

---

---

# VIRGINIA LAWYER REGISTER

The Official Publication of the Virginia State Bar | [www.vsb.org](http://www.vsb.org)

---

---

Vol. 61/No. 8 | March 2013

---

In this issue:

- 2 Disciplinary Proceedings
- 3 Disciplinary Summaries
- 5 Notice to Members
  - Proposed Amendments to Rule 5.4

---

The Virginia State Bar publishes the *Virginia Lawyer Register* five times annually. The *Register* is primarily a compilation of disciplinary actions against attorneys licensed to practice law in the commonwealth; administrative suspensions; legal ethics opinions; and proposed amendments to the Rules of the Virginia Supreme Court. All documents submitted to the state bar for inclusion in the *Register* are subject to alteration as to typography and formatting, in order to conform to the requirements of the *Register*, without changing the intent of any document.

---

# DISCIPLINARY PROCEEDINGS

Respondent's Name	Address of Record	Action	Effective Date	Page
<b>Circuit Court</b>				
Ernest Wayne Powell	Midlothian, VA	Public Reprimand	December 12, 2012	3
<b>Disciplinary Board</b>				
Matthew Francis Bellinger	Montpelier, VA	Suspension—1 year	October 12, 2012	3
Gary Bennet Cargill	Tucson, AZ	Suspension—6 months and 1 day	October 29, 2012	3
Henry St. John Fitzgerald	Arlington, VA	Suspension—4 years	December 19, 2012	3
Gregory Dean Foster	Richmond, VA	Revocation	January 2, 2012	3
Christian Jarrell Griffin	Winchester, VA	Suspension w/Terms—6 months	November 16, 2012	3
Hector Ines Hernandez Sr.	Fredericksburg, VA	Suspension—60 days	December 14, 2012	4
John Alan Jackson	Charleston, SC	Revocation	January 28, 2013	4
Clive Allen O'Leary	Fredericksburg, VA	Suspension—2 years	November 16, 2012	4
James Stephen Del Sordo	Manassas, VA	Public Admonition w/Terms	October 23, 2012	4
Darryl Arthur Parker	Richmond, VA	Public Reprimand w/Terms Crespa Violation—\$500.00 fine	November 8, 2012	4
John William Tripp	Virginia Beach, VA	Public Admonition	October 18, 2012	4
<b>District Committees</b>				
Russell Nardy Allen	Richmond, VA	Public Reprimand w/Terms	December 4, 2012	4
Kevin Eugene Smith	Culpeper, VA	Public Admonition	January 25, 2013	5
<b>Impairment</b>				
Mercer Theodore Kissinger Jr.	Norfolk, VA	January 11, 2013		5
<b>Suspension—Failure to Pay Disciplinary Costs</b>				
		<b>Effective Date</b>	<b>Lifted</b>	
Rueben Voll Greene	Richmond, VA	January 23, 2013	January 28, 2013	n/a
Jason Christopher Roper	Mars, PA	January 17, 2013		n/a
Thomas James Sehler	Reston, VA	December 7, 2012		n/a
Harte Peary Stafford	Annandale, VA	January 3, 2013		n/a
<b>Suspension—Failure to Comply with Subpoena</b>				
		<b>Effective Date</b>	<b>Lifted</b>	
Pauline Marjorie Ewald	Ashland, VA	January 15, 2013		n/a

## Virginia Lawyer Register

The Official Publication of the Virginia State Bar

**Editor: Rodney A. Coggin**

**Assistant Editor: Gordon R. Hickey**

**Design & Production: Madonna G. Dersch**

*Virginia Lawyer* (USPS 660-120, ISSN 0899-9473) is published ten times a year in alternating formats by the Virginia State Bar, Eighth & Main Building, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2800; telephone (804)

775-0500. Subscription Rates: \$18.00 per year for nonmembers. This material is presented with the understanding that the publisher and the authors do not render any legal, accounting, or other professional service. It is intended for use by attorneys licensed to practice law in Virginia. Because of the rapidly changing nature of the law, information contained in this publication may become outdated. As a result, an attorney using this material must always research original sources of authority and update information to ensure accuracy when dealing with a specific client's legal matters. In no event will the authors, the reviewers,

or the publisher be liable for any direct, indirect, or consequential damages resulting from the use of this material. The views expressed herein are not necessarily those of the Virginia State Bar. Periodical postage paid at Richmond, Virginia, and other offices.

