

Inside This Issue

New Filing Fees and
Procedural Changes in Circuit
court, pg. 2

CLE Update, pg. 2

Pro bono Report, pg. 3

SPECIAL ISSUE

Legislative Summaries
Business Law, pg. 4
Criminal/Traffic Law, pg. 5
General Practice, pg. 8
Litigation, pg. 9

Bankruptcy Law Update, pg. 11

Classified Ads, pg. 11

Foundation Update, pg. 11

Inserts

◆ "Review of Legislative
Changes, Effective 7-1-03,
Regarding the A.S.A.P. and
related programs" CLE
registration flyer.

◆ "Business Valuations and
their use in the Litigation
Process" CLE registration flyer.

Hear Ye! Hear Ye!

News from the Prince William County Bar Association

Volume VIII Issue VII

August 2003

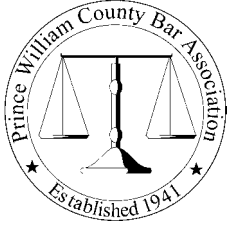
President's Message

By Gail R. Prentiss

With many of our members out of town between summer vacations and the fourth of July holiday, the executive committee postponed its monthly planning meeting last month and cancelled the membership meeting which would have otherwise fallen on the fourth. Despite the general "plan not to plan" in July, however, the PWCBA could not resist a wonderful opportunity that arose to co-host a reception for some of our Supreme Court Justices when they were in the area for a writ panel. The cocktail reception, which was held on July 15, 2003 at the County Club of Fairfax, was tri-county collaboration between the Fairfax County Bar Association, the Alexandria Bar Association and the PWCBA. The guests of honor were Supreme Court Chief Justice Leroy Hassell, former Chief Justice Harry Carrico, and Justice Barbara Keenan. Although this area was familiar territory for Justices Carrico and Keenan, Justice Hassell remarked that it was his first trip to these "northern suburbs of Richmond", so I am particularly pleased that so many of our judges and attorneys participated in extending such a warm welcome. As many of you know, former Chief Justice Carrico has graciously taken the time to address our membership in the past, and Chief Justice Hassell has also kindly agreed to speak to us at a luncheon meeting next spring. Accordingly, we were honored to have the opportunity to participate in this event.

As an added bonus, I was somewhat overwhelmed by the numerous compliments and inquiries I received at the reception from members of the other bars concerning our innovative programs and reputation for leadership. I pass these compliments on with great pride, because they belong to you. The high degree of positive recognition is attributable both to the hard work our members put into the planning and presentation of our programs, and to the dedication with which our executive director promotes the reputation and accomplishments of the PWCBA. Congratulations, and thank you for the opportunity I had to bask in the glory of your collective efforts!

August is a particularly interesting month for the legal profession every year because of the numerous changes in the law that go into effect on July 1. If you are currently engaged in the annual scramble to update and familiarize yourself with all of the various changes which may impact your area of practice, some welcome relief is in sight. First, inside this issue, you will find several fine articles on legislative updates from our respective section liaisons. Secondly, the August luncheon meeting will feature a very informative program on the recent legislative changes affecting the A.S.A. P. program, Alcohol/Drugs, DMV and other driving related laws. We are particularly fortunate to have Kim Peele, Director of Bull Run A.S.A.P. and General District Court Chief Judge Peter Steketee presenting this program. In addition to these fine speakers, free CLE credit is also pending. This program is certain to fill up fast, so please pre-register. I look forward to seeing you all at the August meeting.



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New Filing Fees and Procedural Changes in Circuit Court

From the Office of Dave Mabie

FILING FEES

Appeals from the Juvenile and Domestic Relations Court involving custody and/or visitation will be subject to full chancery filing fees of \$66.00 *for each child*. This is a result of the \$25.00 filing fee established for the Juvenile & Domestic Relations Court.

The fees for service of process for the Department of Motor Vehicles and the Secretary of the Commonwealth have increased to \$28.00.

LAND RECORDS

Effective July 1, 2003, the clerk's office will not knowingly accept any instrument submitted for recordation in the deed book that includes a grantor's, grantee's or trustee's social security number.

CIVIL PROCEDURE

Wage Garnishments: Wage garnishments are permitted to last up to 180 days and that a writ of fieri facias issued in a wage garnishment shall be returnable not more than 180 days after date of issuance.

CLE Update

By Catherine S. Croft

FREE CLE CREDITS ARE AVAILABLE TO INDIVIDUALS WHO WILL VOLUNTEER TO WORK THE REGISTRATION DESK FOR CLES SPONSORED BY THE PWCBA. THIS IS EASILY ACCOMPLISHED BY A PERSON WHO IS ALREADY PLANNING ON TAKING THE CLE. PLEASE CONTACT CATHY CROFT AT (703) 335-9390 TO INQUIRE.

