

VIRGINIA:

**IN THE SUPREME COURT OF VIRGINIA
AT RICHMOND**

**IN THE MATTER OF
LEGAL ETHICS OPINION 1896**

APPENDIX TO PETITION OF THE VIRGINIA STATE BAR

Jay B. Myerson, President
Karen A. Gould, Executive Director
James M. McCauley, Ethics Counsel
Emily F. Hedrick, Assistant Ethics Counsel
Virginia State Bar
1111 East Main Street, Suite 700
Richmond, VA 23219-0026
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**VIRGINIA STATE BAR
COUNCIL MEETING
HOT SPRINGS, VIRGINIA
FRIDAY, October 29, 2021**

AGENDA

**9:00 a.m. Council Meeting – Ballroom East
The Omni Homestead Resort, Hot Springs, VA**

I. Reports and Information Items

A. President's report – Jay B. Myerson, President	1
B. Executive Director's report – Karen A. Gould, Executive Director	2
C. Financial report – Crystal T. Hendrick, Finance/Procurement Director	
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E. Conference of Local and Specialty Bar Associations report – Roy V. Creasy, chair	6
F. Diversity Conference report – David D. Masterman, chair	7
G. Senior Lawyers Conference report – Peter C. Burnett, chair	8
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I. Access to Legal Services Committee report – Ali Silva, chair	10
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| D. Proposed amendments to Paragraph 13-6.H – William H. Atwill, Jr.,
chair, Standing Committee on Lawyer Discipline | 17 |
| E. Proposed amendments to Clients’ Protection Fund Rules –
Phillip V. Anderson, vice chair, Clients’ Protection Fund Board | 18 |
| F. Disciplinary District Committee appointments – Karen A. Gould | 19 |

III. Notice of Upcoming Receptions, Dinners & Meetings¹

12 noon, Friday, February 25, 2022, lunch and Executive Committee meeting,
Bank of America Building, 3rd Floor Conference Room, 1111 E. Main St., Richmond.

6:30 p.m., Friday, February 25, 2022, Council reception and dinner,
Virginia Museum of Fine Arts, 200 N. Arthur Ashe Blvd., Richmond.

9:00 a.m., Saturday, February 26, 2022, Council meeting, Omni Richmond Hotel,
100 S. 12th Street, Richmond.

2:00 p.m., Wednesday, April 20, 2022, Executive Committee meeting, 1111 E. Main St.,
3rd Floor Conference Room, Bank of America Building, Richmond.

12:30 p.m., Wednesday, June 15, 2022, lunch and Executive Committee meeting,
Sheraton Virginia Beach Oceanfront Hotel, 3501 Atlantic Ave, Virginia Beach.
(location tentative)

6:30 p.m., Wednesday, June 15, 2022, Council reception and dinner, Sheraton Virginia
Beach Oceanfront Hotel, 3501 Atlantic Avenue, Virginia Beach.

9:00 a.m., Thursday, June 16, 2022, Council meeting, Sheraton Virginia Beach
Oceanfront Hotel, 3501 Atlantic Ave, Virginia Beach. *(location tentative)*

12:00 noon, Thursday, September 8, 2022, lunch and Executive Committee meeting,
3rd Floor Conference Room, Bank of America Building, 1111 E. Main St., Richmond.

12:30 p.m., Thursday, October 20, 2022, Executive Committee meeting, The Boar’s
Head Resort, 200 Ednam Dr., Charlottesville.

6:30 p.m., Thursday, October 20, 2022, Council dinner, The Boar’s Head Resort,
200 Ednam Dr., Charlottesville.

9:00 a.m., Friday, October 21, 2022, Council meeting, The Boar’s Head Resort,
200 Ednam Dr., Charlottesville.

¹ All meeting dates and locations are subject to change or cancellation, dependent upon the course of the pandemic.

**VIRGINIA STATE BAR
STANDING COMMITTEE ON LEGAL ETHICS**

Thursday, June 24, 2021
9:00 a.m.