### POSTMASTER:

Send address changes to  
Virginia State Bar Membership Department  
Eighth & Main Building  
707 East Main Street, Suite 1500  
Richmond, Virginia 23219-2800

The following are summaries of disciplinary actions for violations of the Virginia Rules of Professional Conduct (RPC) (Rules of the Virginia Supreme Court Part 6, ¶ II, eff. Jan. 1, 2000) or another of the Supreme Court Rules.

Copies of disciplinary orders are available at the Web link provided with each summary or by contacting the Virginia State Bar Clerk's Office at (804) 775-0539 or [clerk@vsb.org](mailto:clerk@vsb.org). VSB docket numbers are provided.

---

CIRCUIT COURT

---

**ERNEST WAYNE POWELL**

Midlothian, Virginia

11-022-088213

On December 12, 2012, a three-judge panel of the Circuit Court for the County of Chesterfield issued a public reprimand to Ernest Wayne Powell for violating professional rules that govern truthfulness in statements to others and dealing with unrepresented persons. This was an agreed disposition of misconduct charges.

[http://www.vsb.org/docs/Powell\\_030613.pdf](http://www.vsb.org/docs/Powell_030613.pdf)

---

DISCIPLINARY BOARD

---

**MATTHEW FRANCIS BELLINGER**

Montpelier, Virginia

10-033-083827

On October 12, 2012, the Virginia State Bar Disciplinary Board suspended Matthew Francis Bellinger's license to practice law for one year for violating professional rules that govern misconduct. This was an agreed disposition of misconduct charges. RPC 8.4(b)(c)

<http://www.vsb.org/docs/Bellinger-121812.pdf>

---

**GARY BENNET CARGILL**

Tucson, Arizona

13-000-093431

Effective October 29, 2012, the Virginia State Bar Disciplinary Board suspended Gary Bennet Cargill's license to practice law based on the March 23, 2012, six-month and one-day suspension of his license by the Supreme Court of Arizona. The board ordered him to appear on November 16, 2012, to show cause why the same discipline that was imposed in Arizona should not be imposed in Virginia.

<http://www.vsb.org/docs/Cargill-025013.pdf>

---

**HENRY ST. JOHN FITZGERALD**

Arlington, Virginia

11-041-087804

On December 19, 2012, the Virginia State Bar Disciplinary Board suspended Henry St. John Fitzgerald's license to practice law for four years for violating professional rules that govern competence, scope of representation, diligence, communication, meritorious claims and contentions, fairness to opposing party and counsel, responsibility regarding nonlawyer assistants, and misconduct. This was an agreed disposition of misconduct charges. RPC 1.1; 1.2(a); 1.3(a)(b)(c); 1.4(a)(b)(c); 3.1; 3.4(j); 5.3(a)(b)(c)(1,2); 8.4(a)(b)(c)

<http://www.vsb.org/docs/Fitzgerald-025013.pdf>

---

**GREGORY DEAN FOSTER**

Richmond, Virginia

12-000-090861, 12-031-090545

On January 2, 2012, the Virginia State Bar Disciplinary Board revoked Gregory Dean Foster's license to practice law for violating professional rules that govern safekeeping property, responsibility regarding nonlawyer assistants, misconduct, and the Consumer Real Estate Settlement Protection Act. In consenting to the revocation, Foster admitted that the charges against him are true. RPC 1.15(a)(1,2)(3)(i,ii), (b)(1-5), (c)(1-4), (d)(1)(i-iv)(2)(i-iii)(a-d)(3)(i-iv)(4), (e)(1)(i-v)(2)(i-iii), (f)(3)(4)(i,ii)(5)(i-iii)(6); 5.3(a)(b)(c)(1)(2); 8.4(c); VAC §6.1-2.21; 15 VAC 5-80-30; 15 VAC 5-80-50

