

A Privilege and an Honor

by Karen A. Gould, 2006–2007 VSB President



This is my last column as president of the Virginia State Bar. Howard W. Martin Jr. from Norfolk takes over as the next president on June 17, 2007 (and yes, I have started counting down the days). Accordingly, I believe reflection on the experience is in order.

First of all, I have come to realize that the job is much bigger than any one person. You can only hope to give it its due and, if you have the time, it is a full-time job. I have been very lucky to have partners who understood this better than I did and who have been totally supportive of my part-time status at my law firm, McSweeney, Crump, Childress & Gould PC. My husband, an in-house corporate lawyer at NewMarket Corporation, was not thrilled with my decision to undertake this responsibility, but has been incredibly supportive on the home front. He has kept things in order during the many days that I have been gone, including the early morning start with our three dogs. Thankfully, our daughter is happily ensconced in college and is fairly oblivious to my schedule.

Being located in Richmond was obviously a huge factor for me to be able to appear at many committee and section meetings, as well as interact with legislators during the General Assembly's "short" session.

I was fortunate to see firsthand the efforts of the hundreds of volunteer lawyers who do the good work of the many committees, sections and task forces that make up the Virginia State Bar. While they were delighted to have me attend their meetings, I was awed

by their dedication to furthering the VSB's goals of improving the public's access to legal services, the quality of those services and the rule of law. Hands down, the best part of bar service is getting to know lawyers from other parts of the state. As a result of the national meetings I've attended, I have also had the privilege and pleasure of getting to know lawyers from Alaska to Florida, Hawaii to Maine.

I started out the year knowing that we had a great bar staff, but I really had no idea what went into organizing the different programs, meetings and publications. From my years of service in the disciplinary system, I knew that the Office of Bar Counsel was well-staffed with professionals and support people. George W. Chabalewski, the new bar counsel, is doing an excellent job of integrating himself with the existing staff and overseeing the operation of the single most important part of the bar's function—investigation of bar complaints and prosecution when needed of lawyers who come into our disciplinary system.

We hope to make the disciplinary rules more user-friendly, with a reorganization under way by a subcommittee chaired by Julia S. Savage from the Standing Committee on Lawyer Discipline (COLD). I have also asked the COLD to look at a program used by other states to divert lawyers who face minor complaints for the first time in the disciplinary system to attend an "Ethics School" to help them better understand what is required of them and avoid further problems.

The VSB Membership Department will benefit from improvements to the bar's Web site as the programmers put into place the ability to change membership information over the Internet. I hope that many VSB members will opt in to be listed in the online membership directory, which will make it easier for our members and the public to locate Virginia attorneys.

I have especially benefited from the many staff members—in the Bar Services Department and elsewhere—who organize VSB events, including Executive Committee and Council meetings. The VSB staff also organizes Supreme Court of Virginia-sponsored meetings, such as the Solo & Small-Firm Practitioner Forum and the Indigent Defense Training Program.

The Bar Services staff also does a miraculous job of orchestrating the mandatory Professionalism Course taken by Virginia's new lawyers. Dana D. McDaniel, chair of the Professionalism Committee, has dedicated himself to attending each of the eight Professionalism Courses, the faculty orientation dinner that precedes each course and the Professionalism Faculty Training Course. You cannot imagine how much time Dana has devoted to this job. In addition, it was Dana who suggested renaming the Professionalism Course in honor of former Chief Justice Harry L. Carrico, an idea that was long overdue.

The Publications Department works with the many sections to get newsletter

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ters published, maintains the bar's Web site and produces *Virginia Lawyer* and *Virginia Lawyer Register* magazines. William R. Allcott Jr. chairs the Publications and Public Information Committee—an often thankless task as we have tried to move into the twenty-first century with the use of technology to better communicate with our members. The new Information Technology Committee, chaired by John L. Deal, has worked with the bar's IT staff to prioritize the technology needs of the bar.

The Legal Ethics Committee, chaired by James O. Broccoletti, interprets the Rules of Professional Conduct in issuing guidance to lawyers. The committee and VSB Ethics staff perform an invaluable service to the bar. I was fascinated and impressed by their admonition that they wanted to make certain their opinions help lawyers find their way through the ethical rules.

Likewise, the Standing Committee on Lawyer Advertising and Solicitation (SCOLAS), cochaired by Alison P. Landry and Daniel L. Rosenthal, reviews lawyer advertising to ensure that it does not mislead the public. The SCOLAS advises the lawyer of any concerns and asks them to modify the advertisement or explain why the ad is not misleading. The SCOLAS also has focused this year on evaluating the different types and styles of Internet and Web-based advertising and how the Rules of Professional Conduct apply to those types of advertising. Advertisers and nonadvertisers serve on the SCOLAS.