AGENDA

I. APPROVAL OF MINUTES

II. LEGAL ETHICS OPINIONS

- A. LEO 1893 – Conflicts in representation of parent and minor child
- B. LEO 1894 – Conflicts in joint representation of multiple minor children;
aggregate settlements
- C. LEO 1896 – Lawyers working from home/remotely in Virginia
- D. LEO 1895 – Communication with victim/witness represented by counsel
- E. LEO Review – Application of Rule 1.8(e)(1)/client's responsibility for costs
advanced

III. RULES OF PROFESSIONAL CONDUCT

- A. Rule 1.2 – Advising clients about cannabis activities legal under state law

IV. ADJOURNMENT



Virginia State Bar
Seeking Public Comment
1111 East Main Street, Suite 700
Richmond, Virginia 23219-0026
Telephone: (804) 775-0500

Facsimile: (804) 775-0501 TDD (804) 775-0502

MEDIA CONTACT: James M. McCauley, Ethics Counsel

RELEASE DATE: June 29, 2021

**VIRGINIA STATE BAR'S STANDING COMMITTEE ON LEGAL ETHICS
SEEKING PUBLIC COMMENT ON PROPOSED LEGAL ETHICS
OPINION 1896**

RICHMOND - Pursuant to Part 6, § IV, ¶ 10-2(C) of the Rules of the Supreme Court of Virginia, the Virginia State Bar's Standing Committee on Legal Ethics ("Committee") is seeking public comment on proposed Legal Ethics Opinion 1896, Out-of-State Lawyers Working Remotely in Virginia. This opinion addresses the remote work questions sparked by the COVID-19 pandemic and discusses opinions on the question from other states and the ABA while reinforcing the conclusion from LEO 1856 that a foreign lawyer may maintain a continuous and systematic presence in Virginia as long as the lawyer is engaged in the practice of law of their licensing jurisdiction and/or exclusively federal law that does not require Virginia licensure. While the foreign lawyer does not have to remain "invisible" within Virginia, they cannot hold out as authorized to practice law in Virginia and must appropriately disclose their status.

Inspection and Comment

LEO 1896

Page 2

The proposed opinion may be inspected below, or by contacting the Office of Ethics Counsel at 804-775-0557.

Any individual, business, or other entity may file or submit written comments in support of or in opposition to the proposed opinion with Karen A. Gould, executive director of the Virginia State Bar, not later than July 30, 2021. Comments may be submitted via email to publiccomment@vsb.org.

NOTICES TO LAWYERS

Comments Sought on Plan to Raise Cap on Refunds to Clients Harmed by Lawyers to \$100,000

The purpose of the amendments is to raise the per-petitioner cap from \$75,000 to \$100,000 for losses incurred on or after July 1, 2021. The amendments will be presented to Bar Council on October 29, 2021.

Any individual, business, or other entity may file written comments in support of or in opposition to the proposed changes with Vivian R. Byrd, Clients' Protection Fund Administrator, not later than September 30, 2021. Comments may be submitted by mail to 1111 East Main Street, Suite 700, Richmond, Virginia 23219-0026 or by email to cpf@vsb.org.
www.vsb.org/site/news/item/comments_sought_CPF

Comments Sought on Proposed Changes to Rules of Court

The Advisory Committee on Rules of Court seeks comments from the Bench and Bar concerning proposed revisions to Part One, Part Five, and Part Five A Rules of Court, which include amendments to accommodate the changed appellate jurisdiction of the Court of Appeals of Virginia.

Comments must be sent before August 10, 2021, to Steven Dalle Mura, Director of Research, Office of the Executive Secretary, Supreme Court of Virginia, 100 North Ninth Street, Richmond, VA 23219.

Or by email to: proposedrules@vacourts.gov.

www.vsb.org/site/news/item/comments_sought_rules_of_court1

Comments Sought on a Proposed LEO and One RPC Change

The Virginia State Bar's Standing Committee on Legal Ethics is seeking public comment on proposed Legal Ethics Opinion 1896 and proposed amendments to Rule 1.2 of the Rules of Professional Conduct.