<http://www.vsb.org/docs/Foster-025013.pdf>

---

**CHRISTIAN JARRELL GRIFFIN**

Winchester, Virginia

10-070-080484

On November 16, 2012, the Virginia State Bar Disciplinary Board issued a six month suspension with terms to Christian Jarrell Griffin for violating professional rules that govern safekeeping property and bar admission and disciplinary matters. RPC 1.15(a)(1)(2), (c)(1)(3), (e)(1)(i-iv), (f)(2)(4)(i,ii)(5)(i-iii)(6); 8.1(c)

<http://www.vsb.org/docs/Griffin-025013.pdf>

---

**HECTOR INES HERNANDEZ SR.**

Fredericksburg, Virginia

10-053-080171

On December 14, 2012, the Virginia State Bar suspended Hector Ines Henandez Sr.'s license to practice law for sixty days for violating professional rules that govern safekeeping property, unauthorized practice of law, and misconduct. RPC 1.15(a)(2), (c)(3); 5.5(c), 8.4(a)

<http://www.vsb.org/docs/Hernandez-025013.pdf>

**JOHN ALAN JACKSON**

Charleston, South Carolina

12-032-091872

On January 28, 2013, the Virginia State Bar Disciplinary Board revoked John Alan Jackson's license to practice law. In consenting to the revocation, Mr. Jackson admitted that the disciplinary charges against him are true and that he could not successfully defend against them. RPC 1.3(a), 1.4(a), 1.15(a), 1.16(d) Part 6, §IV, ¶13-28

<http://www.vsb.org/docs/Jackson-020513.pdf>

**CLIVE ALLEN O'LEARY**

Fredericksburg, Virginia

13-000-093249

On November 16, 2012, the Virginia State Bar Disciplinary Board suspended Clive Allen O'Leary's license to practice law for two years based on his noncompliance with terms from a March 2012 memorandum order from the Circuit Court of Stafford County. Part 6, §IV, ¶13-18.O

<http://www.vsb.org/docs/OLeary-025013.pdf>

**JAMES STEPHEN DEL SORDO**

Manassas, Virginia

10-053-083303, 12-053-089789

On October 23, 2012, the Virginia State Bar Disciplinary Board issued a public admonition with terms to James Stephen Del Sordo for violating professional rules that govern safekeeping property. This was an agreed disposition of misconduct charges. RPC 1.15(b)(3), (c)(3)

<http://www.vsb.org/docs/Sordo-121812.pdf>

**DARRYL ARTHUR PARKER**

Richmond, Virginia

06-032-4138; 11-000-087732

On November 8, 2012, the Virginia State Bar Disciplinary Board issued a public reprimand with terms to Darryl Arthur Parker for violating professional rules that govern diligence and safekeeping property. The board also fined Mr. Parker \$500 for violating the Virginia Consumer Real Estate Settlement Protection Act. This was an agreed disposition of misconduct charges. RPC 1.3; 1.15(c)(3)(4), 1.15(f)(4)(i,ii)(5)(i-iii); 15 VAC 5-80-50.B.