The Clients' Protection Fund (CPF) assists clients who have lost money due to lawyer dishonesty. The board debates the merits of each claim and evaluates whether the fund's requirements have been met. Subject to approval by the Supreme Court, an additional fee of twenty-five dollars will be assessed against Virginia's active

lawyers on dues statements this year to increase funding for the CPF.

The Mandatory Continuing Legal Education Department does an incredible job of processing the many forms that come into their offices to make certain that lawyers have complied with the MCLE requirement. The MCLE Board looks at individual courses to determine whether they should receive MCLE credit and adopts rules and regulations to administer the program. We had a healthy debate in *Virginia Lawyer* this year over the MCLE requirement.

I would be remiss if I did not highlight efforts that so many people made to increase funding for indigent defense and waive fee caps in appropriate circumstances. There was an unprecedented collaborative effort by Governor Timothy M. Kaine; Attorney General Robert F. McDonnell; the Virginia Fair Trial Project, headed by Betsy W. Edwards; the VSB Criminal Law Section, chaired by John E. Lichtenstein; and many others. Progress was made in the 2007 General Assembly with the passage of a fee waiver bill and an increase in funding. It is an understatement, however, to say there is still room for improvement.

Retired J&DR Judge Dale H. Harris took on the task of chairing the Special Committee on Access to Legal Services. The Access Committee retooled regulations on the function and operations of legal aid societies, recommended revisions to the Supreme Court emeritus rules to expand where members can provide pro bono services, and prepared to host the annual Pro Bono Conference at the University of Richmond on May 17 and 18, 2007.

The Special Committee on Resolution of Fee Disputes started off the year by undertaking a series of training seminars across the commonwealth to train mediators on the new Program Rules

and Participation Guidelines. Many thanks are owed to Chair Frank W. Rogers III, the committee members and Barbara O. Allen, the VSB staff liaison, for their efforts in this regard. It is hoped that the Fee Dispute Resolution Program will be more actively used by our members in resolving fee disputes with their clients.

The Seniors Lawyers Conference (SLC), the Young Lawyers Conference (YLC) and the Conference of Local Bar Associations (CLBA) do so much good work it is hard to summarize their activities in this small space. For example, the SLC has put together a Senior Law Day program to make it easy for voluntary bars to educate seniors on hot topics affecting their lives. The YLC's Minority Prelaw Conference, held twice this year, is designed to help diversify our profession and was attended by many enthusiastic and grateful college students. The CLBA put on the Bar Leaders Institute and the Solo & Small-Firm Practitioner Forum to improve bar leadership and practice management skills.

The VSB Judicial Nominations Committee, chaired by Joseph A. Condo, revamped the process for evaluating candidates for statewide and federal judicial positions, to make it more helpful to legislators. We heard the message loud and clear that the legislators do not want to know who the bar would like to see appointed to these positions, but they would like to receive our unbiased evaluations of candidates' qualifications, temperament and ethics. The committee used the new policy to good effect this winter as it evaluated candidates for two federal judgeships, which resulted in a remarkable written analysis of the candidates, which we hope will be put to good use by Senators John W. Warner Jr. and James H. Webb.

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The Special Committee on Lawyer Malpractice Insurance looked at the issue of mandatory malpractice insurance. Under the leadership of Chair Darrel Tillar Mason, the committee, in response to queries by the General Assembly, analyzed data available on verdicts against lawyers and different options for malpractice coverage. Ultimately, the committee decided against recommending mandatory malpractice insurance, but recommended that further disclosure be made by our members of what coverage they have. These were not easy issues to address, but were necessary because of concerns about whether we, as the mandatory bar, are doing enough to protect our clients.

The concern about whether we are doing enough to protect our clients also prompted the formation of the Public Protection Task Force (PPTF), chaired by Christopher J. Habenicht. Lawyer defalcations continue to be a problem, not only for individual clients, but also for the profession as a whole, because such actions cast a negative perception on all of us. The PPTF's work is ongoing at this point.

I also want to thank VSB Executive Director Thomas A. Edmonds for his unflagging assistance and helpful direction. He made more

trips than I did to the General Assembly to ensure that the Clients' Protection Fund bill got through the system. He met with legislators and reminded them of our goal to protect the public from losses at the hands of dishonest lawyers. Tom is retiring this year after ably serving the Virginia State Bar for eighteen years. He is an institution to the lawyers of Virginia, many of whom recognize him and respect him. Tom had a ready smile and a firm handshake for all. We will be lucky to find a person of Tom's caliber to replace him this year when he retires.

Finally, I want to thank Chief Justice Leroy R. Hassell Sr. and the other Justices of the Supreme Court of Virginia for their support and assistance during the year, to me personally and to the bar. As an arm of the Supreme Court, the VSB works to fulfill the mission set for it by the Court. The Justices are truly dedicated to improving the profession.

I also want to thank the bar for giving me this opportunity to be of service. It has been a remarkable year of growth for me. I have been privileged and honored to serve as president of the Virginia State Bar. ☺