The proposed opinion may be inspected at the below link, or by contacting the Office of Ethics Counsel at (804) 775-0557. Any individual, business, or other entity may file or submit written comments in support of or in opposition to the proposed opinion with Karen A. Gould, executive director of the Virginia State Bar, not later than August 30, 2021. Comments may be submitted via email to publiccomment@vsb.org.
www.vsb.org/site/news/item/two_leos_one_rule_change

Supreme Court of Virginia Seeks Public Comment on Amendments to Canons of Judicial Conduct

On July 1, 2021, the Supreme Court of Virginia requested public comment on the results of its four-year study to amend the Canons of Judicial Conduct. According to the Court, the revised Canons do not "...adopt the 2007 ABA Model Code of Judicial Conduct or retain the structure of the current Canons." Comments on the proposed amendments to the Rules of Court,

Part Six, Section III, Canons of Judicial Conduct, must be received by September 29, 2021, and must be addressed to:
www.vsb.org/site/news/item/scv_canons

Bar Office Remains Closed to the Public

If you need to reach a staff person, please send an email or call the appropriate contact person. We will provide additional updates on our website. We urge the use of electronic communication to assist us in providing services to protect the public.

www.vsb.org/site/news/item/vsb_remains_closed

VSF Offices to Fully Reopen to the Public September 7th

After partially closing to the public in 2020 due to the COVID pandemic, the Virginia State Bar will fully reopen its offices at 1111 E. Main Street in Richmond on Tuesday, September 7, 2021.

www.vsb.org/site/news/item/vsb_offices_to_fully_reopen_to_the_public_september_7th

Notice: Lawyers Receive Emails from Impostor Account Posing as VSB

Some lawyers in the Commonwealth received phony emails from an email ending in vastatebar.org, which is a fake account registered in Arizona that has spoofed the Virginia State Bar in the past.

Lawyers are asked not to interact with this email or click on any links in the email as it may contain malware, spyware, worms, or other damaging cyber security software.

www.vsb.org/site/news/item/vsb_impostor

Court of Appeals of Virginia Issues Sixth COVID-19 Order

On June 29, 2021, the Court of Appeals of Virginia issued a sixth order extending its February 22, 2021, order until further notice because of the COVID-19 pandemic.

The Court of Appeals of Virginia stated in the Order that as of September 21, 2021, efforts will be made to conduct the Court's oral argument merit dockets in person, as practicable. Oral argument writ dockets will be held virtually through December 31, 2021.

www.vsb.org/site/news/item/CAV_sixth_covid_order

Supreme Court of Virginia Issues Twenty-Fifth Emergency Order Due to COVID

On July 7, 2021, the Supreme Court of Virginia issued a twenty-fifth judicial emergency order in response to the COVID pandemic, extending its existing Order through August 11, 2021.

The Order applies to all circuit and district courts in the Commonwealth and keeps in effect the safety protocols, courthouse admission screenings, tolling of speedy trial act deadlines, and electronic signature provisions of its prior orders.

www.vsb.org/site/news/item/SCV_twenty_fifth_covid

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Governance

Jay B. Myerson of Reston has been inducted as VSB president for 2021-22

Stephanie E. Grana has become VSB president elect.



Read highlights of the June 18 **VSB Council Meeting** [here](#).

Virginia's seventh Constitution, crafted by 11 Virginia lawyers in 1971, celebrates its **50th Anniversary today**.

The Standing Committee on Legal Ethics is seeking public comment on two LEOs and one rule change: Legal Ethics Opinion 1893, LEO 1896, and proposed amendments to Rule 1.2 of the Rules of Professional Conduct.

The **Advisory Committee on Rules of Court** is seeking comments from the Bench and Bar on revisions to Part One, Part Five, and Part Five A Rules of Court, which include amendments to accommodate the changed appellate jurisdiction of the Court of Appeals of Virginia.

The VSB proposes changes to review of agreed disciplinary dispositions.

VSB offices to fully reopen to the public on September 7. The latest emergency orders from the Supreme Court of Virginia and the Court of Appeals of Virginia, as well as other COVID updates, are [here](#).

The Bar will be closed on July 5 for Independence Day.

Discipline

Recent disciplinary actions:

Daniel Robert Goodwin, license revoked, effective June 22, 2021.

Jason Edward Rheinstein, license revoked, effective June 25, 2021.

OlaDipo Akinwunmi AkinDeko, license suspended, effective June 25, 2021.

Alfred Lincoln Robertson Jr., license suspended, effective on June 25, 2021.

Philip John Geib, public reprimand, effective June 11, 2021.

Private discipline: 2 private reprimands and 2 private admonitions.

Compliance



You should have received your **dues statement** in the mail in June. Be sure to complete the requirements for license renewal by July 31. You may pay your dues and fees, certify your liability insurance coverage, report pro bono, and join VSB sections **online**.

What's new on your dues statement this year? Find out **here**.