<http://www.vsb.org/docs/Parker-020513.pdf>

**JOHN WILLIAM TRIPP**

Virginia Beach, Virginia

11-022-086296

On October 18, 2012, the Virginia State Bar Disciplinary Board issued a public admonition to John William Tripp for violating professional rules that govern diligence and communication. This was an agreed disposition of misconduct charges. RPC 1.3(a), 1.4(a)

<http://www.vsb.org/docs/Tripp-020513.pdf>

---

DISTRICT COMMITTEES

---

**RUSSELL NARDY ALLEN**

Richmond, Virginia

12-033-089213

On December 4, 2012, the Virginia State Bar Third District Subcommittee issued a public reprimand with terms to Russell Nardy Allen for violating professional rules that govern competence, diligence, and communication. This was an agreed disposition of misconduct charges. RPC 1.1, 1.3(a), 1.4(a)(b)(c)

<http://www.vsb.org/docs/Allen-121812.pdf>

*Virginia Lawyer Register Online*

For easier access to the documents cited in this magazine, the *Virginia Lawyer Register* is posted with live Internet links at [http://www.vsb.org/docs/valawyer magazine/Register\\_2013-03.pdf](http://www.vsb.org/docs/valawyer magazine/Register_2013-03.pdf).

**KEVIN EUGENE SMITH**

Culpeper, Virginia

10-052-083568, 10-052-084070

On January 25, 2013, the Virginia State Bar Fifth District Subcommittee issues a public admonition to Kevin Eugene Smith for violating professional rules that govern scope of representation, diligence, communication, and safekeeping property. RPC 1.2(a)(b), 1.3(b), 1.4(a), 1.15(d)(4)

<http://www.vsb.org/docs/Smith-025013.pdf>

**MERCER THEODORE KISSINGER JR.**

Norfolk, Virginia

12-000-091065

On January 11, 2013, the Virginia State Bar Disciplinary Board suspended Mercer Theodore Kissinger Jr.'s license to practice law on impairment grounds.

<http://www.vsb.org/docs/Kissinger-025013.pdf>

**NOTICES TO MEMBERS**

The Standing Committee on Legal Ethics requests public comment on amendments to rule 5.4 of the Rules of Professional Conduct. Comments should be submitted in writing to Karen A. Gould, Executive Director, Virginia State Bar, 707 E. Main Street, Suite 1500, Richmond, VA 23219 or [publiccomment@vsb.org](mailto:publiccomment@vsb.org), no later than the end of the business day on the day of the deadline.

**PROPOSED AMENDMENTS TO RULE 5.4**

**PROFESSIONAL INDEPENDENCE OF A LAWYER**

Deadline for comments: April 19, 2013

The Virginia State Bar's Standing Committee on Legal Ethics is seeking public comment on a proposed amendment to Rule 5.4 of the Rules of Professional Conduct.

This proposed rule amendment is intended to bring Rule 5.4, Professional Independence of a Lawyer, into alignment with Va. Code §54.1-3902(B)(1), which permits a nonlawyer to serve as the secretary, treasurer, office manager, or business manager of a professional entity that is authorized to practice law, notwithstanding the rule's prohibition against a lawyer practicing in a law firm in which a nonlawyer serves as a corporate officer.

**HAVE YOU MOVED?**

*KEEPING IN TOUCH WITH THE VIRGINIA STATE BAR*

To check or change your address of record with the Virginia State Bar, take the following steps:

Go to the VSB Member Login at <https://member.vsb.org/vsbportal/>. Go to "Membership Information," where your current address of record is listed. To change, go to "Edit Official Address of Record," click the appropriate box, then click "next." You can type your new address, phone numbers, and e-mail address on the form.

Contact the VSB Membership Department at [membership@vsb.org](mailto:membership@vsb.org) or (804) 775-0530 with questions.

**Want to check on your MCLE credits or certify your latest course?**

Go to the iTunes store to download the Virginia State Bar app for mobile devices. The app allows you to check your contact information of record, certify courses, and access Fastcase from anywhere, using the same login and password you now use on your computer.

The VSB mobile member access app is available for free in the [iTunes store](#).



# Virginia State Bar Publications

The Virginia State Bar publishes pamphlets and handbooks on law-related issues for Virginia’s lawyers and Virginia’s citizens. Please note that some are available in bulk quantities, and others only in single copies. All publications can also be found on the VSB website at <http://www.vsb.org>. You may email single copy orders to [shall@vsb.org](mailto:shall@vsb.org).