Upcoming CLEs Sponsored by the PWCBA:

August 1, 2003, "Annual ASAP Update", presented by Kimball T. Peele, Director Bull Run ASAP and the Honorable Peter W. Steketee, Chief Judge, General District Court, during the regularly scheduled August luncheon meeting, 1:00 to 1:30 p.m., Jake's Seafood Restaurant, Old Town Manassas, 0.5 MCLE credits pending. See registration flyer in this newsletter.

August 22, 2003, "Business Valuations", presented by Bill Duvall, CPA, 2:00-4:00 p.m., Circuit Courtroom #4, 2 MCLE credits pending. See registration flyer in this newsletter.

September 19, 2003, "Update on DUI", presented by Casey Stevens, 3:00-5:00, Circuit Courtroom #4, 2 MCLE credits pending.

October 3, 2003, there will be a one hour Ethics CLE presented during the regularly scheduled luncheon program. Look for details next month.

October 15, 2003, tentatively planned for the annual Uncontested Divorce CLE. This will be a free three hour CLE for those who will take on two *pro bono*, uncontested divorces cases for legal services over the next twelve months. Look for details next month.

There are no CLEs scheduled for the month of August for the Fairfax, Alexandria or Arlington Bar Associations.

Pro Bono Report

By Rusty von Keller, IV

Discussions have continued at the monthly *Pro Bono* Committee meetings as to following up on the results achieved at the first *Pro Bono* Leadership Roundtable which was held on 27 March 2003. As the Bar will recall, approximately 40 members of the Bar Association were invited as well as the Prince William County judiciary. The participants were listed in a previous newsletter.

The participants at the Roundtable separated into groups and, assisted by facilitators, discussed the needs for local *pro bono* efforts and resources available. The entire group then reassembled and each group reported on key ideas.

Ideas - The following ideas were expressed as a result of the small group discussions:

- Domestic relations attorneys are needed to assist the indigent in Circuit and J&DR Courts
- Bar Association program for initial consultation (30-60 minutes) with indigent litigants - similar to Virginia Lawyer Referral Program [determine how to deal with potential lawyer liability issues]
- Need for debtors' rights information - consider a seminar
- Need for preparation of wills and elderly indigent, including medical directives - possible will clinic need to be able to go to their homes
- Need to provide School law information
- Need to find a way to identify legal resources to people who have just come to the community
- In General District Court have an information table or ability to provide representation or advice
- Deal with language barriers for Hispanics - for example with respect to the driver's license process
- Voting rights restoration
- Target different aspects of the community
- Adoptions
- Conservators of wills
- Foreclosures
- Settlement workshop
- Call in Helpline - refer to lawyer with specialty
- GALs for insurance settlement cases
- Help for person who is a GAL
- GAL for adult guardianships
- Worker's compensation
- Conciliator program in J&DR Court
- Screen unlawful detainees in advance

Based on the input provided by the Roundtable participants, the Pro Bono Committee intends to pursue the following priorities: 1) solicit Bar participation in a project to provide assistance to the elderly with wills and advanced medical directives; 2) contact the Bar Foundation to see what assistance it can make available; 3) study the feasibility of developing an "Intake Program" in General District Court by reviewing the Fairfax Bar Association program and meeting with the General District Court Judges and Clerks, as well as soliciting specific interest from attorneys in participating if such a program is established; 4) develop a method to track information on the *pro bono* services provided.

Advice and comments on the proposed priorities are welcome.

2003

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The PWCBA Office is located on the lower level of the Judicial Center in the Circuit Court Archives. Alissa N. Hudson, the Executive Director, is generally available at the Judicial Center on Friday mornings. At other times, you may contact her by telephone as noted.

Guidelines for Submissions to *Hear Ye! Hear Ye!*

Submissions can be faxed to the attention of Alissa N. Hudson, Executive Director, Prince William County Bar Association at (703) 331-5683, or may be mailed to her c/o Prince William County Bar Association, Inc., P.O. Box 31, Manassas, VA 20108. All submissions are due by 5:00 PM on the 10th of the month preceding publication. Be sure to include a contact name and phone number with all submittals in case there are questions.

“**Letters to the Editor**” may be submitted for publication by members in good standing of the PWC Bar, and must not exceed 500 words in length. “Letters” may be edited for clarity or space conformity. All submissions must have a contact name and phone number, and will include the author’s name in the newsletter.

For inquiries regarding classified or display advertising, contact the PWCBA office at (703) 393-2306, and request a copy of the most recent rate card.

