

President's Message

by Irving M. Blank



It's Time to Thaw the Judicial Hiring Freeze

IF WE ARE GOING TO HAVE ANY INFLUENCE on our legislators in funding the vacant judgeships that were frozen by the 2010 General Assembly, action is needed now. The legislature comes back to Richmond on January 12, 2011, and we are looking for a delegate to assume a leadership role in electing judges to those empty seats.

My recent contacts with many members of the General Assembly on this issue have left me with some surprising impressions. Foremost, there is little understanding that the judiciary is an equal branch of government. The citizens of Virginia are entitled to a vibrant and independent judiciary that is funded to provide the essential services. Funds to accomplish this are mandated by the Virginia Constitution, as well as our history. The founders of the nation — especially those from Virginia — understood and stated the need for an independent judiciary. Otherwise, the rule of law that protects all of us would be in jeopardy. Funds for judges, clerks, and technology for our courts differ from funds for other services provided by executive and legislative agencies of state government.

Second, there seems to be an overemphasis on the number of cases heard by different circuit and district court judges. I, too, have been guilty of this in referring to the Eleventh District juvenile and domestic relations judge

who is projected to be assigned almost eleven thousand cases in 2010. (See Chart I on page 11.) I have cited this situation as an example of how devastating the judicial freeze is to a court. I assume that members of the General Assembly appreciate that a three-week complex commercial case is not the same as a fifteen-minute hearing to approve an infant settlement. Hopefully, the General Assembly will correct the most egregious of the vacant judgeships.

Third, the freeze on judicial hiring should be lifted and followed by a studied and reasoned approach based on location and workload. We need to fix the problems of the last budget now and then seek a global solution. I do not envision merit selection of judges in my lifetime, but there is a bipartisan desire for a long-term solution. The legal community would support a thoughtful and reasoned proposal to insure that our judiciary is strong and independent.

Our immediate problem, however, is to address the crisis that began in January 2010. Courts across the commonwealth will not be able to fulfill their obligations to litigants and the public if immediate action is not taken.

Local bar associations in the Eastern Shore, Prince William County, and the far southwestern regions of Virginia have passed resolutions addressing the judicial vacancies. Judges are doing more than their

share to keep the courts serving the public. Many of you have contacted your legislators.

Many members of the General Assembly responded that they will support amendments to the budget, but others said that they are not hearing from the legal community and doubt the seriousness of the situation.

We need to document situations in which, due to the hiring freeze, litigants — including some of our most needy citizens — are suffering from long delays in getting their cases heard.

We have offered to assist the General Assembly in developing a solution to the crisis. We have asked the governor to use his office and unique knowledge to help. We, along with the Judicial Conference, have suggested that the mandatory retirement age for judges be increased from 70 to 73. That alone would have a substantial impact on the funding problems cited by the legislature. (See Chart II on page 58.)

I call upon you again to contact your House and Senate members, have your local bar associations send resolutions to the General Assembly, write your local newspapers and get editorials printed, and contact your clients and civic organizations to tell our legislators that the people of Virginia understand that, if we are to be protected by the rule of law, we must first have a strong and independent judiciary.

Chart I — Virginia Courts with Judicial Vacancies

Source: Office of the Executive Secretary, Supreme Court of Virginia

Circuit Courts Circuit/Localities	Cases per Judge, 2009 2009 Statewide Average = 1,837	Projected Cases per Judge, 2010
30th Circuit Lee, Scott, Wise	2,355 (3 judges)	3,532 (2 judges)
5th Circuit Isle of Wight, Southampton, Suffolk	2,034 (3 judges)	3,052 (2 judges)
27th Circuit Bland, Carroll, Floyd, Giles, Grayson, Montgomery, Pulaski, Radford, Wythe	2,348 (5 judges)	2,935 (4 judges)
15th Circuit Caroline, Essex, Fredericksburg, Hanover, King George, Lancaster, Northumberland, Richmond County, Spotsylvania, Stafford, Westmoreland	2,466 (8 judges)	2,819 (7 judges)
9th Circuit Charles City, Gloucester, James City County/Williamsburg, King and Queen, King William, Matthews, Middlesex, New Kent, York/Poquoson	1,804 (4 judges)	2,405 (3 judges)
11th Circuit Amelia, Dinwiddie, Nottoway, Petersburg, Powhatan	1,647 (2.66 judges)	2,190 (2 judges)
6th Circuit Brunswick, Greensville, Hopewell, Prince George, Surry, Sussex	1,852 (2.34 judges)	2,167 (2 judges)
2nd Circuit Accomack, Northampton, Virginia Beach	1,864 (10 judges)	2,071 (9 judges)
24th Circuit Amherst, Bedford, Campbell, Lynchburg, Nelson	1,625 (5 judges)	2,031 (4 judges)
13th Circuit Richmond City	1,673 (8 judges)	1,912 (7 judges)
General District Courts	2009 Statewide Average = 26,929	
20th District Fauquier, Loudoun, Rappahannock	29,781 (4 judges)	39,708 (3 judges)
6th District Brunswick, Emporia, Greensville, Hopewell, Prince George, Surry, Sussex	29,288 (4 judges)	39,050 (3 judges)
19th District Fairfax	34,026 (11 judges)	37,429 (10 judges)
2nd District Virginia Beach	29,184 (7 judges)	34,048 (6 judges)
13th District Richmond City	24,149 (8 judges)	27,599 (7 judges)
25th District Alleghany, Augusta, Bath, Botetourt, Buena Vista, Craig, Highland, Lexington/Rockbridge, Staunton, Waynesboro	20,663 (4.70 judges)	26,247 (3.70 judges)
Juvenile and Domestic Relations Courts	2009 Statewide Average = 4,385	
11th District Amelia, Dinwiddie, Nottoway, Petersburg, Powhatan	5,468 (2 judges)	10,935 (1 judge)
27th District Bland, Carroll, Floyd, Galax, Giles, Grayson, Montgomery, Pulaski, Radford, Wythe	4,860 (4 judges)	6,480 (3 judges)
15th District Caroline, Essex, Hanover, King George, Lancaster, Northumberland, Richmond County, Spotsylvania, Stafford, Westmoreland	5,503 (7 judges)	6,420 (6 judges)
14th District Henrico	4,496 (5 judges)	5,620 (4 judges)

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Chart II — Mandatory Judicial Retirements, 2011–12

Source: Division of Legislative Services

Courts	Circuit or District — 2011	Circuit or District — 2012
Circuit	<p>2nd Glen A. Tyler of Accomack</p> <p>14th Burnett Miller III of Henrico</p> <p>17th Benjamin N.A. Kendrick of Arlington</p>	<p>2nd Frederick B. Lowe of Virginia Beach</p> <p>6th Samuel E. Campbell of Prince George</p> <p>13th Walter W. Stout III of Richmond</p> <p>14th Daniel T. Balfour of Henrico</p> <p>18th Donald M. Haddock Jr. of Alexandria</p>
General District	<p>6th J. Larry Palmer of Hopewell</p>	<p>2nd Robert L. Simpson Jr. of Virginia Beach</p> <p>4th James S. Mathews of Norfolk</p>
Juvenile & Domestic Relations	None	None