, he serves as liaison to the Virginia State Bar Military Law Section.

In Richmond, Davis met his wife, Amy, an in-house counsel for a major insurance company. They are the proud parents of two sons and a daughter they adopted from China. They plan to return to China in October to complete the adoption of their second daughter. When not practicing law or serving in the military, Davis runs, bikes and teaches Sunday School at First Baptist Church, Richmond.

VL: It has been said that the JAG Corps is the nation's largest law firm. What makes the military a good starting point for understanding the legal profession in general? How does your participation in the reserves reflect in your work at the bar?

ND: Judge Advocate officers receive immediate exposure to a wide-range of legal disciplines, including environmental law, contract law and international law. Trial practice may occur in a number of different courts and involve many disciplines, such as tort litigation and personnel law. Like many reservists, I find that day-to-day military business, coupled with regular civilian activities, makes for better performance in both fields. During deployments, reservists bring many skills to the fore that their active-duty counterparts do not have. Likewise, when a deployment is over, they return to the civilian work force with new professional experiences that they would not have otherwise had.



VL: What was your last reserve assignment, and what are your future assignments, so far as you know them?

ND: My most recent deployment this past January was to a high visibility, bilateral exercise with the Japanese Northern Army near Sapporo, Japan. We have a mutual defense treaty with Japan and conduct this exercise with different elements of the Japanese Defense Forces every year. Attorneys are needed to address and execute operational law issues. Examples include fiscal law, such as if and when our forces can provide humanitarian assistance or natural disaster relief to host nations during war. Other issues concern war booty or battlefield souvenirs, compensation for damage to host nation property, criminal jurisdiction, the rules of engagement and the laws of armed conflict.

I participated in a similar exercise in the Philippines during 2001 and plan to participate in another one in Thailand next year. We have similar treaties with these countries.

Training aside, the order could come at any time to deploy to real world operations. Currently, our organization has

several members deployed to the Pacific in support of the Global War on Terror. I have mixed feelings about not being there with them.

VZ: What is the VSB receivership procedure? Is this event a reflection of poor planning by a bar member, a general lack of understanding about the process or a combination of the two?

ND: On occasion, we find that a lawyer may be embezzling funds from a client. Rather than wait for the disciplinary process to take its course, which can be time-consuming, there is a more immediate remedy available to the bar. This is a Virginia statute that authorizes the bar to petition for an immediate injunction and the appointment of a receiver to prevent further loss of client property. The statute also authorizes circuit courts to issue *ex parte* orders for the production of the attorney records. The process is effective in stopping losses, but it can be arduous, in that all of the attorney's bank accounts may be frozen pending completion of the case. The bar has to prepare and prosecute these cases at the earliest opportunity to prevent others from suffering while the accounts are frozen.

Another statute allows the bar to petition for the appointment of a receiver to take control of the bank accounts and files of a deceased attorney if no one else is available to wind up the practice. We had a flurry of these cases in the mid- to late-1990s, but have seen the number decrease, largely because of the bar's efforts to educate its members about the need to prepare for this unhappy event.

VZ: Why are volunteers important to your duties—and in the hearings especially?

ND: Our volunteers are the backbone of the disciplinary process. Without them, there would be no disciplinary system, and the bar would have to increase its revenues to appoint professional hearing officers, a virtual impossibility. Additionally, the district committee members bring local flavor to the hearings. They come from the same judicial circuits as the attorneys whose complaints they consider. The next level of forum, the Virginia State Bar Disciplinary Board, is also comprised exclusively of volunteers, both lawyers and non-lawyer professionals. All of the volunteers do much more than simply preside over cases. Committee members consider reports of investigation and make critical procedural decisions. They and the board members provide feedback to the bar about the efficiency of the process, make suggestions and issue orders concerning the disposition of cases.

VZ: What are the toughest kinds of cases to prosecute?

ND: The toughest cases to prosecute are receivership actions against corrupt attorneys. The worst one that I can recall involved a former Peninsula attorney. During the course of a trust account investigation, we became certain that the lawyer was embezzling from several trust beneficiaries. The clients, however (all family members and business associates) would not support the bar's concerns. It was not until the lawyer opened a debit card account against a trust and used it on a Caribbean vacation that the bar received the cooperation of one of the trust beneficiaries. The ensuing injunction froze the accounts of several partnerships and business entities. Suddenly, several banks, lenders and other entities petitioned to intervene in the bar's suit. Fortunately, the case was tried to a speedy conclusion, and the trust assets rescued from further losses.

It was, and remains, the most difficult case of my career.

VZ: For those who don't know the bar culture, what is the level of congeniality among the investigators, in your department, and at the bar, in general?

ND: We are fortunate to have several skilled investigators who came to us after retiring from other distinguished careers. Normally, we can rely on our investigators to develop the relevant information without extensive supervision or coordination. Communication, however, is regular, and it is the most congenial professional relationship that I have ever experienced. I inquired about the office chemistry before I came to work at the bar, and understood it to be worker-friendly, and it remains that way.

VZ: What, to you, constitutes the ideal role model for attorneys?

ND: Despite the negative information about attorneys generated by bar complaints, the most honorable people that I have ever known remain attorneys. Most bar complaints are against lawyers concentrating in criminal defense and domestic relations. Recently, I saw several lawyers preeminent in these fields testify at the federal disbarment action of another attorney. They became the best in their fields without building records of discipline with the bar. To me, the ideal attorney combines diligence, competence and uncompromising integrity—with a desire to do his or her best for those who turn to our profession for help.