Need to change your status? Check the appropriate box under Status Change Request on your **dues statement**. More information on status changes can be found **here**.

Pro Bono / Access to Justice



Virginia Free Legal Answers Summer Associate Challenge!

Free Legal Answers helps low-income people with civil legal needs. Virginia lawyers are among the most prolific answerers in the country. Consider helping even more people by asking your summer associates to work with you to answer questions. All law firms that participate and report doing so to Crista Gantz **by July 31, 2021** will be recognized by the ABA and the VSB. Questions? cgantz@vsb.org

Pro Bono Reporting

We want to hear from you! Please report your pro bono hours and financial contributions made over the past 12 months when you renew your membership. The deadline to renew is July 31.

Opportunities, Awards, and Events

Edward L. Chambers Jr. was the posthumous recipient of the inaugural memorial award in his name honoring longstanding and exemplary bar service.



The Conference of Local and Specialty Bar Associations (CLSBA) **Awards of Merit** recognized 12 bars and seven projects for service to the profession and the people of the Commonwealth. Thank you to the many lawyers who donated their time.



Jeannie P. Dahnk received the Rakes Leadership in Education Award at the hybrid VSB Annual Meeting in Virginia Beach for her unwavering dedication to improving the quality of lawyer education in the Commonwealth via teaching, writing, and the promotion of quality CLE.

Need CLE?

VSB Annual Meeting CLEs are now available for on-demand MCLE credit. From celebrating the **100th Anniversary of the 19th Amendment to learning about new marijuana laws**, there is something for everyone in these virtual CLEs. Only \$95.00 for 12.5 hours (5.5 ethics hours) of on-demand learning available through September 15, 2021. **Register here.***

**NOTE: If you registered for the live Annual Meeting, don't register again. Use the link you received for the live program to watch any sessions you missed. If you no longer have that link, please contact annualmeeting@vsb.org.*

FREE CLSBA SOLO & SMALL FIRM EVENTS

Solo & Small-Firm Practitioner Forums are going live again! The first program will take place on October 15, 2021, in Danville. **The Hon. William C. Mims** will lead a town hall meeting. **Register here** for this informative event.

Solo Webinar – On Tuesday, September 14, 2021, 1-2 pm – join us for ***Avoiding Ethical Pitfalls as the Practice of Law Evolves***. ABA and VSB Techshow speakers Sharon Nelson, John Simek, and Davie Ries will present this Ethics/CLE. **Register here.**



The Virginia Lawyer Referral Service **NEEDS LAWYERS** throughout the state and for ALL areas of law practices that are active VSB members in good standing. Join today, and start getting prescreened referrals! Contact Toni Dunson at dunson@vsb.org for more information.

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The Virginia State Bar

Professional Guidelines

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Proposed | Legal Ethics Opinion 1896, Out-of-State Lawyers Working Remotely in Virginia. Comments due by July 30, 2021.

Pursuant to Part 6, § IV, ¶ 10-2(C) of the Rules of the Supreme Court of Virginia, the Virginia State Bar's Standing Committee

on Legal Ethics ("Committee") is seeking public comment on proposed Legal Ethics Opinion 1896, Out-of-State Lawyers Working Remotely in Virginia. This opinion addresses the remote work questions sparked by the COVID-19 pandemic and discusses opinions on the question from other states and the ABA while reinforcing the conclusion from LEO 1856 that a foreign lawyer may maintain a continuous and systematic presence in Virginia as long as the lawyer is engaged in the practice of law of their licensing jurisdiction and/or exclusively federal law that does not require Virginia licensure. While the foreign lawyer does not have to remain "invisible" within Virginia, they cannot hold out as authorized to practice law in Virginia and must appropriately disclose their status.

Inspection and Comment

The proposed opinion may be inspected below, or by contacting the Office of Ethics Counsel at (804) 775-0557.

Any individual, business, or other entity may file or submit written comments in support of or in opposition to the proposed opinion with Karen A. Gould, executive director of the Virginia State Bar, not later than July 30, 2021. Comments may be submitted via email to publiccomment@vsb.org.

[View proposed LEO 1896](#) (PDF file posted 6/29/21)

Posted: June 29, 2021

Updated: June 29, 2021

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NEWS AND INFORMATION

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June 29, 2021

VSB Seeking Public Comment on Two Proposed LEOs and One Rule Change

The Virginia State Bar's Standing Committee on Legal Ethics is seeking public comment on proposed Legal Ethics Opinion 1893, proposed LEO 1896, and proposed amendments to Rule 1.2 of the Rules of Professional Conduct.