## FOR THE PUBLIC

- | quantity            | publication  |
|---------------------|--|
| _____               | The Bankruptcy Process (Single copy FREE or 100 for \$10)  |
| _____               | The Bankruptcy Process in Spanish (Single copy FREE or 100 for \$10)   |
| _____               | Bill of Rights Bookmark (FREE—100 maximum)   |
| _____               | Children & Divorce (Single copy FREE or 100 for \$10)  |
| _____               | Children & Divorce in Spanish, “Los hijos y el divorcio” (Single copy FREE or 100 for \$10)                        |
| _____               | Clients’ Protection Fund (FREE)  |
| _____               | Divorce in Virginia (Single copy FREE or 100 for \$10)   |
| _____               | Fee Dispute Resolution Program (FREE)  |
| _____               | Financial Issues in Divorce (Single copy FREE or 100 for \$10)   |
| _____               | Inquiries (Complaints) About Lawyers (FREE)  |
| _____               | Marriage in Virginia (Single copy FREE or 100 for \$10)  |
| <b>OUT OF STOCK</b> | Minors, Alcohol and Virginia Law (Single copy FREE or 100 for \$10)  |
| <b>OUT OF STOCK</b> | Protecting Your Intellectual Property: Patents, Trademarks & Copyrights (Single copy FREE or 100 for \$10)         |
| _____               | Virginia Lawyer Referral Service (FREE)  |
| _____               | Selecting and Working with a Lawyer (Single copy FREE or 100 for \$10)   |
| _____               | 2009 Edition of Senior Citizens Handbook (\$4.00 per copy, \$50 for a box of 53 copies)                            |
| _____               | Spare the Child (Brochure for use in conjunction with the Spare the Child video. Single copy FREE or 100 for \$10) |
| _____               | Spare the Child Video (DVD—\$6 shipping each)  |
| _____               | Wills in Virginia (Single copy FREE or 100 for \$10)   |

## FOR LAWYERS

- | quantity | publication  |
|----------|--|
| _____    | Checklist for Opening Your First Law Office (FREE)   |
| _____    | Planning Ahead: Protecting Your Client’s Interests in the Event of Your Disability or Death (FREE) |
| _____    | Virginia Lawyer Referral Service Brochure & Membership Application (FREE)                          |
| _____    | VSB Speakers Bureau Pamphlet & Application (FREE)  |

\_\_\_\_\_ TOTAL PUBLICATIONS

\$ \_\_\_\_\_ TOTAL PRICE

*Make checks payable to Virginia State Bar.*

**Please return with payment to:  
VSB Publications  
707 E. Main Street, Suite 1500  
Richmond, VA 23219-2800  
Phone (804) 775-0512 • Fax (804) 775-0582**

Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

Zip: \_\_\_\_\_ Phone: ( \_\_\_\_\_ ) \_\_\_\_\_

*all publications are available on our website at*

**<http://www.vsb.org>**

## ATTORNEY NAME CHANGES

To change your name of record with the Supreme Court of Virginia and the Virginia State Bar, do the following:

- Fill out an “Attorney Name Change” petition. The petitions — one for name change by circuit court order and another for name change by marriage — are posted at <http://www.courts.state.va.us/courts/scv/forms.html>.
- Send to the Supreme Court with a copy of the certificate of marriage or court order. The address is at the bottom of the forms.
- Include a check for \$14 if you want a new certificate of qualification, or \$10 if you don’t want a certificate.

Name changes take about a month to process.

Questions should be addressed to the Supreme Court Clerk’s Office at 786-2251.