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SPECIAL ISSUE--LEGISLATIVE SUMMARIES

The legislative updates reported in this section were provided by the PWCBA Liaisons to their respective VSB Practice Sections. The updates provided here do not represent all new legislation enacted during the 2003 Session of the Virginia General Assembly, nor or the summaries comprehensive as to the content of the new bills passed. This information is provided as a service to the membership of the Bar, to alert you to changes in the law that may impact your practice.

For a complete listing of new legislation, you may contact The Division of Legislative Services at (804) 786-6984 and request a copy of The Digest of the Acts of the General Assembly of Virginia at the 2002 Session, or you may access the General Assembly’s web site at <http://leg1.state.va.us/lis.htm>.

Thank you to all the returning 2003-2004 PWCBA Section Liaisons for once again providing these updates! Look for additional legislative updates next month on family law, real property and local government law.

Business Law

By Tom Duling

§ 8.3A-602. Negotiable instruments; return of paid instruments. Requires the holder of a negotiable instrument to return the instrument to its maker or his agent within 90 days following payment in full of the obligation. If the instrument is no longer in existence, the holder can satisfy this obligation by giving written confirmation to that effect within 90 days of the request. SB 999; CH. 342.

§§ 6.1-112, 13.1-316, 13.1-544.1, 13.1-630, 13.1-762, 13.1-829, 13.1-924, 13.1-1012, 13.1-1104, 13.1-1214, and 50-732 amended. Names of business entities. Requires that the name of any corporation, limited liability company, business trust, or limited partnership be distinguishable upon the records of the State Corporation Commission from the name of any of these types of business entities. H 1753; CH. 592 (effective 10/1/04).

§§ 13.1-543, 13.1-544.1, 13.1-544.2, 13.1-1102, and 38.2-231 amended; §§13.1-542.1 and 13.1-1101.1 added. Professional corporations; professional limited liability companies. Provides that, unless otherwise prohibited by law or regulation, professional services may be rendered by either a professional corporation or a general business corporation.

§§ 13.1-546 and 13.1-1107 amended. Professional services; independent contractors. Permits professional corporations and limited liability companies to use independent contractors to render the professional services of such entities. HB 1863; CH.786.

§§ 13.1-603, 13.1-722, 13.1-1001.1, 13.1-1002, 13.1-1003, 13.1-1012, 13.1-1067, 13.1-1070, 13.1-1072, 13.1-1073, 50-73.1, 50-73.2, 50-73.48:1, 50-73.48:3, 50-73.48:4, 50-73.84, 50-73.128, 50-73.130, and 50-73.144 amended; §§ 13.1-1010.4 and 13.1-1023 added. Limited liability companies; business entities. Incorporates conforming provisions into the Limited Liability Company Act and analogous provisions of other business entity statutes to enable those entities to merge with business trusts.

Continued, Page 5

§§ 13.1-722.10 and 13.1-722.12 amended. Corporations and limited liability companies; entity conversions. Requires that the articles of incorporation or articles of organization of the surviving entity of a conversion from a corporation to a limited liability company, or vice versa be included as a separate attachment to the plan of entity conversion.

§§ 13.1-815, 13.1-815.1, and 13.1-816 amended; §§ 13.1-892.2 through 13.1-898.7 added. Corporations; domestication and conversion; fees. Establishes procedures by which (i) a domestic nonstock corporation that is not legally required to be a domestic corporation may domesticate as a foreign nonstock corporation and (ii) a foreign nonstock corporation may domesticate as a Virginia nonstock corporation. SB 880; CH.374.

§ 13.1-904 amended. Nonstock corporations; articles of dissolution. Requires that articles of dissolution of a nonstock corporation filed with the State Corporation Commission set forth, if applicable a statement that there are no members or no members with voting rights.

§§ 13.1-1055 and 50-73.57 amended. Foreign limited liability companies and limited partnerships. Clarifies that the Secretary of State or other official with custody or records in the state or other jurisdiction of formation must authenticate the records of foreign limited liability companies and foreign limited partnerships. The amendments conform the authentication requirements with corresponding provisions of the Virginia Stock and Nonstock Corporation Acts. SB 851; CH.370.

Criminal and Traffic Law

By Dan Morissette

The major developments in the criminal law area at the General Assembly this year were the creation and definition of the crime of “partial birth infanticide” and the refinement of the procedure for factual determination of mental retardation in capital cases. There were a few terrorism-related provisions passed, but nothing like the omnibus terrorism statute of 2002’s session. However, as usual, several substantive and procedural statutes were clarified, DUI punishments were (purportedly, this time) enhanced, and at least one new offense of questionable purpose was added. Most of the statutes clarified had to do with administrative matters such as the role of certain offices and record-keeping issues only tangentially related to the matters involved in the routine daily practice of criminal law and will not be discussed. A discussion of the more significant statutory changes and additions follows. Where express or implied, any interpretation or opinion contained herein is that of the author and not the Prince William Bar Association.