LEO 1893 (update 7/2/21: The proposed draft Legal Ethics Opinion 1893 has been withdrawn pending further review by the Standing Committee on Legal Ethics.)

[LEO 1896](#) addresses the issues of out-of-state lawyers working remotely in Virginia. The opinion explores the remote work questions sparked by the COVID-19 pandemic and discusses opinions on the questions from other states and the ABA.

The [amendments to Rule 1.2](#) addresses the dilemma faced by lawyers advising clients about cannabis- or marijuana-related activities that are legal under state law but are illegal under federal law. The proposed amendment would allow lawyers to advise clients on how to comply with state law as long as the clients are also cautioned about the application of federal law.

Inspection and Comment

The proposed opinions may be inspected at the above links, or by contacting the Office of Ethics Counsel at 804-775-0557.

Any individual, business, or other entity may file or submit written comments in support of or in opposition to the proposed opinion with Karen A. Gould, executive director of the Virginia State Bar, not later than August 30, 2021. Comments may be submitted via email to publiccomment@vsb.org.

Posted 6/29/21

Updated 7/2/21

Updated 7/12/21 to extend comment deadline.

Updated: Jul 12, 2021



Real Estate Settlement Agents
 Disciplinary System Actions
 Ethics Questions and Opinions
 FAQs for Lawyers Who Receive A Bar Complaint
 FAQs for Suspended & Revoked Lawyers
 Fee Dispute Resolution Program
 Guide to Lawyer Discipline
 How to File a Misconduct Complaint About a Lawyer
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From: [Hall, Kristi](#)
To: rbrown@arlingtonlawgroup.com
Cc: [publiccomment](#); [Gould, Karen](#); [McCauley, Jim](#); [Hedrick, Emily](#); [Hall, Kristi](#)
Subject: FW: EXTERNAL SENDER Proposed Legal Ethics Opinion 1896
Date: Wednesday, August 4, 2021 10:27:33 AM

Dear Mr. Brown:

Thank you for your comment regarding the Standing Committee on Legal Ethics' proposed LEO 1896. The Legal Ethics Committee will consider your comment at its next regularly scheduled meeting.

Please feel free to call with any questions.

Regards,

Kristi R. Hall

Executive Assistant/Paralegal

Virginia State Bar

1111 East Main Street, Ste. 700 | Richmond, VA 23219-0026

804/775.0557 | Fax 804/775.0597 | hall@vsb.org | www.vsb.org

The Virginia State Bar is a state agency that protects the public by educating and assisting lawyers to practice ethically and competently, and by disciplining those who violate the Supreme Court's Rules of Professional Conduct, all at no cost to Virginia taxpayers. The VSB continues to provide essential services to Virginia's lawyers and the public. However, we have taken steps to keep the health and safety of our members, employees, and the general public at the forefront of our actions during this rapidly changing situation. The VSB office at 1111 E. Main Street is closed to visitors. If you need to reach a staff person, please send an email or call the appropriate contact person. Many of our staff are teleworking and responses may be delayed. Thank you for your understanding.

-----Original Message-----

From: Ryan A. Brown <rbrown@arlingtonlawgroup.com>

Sent: Tuesday, July 27, 2021 11:54 AM

To: [publiccomment](#) <PublicComment@vsb.org>

Subject: EXTERNAL SENDER Proposed Legal Ethics Opinion 1896

To Whom it May Concern:

I write in support of the Proposed Legal Ethics Opinion 1896, clarifying that an attorney who is not licensed in Virginia may work remotely from Virginia. While most of the attorneys in our firm have been working remotely during the pandemic from their homes in Virginia rather than our office in Arlington, the flexibility to work remotely when appropriate and compatible with their practice area will allow law firms to attract and maintain attorney talent even after the pandemic is over. Furthermore, several of our attorneys who have been working remotely from their homes in Virginia have reported greater work/life balance by reducing commute times and stress and increasing interactions with their family, which furthers VSB's goals of promoting attorney well-being. By Virginia adopting this LEO, other jurisdictions will be encouraged to do the same, giving Virginia attorneys the flexibility to work remotely as well.