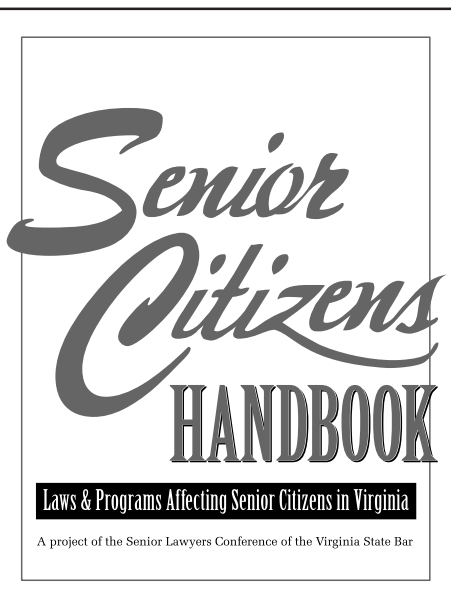
## Food and wine. Partners. Lawyer and client. Pairing is an art form.

At VLRS, pairing is what we do. Over 12,000 times each year, the Virginia Lawyer Referral Service connects lawyers with clients from the general public, businesses, and legal professionals seeking lawyer to lawyer referrals. We can do it for you. Visit [VLRS.net](http://VLRS.net) and find out how.

The Virginia Lawyer Referral Service.  
Connecting the public with lawyers for more than thirty years.



VA Lawyer Referral Service



**The *Senior Citizens Handbook*: a resource for seniors, their families, and their caregivers. 2013 edition now available.**

We’re as busy as ever at age fifty-five and over, and we face new challenges and opportunities, with little time to search them all out. How can anyone find out about them all and, with such an array of choices, how does anyone begin to make a selection?

The *Senior Citizens Handbook*. Available online at

<http://www.vsb.org/docs/conferences/senior-lawyers/VSB-SCHandbook.pdf>.

# NOMINATIONS SOUGHT FOR SPECIAL BOARD AND COMMITTEE VACANCIES

Volunteers are needed to serve the Virginia State Bar's special boards and committees. The Nominating Committee will refer nominees to the VSB Council for consideration at its June meeting.

**Vacancies in 2013 are listed below. All appointments or elections will be for the terms specified, beginning on July 1, 2013.**

**EXECUTIVE COMMITTEE:** 6 vacancies (of which 2 current members are not eligible for reappointment and 4 current members are eligible for reappointment). Filled from ranks of the council for 1-year terms, by council election.

**CLIENTS' PROTECTION FUND BOARD:** 6 lawyer vacancies (1 current lawyer member from the Ninth disciplinary district who is not eligible for reelection; 4 current lawyer members from the First, Second, Fourth and Fifth disciplinary districts who are eligible for reelection; 1 current lawyer member-at-large who is eligible for reelection) and 1 non-lawyer vacancy (1 current lay member who is eligible for reelection). May serve 2 consecutive 3-year terms. Elected by council.

**JUDICIAL CANDIDATE EVALUATION COMMITTEE:** 4 vacancies (of which 2 vacancies are to be filled by a member from the 16th, 20th or 26th judicial circuits; 1 vacancy is to be filled by a member from the 9th or 15th judicial circuits, and 1 vacancy is to be filled by a member from the 19th or 31st judicial circuits). May serve 1 full 3-year term. Elected by council.

**VIRGINIA LAW FOUNDATION BOARD:** 2 lawyer vacancies (of which 2 current lawyer members are eligible for reelection), and 1 lay member vacancy (of which 1 current lay member is eligible for reelection). May serve 2 consecutive 3-year terms. Elected by VLF Board on recommendation of council.

**VIRGINIA CLE COMMITTEE:** 6 lawyer vacancies (of which 6 lawyer members are eligible for reelection to 1-year terms). Elected by VLF Board on recommendation of council.

**AMERICAN BAR ASSOCIATION DELEGATES:** 3 vacancies (of which 3 present delegates are eligible for reelection). May serve 3 consecutive 2-year terms. Elected by council.

Nominations, along with a brief résumé, should be sent by **March 30, 2013**, to

VSB Nominating Committee  
c/o Asha Holloman  
Virginia State Bar  
707 East Main Street, Suite 1500  
Richmond, VA 23219-2800.