Sincerely,

Ryan Brown

--

Ryan A. Brown, Esq. (he/his/him)
 Arlington Law Group
 1739 Clarendon Blvd.
 Arlington, Virginia 22209

Admitted in Virginia and DC
 email: rbrown@arlingtonlawgroup.com
 phone: (703) 842-3025
 fax: (202) 318-0363

Start-up, Venture & Small Business Law; Computer & Internet Law; Wills, Trusts & Estate Planning; Tax Planning

From: [Hall, Kristi](#)
To: suzan@suzanherskowitz.com
Cc: [publiccomment](#); [Gould, Karen](#); [McCauley, Jim](#); [Hedrick, Emily](#); [Hall, Kristi](#)
Subject: FW: EXTERNAL SENDER LEO 1896
Date: Wednesday, August 4, 2021 10:18:26 AM

Dear Ms. Herskowitz:

Thank you for your comment regarding the Standing Committee on Legal Ethics' proposed LEO 1896. The Legal Ethics Committee will consider your comment at its next regularly scheduled meeting.

Please feel free to call with any questions.

Regards,



Kristi R. Hall
Executive Assistant/Paralegal
 Virginia State Bar
 1111 East Main Street, Ste. 700 | Richmond, VA 23219-0026
 804/775.0557 | Fax 804/775.0597 | hall@vsb.org | www.vsb.org

The Virginia State Bar is a state agency that protects the public by educating and assisting lawyers to practice ethically and competently, and by disciplining those who violate the Supreme Court's Rules of Professional Conduct, all at no cost to Virginia taxpayers. The VSB continues to provide essential services to Virginia's lawyers and the public. However, we have taken steps to keep the health and safety of our members, employees, and the general public at the forefront of our actions during this rapidly changing situation. The VSB office at 1111 E. Main Street is closed to visitors. If you need to reach a staff person, please send an email or call the appropriate [contact person](#). Many of our staff are teleworking and responses may be delayed. Thank you for your understanding.

From: SUZAN D HERSKOWITZ <suzan@suzanherskowitz.com>
Sent: Thursday, July 15, 2021 2:14 PM
To: publiccomment <PublicComment@vsb.org>
Subject: EXTERNAL SENDER LEO 1896

I wholeheartedly agree with this new LEO about remote work. As a multijurisdictional lawyer (VA, WV, FL, TX), I routinely have to tell people that I am licensed only in those jurisdictions (not Maryland for example which is less than 45 minutes away. It is not difficult to do, nor is it difficult for clients to understand.

Dear Clients: We are monitoring all the Covid-19 news. We are open for consultations in person, by phone, and by video conferencing. For in person consults we follow all guidelines from the governor, the WHO, and the CDC, as well as the Virginia State Bar. We maintain strict social distancing. Masks are required and must be properly worn if you are not vaccinated.

Sincerely,
Suzan D. Herskowitz
Attorney at Law
Suzan D. Herskowitz, P.L.L.C.
2400 Valley Avenue, Suite 16



Loudoun County, Virginia

www.loudoun.gov

Office of the County Attorney
1 Harrison Street SE, P.O. Box 7000, Leesburg, VA 20177-7000
Telephone: 703-777-0307 / Facsimile: 703-771-5025

August 4, 2021

RECEIVED

AUG 11 2021

VIRGINIA STATE BAR

Karen A. Gould, Executive Director
Virginia State Bar
1111 East Main Street, Suite 700
Richmond, VA 23219-0026

Re: Proposed Changes to Legal Ethics Opinion 1896

Dear Ms. Gould:

Thank you for seeking public comment on proposed changes to Legal Ethics Opinion 1896.

After reviewing and discussing the proposed rule changes identified above, the Local Government Attorneys of Virginia, Inc. ("LGA") has determined that the proposed changes do not have any impact unique to the practice of local government law. Therefore, the Committee has no comment on the proposed rule changes. However, we do appreciate the continuing opportunity to provide comments on proposed Legal Ethics Opinions and Rule changes.

Sincerely,

Leo P. Rogers
County Attorney and
Chair of the LGA Ethics Committee

cc: Lola Perkins, LGA President

From: [Hall, Kristi](#)
To: marmarrich@aol.com
Cc: [publiccomment](#); [McCauley, Jim](#); [Hall, Kristi](#)
Subject: FW: EXTERNAL SENDER public comment on LEO 1896
Date: Wednesday, August 11, 2021 9:24:09 AM

To Whom it May Concern:

Thank you for your comment regarding the Standing Committee on Legal Ethics' proposed Legal Ethics Opinion 1896. The Committee will consider your comment at its next meeting on September 16, 2021.

Regards,



Kristi R. Hall
Executive Assistant/Paralegal
 Virginia State Bar
 1111 East Main Street, Ste. 700 | Richmond, VA 23219-0026
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The Virginia State Bar is a state agency that protects the public by educating and assisting lawyers to practice ethically and competently, and by disciplining those who violate the Supreme Court's Rules of Professional Conduct, all at no cost to Virginia taxpayers. The VSB continues to provide essential services to Virginia's lawyers and the public. However, we have taken steps to keep the health and safety of our members, employees, and the general public at the forefront of our actions during this rapidly changing situation. The VSB office at 1111 E. Main Street is closed to visitors. If you need to reach a staff person, please send an email or call the appropriate [contact person](#). Many of our staff are teleworking and responses may be delayed. Thank you for your understanding.

From: marmarrich@aol.com <marmarrich@aol.com>
Sent: Tuesday, August 10, 2021 1:36 PM
To: publiccomment <PublicComment@vsb.org>
Subject: EXTERNAL SENDER public comment on LEO 1896

Karen A. Gould,

I am writing to submit my opinion per request on 1896 and implications thereof.

As someone who has had to deal with the damage done by a foreign lawyer who then claims they are not liable within Virginia per Virginia's higher ethical level of standard, I am of the standing that any lawyer of any state who does even remote work out of Virginia for matters involving other states SHOULD have to be barred in Virginia for any engagement of practice of law, even if their licensing jurisdiction is elsewhere.

By requiring lawyers to be barred to Virginia, it relieves victims who are residents the hurdle of continuous disappointment when they are told a lawyer operating from within the state cannot have a complaint brought to the VSB because said foreign lawyer used the matter of operation out of Virginia to misrepresent their training in law to say they ARE licensed in Virginia, especially when it easy to mislead in person or during a call.

Requiring lawyers to be barred in Virginia strengthens the abilities of the VSB to make enforcement decisions and closes loopholes which are used by people in appearance of being an attorney HERE. Otherwise, it AMPUTATES and undermines the work of all the committees and subcommittees comprising the VSB and puts it on a path of making the VSB increasingly jurisdiction-less.

By expanding the requirement a lawyer must be barred here to conduct any legal business, regardless of which states it aligns itself with, it begins to close the loophole of what is or isn't continuous or systematic. It makes it harder to deceive residents because it solidifies that a lawyer in presence here IS subject to the Commonwealth, making them a true attorney. If they want to drop their bar standing if they leave the state, that is fine.

Making the requirement for a Virginia bar marks this state as one with higher standard of ethics. It also increases revenue to the VSB brought in by dues. It places on lawyers the decision on if they are to work remotely from here needing to pass the bar to do so, that they should, by effect, consider becoming a resident of this state, therefore systemically increasing revenue to the Commonwealth through its various formats and registration required thereof -- which makes this a fiscally sound decision.

Lastly, the legal basis for the Commonwealth of Virginia is based upon the premise of the "common weal" -- actions taken by those in law must be for the common good of its residents. Making it so that a foreign lawyer must recognize themselves to Virginia regardless of method of operation to another state, is in alignment with the basis for our Commonwealth and protects its residents hand in hand.

The implementation of requiring this creates benefits for residents, the state, and the influence of the VSB itself.

Thank you.

AFFIDAVIT

I, Karen A. Gould, Executive Director at the Virginia State Bar, do hereby swear and affirm that the foregoing documents are true copies of the original documents on file in the offices of the Virginia State Bar regarding Legal Ethics Opinion 1896.

Given under my hand this 4th day of November, 2021.

Karen A. Gould
Karen A. Gould

STATE OF VIRGINIA
CITY OF RICHMOND, to-wit:

I, a Notary Public in and for the Commonwealth of Virginia, do hereby certify that Karen A. Gould, personally known to me, appeared in person before me and was by me duly sworn and thereupon executed in my presence and acknowledged to me the truth and voluntariness of the foregoing Affidavit.

Given under my hand this 4th day of November, 2021.

Asia B. Holloman
Notary Public

My Commission Expires: December 31, 2025