The partial birth infanticide offense is codified at § 18.2-71.1. While the moral, political and privacy rights aspects of the law can be debated, much of the troublesome vagueness of the early drafts has been eliminated. The law prohibits the intentional killing of a human infant born alive but not completely expelled from the mother. Certain more conservative abortion procedures are excluded from the law, as is the partial extraction procedure when conducted to preserve the life of the mother. “[B]orn alive” is essentially defined as a partially expelled or extracted fetus which shows signs of life, regardless of the duration of the pregnancy. The “mother” on whom an illegal procedure is performed is immune from prosecution for any criminal offense arising from the procedure. The offense is punished as a Class 4 felony. The provision that applies the law regardless of the duration of the pregnancy is probably the most objectionable part. Although early-term abortions generally are not conducted using the prohibited method, the “born alive” definition, which can

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Criminal and Traffic Law Continued

potentially include the partial expulsion of a fetus in the beginning months of a pregnancy, qualifies the event as a live birth for vital statistics purposes, as codified by the concurrent amendment of § 32.1-249.

In response to the U.S. Supreme Court decision in *Atkins v. Commonwealth* last year, holding that the execution of a mentally retarded person is prohibited by the Eighth Amendment, the legislature amended several code sections, most notably § 19.2-264.3:1.2 and -264.3:3, to define mental retardation and the procedures for determining whether a defendant is mentally retarded. The amendments relate only to capital cases so will not be discussed in detail here. The defendant has the burden of proof on the issue, and there is a procedure for defendants sentenced to death before the law becomes effective to have the issue litigated.

The issue of identity theft received a lot of attention in the assembly this year, probably due to the terrorism threat and the increase of computer identity theft incidents. Several code sections were amended and added to provide additional protections for personal information and to address the methods of and sanctions for identity theft, including but not limited to the following. § 18.2-186.3 was amended to include the theft of a dead person's identity and the theft with intent to sell the identity information as crimes. § 18.2-204.1 was similarly amended to include as a crime the sale or transfer of a birth certificate for the purpose of assisting another to establish a false identity. §§ 18.2-186.3:1 and -186.5 were added to enable victims of identity theft to block access to fraudulent information on their credit record and to expunge false identity information from police and court records. § 46.2-105.2 was amended to include using counterfeit or forged documents to obtain a DMV license or i.d. card as a crime. A new section, 46.2-328.1, prohibits the issuance of licenses and i.d. cards except to U.S. citizens, legal resident aliens, and holders of valid visas. Except for certain limited exceptions, a person not in one the approved categories who obtains a license or i.d. is subject to the sanction of § 46.2-105.2, a Class 6 felony.

Several procedural clarifications were made in the area of juvenile law. The definition of CHINS was expanded to include a child whose behavior or condition creates a serious threat to the safety of himself or others, and half-siblings were added to the definition of "family or household member", both in § 16.1-228. The practices of JDR judges of placing juveniles in detention at adjudication who were not detained when first taken into custody and of appointing both a guardian *ad litem* and counsel for the child were expressly authorized at § 16.1-248.3 and § 16.1-266, respectively, in response to separate Attorney General's Opinions stating that each practice was not authorized by the code. A glitch in § 16.1-269.6 which left no court with jurisdiction over an offense against a minor committed by a juvenile who had previously been tried and convicted as an adult was corrected.

The most significant change in DUI law was the amendment of § 18.2-270 to require a minimum \$500-1000 fine and minimum 5 day jail sentence for anyone convicted of DUI while transporting a minor 17 years old or younger. Practice tip—in my opinion, 17 years and 1 day is older than 17 years. The statute was also amended to require mandatory minimum fines of \$250, \$500 and \$1,000 for first, second and third offenses respectively. However, those familiar with the "standard" DUI dispositions will note that the statutory minimum fines merely codify the fines usually levied in such cases in Northern Virginia jurisdictions already, whether by guilty plea or trial.

The legislature devoted some of its time to solving a few non-problems during the last session. Apparently, the Commonwealth lost its bigamy case last year on a venue objection. § 18.2-352 was amended to allow venue "in the county or city where the

subsequent marriage occurred or where the parties to the subsequent marriage cohabited.” Those who devote a large amount of their practice to bigamy defense should take note. Additionally, all those peeping-tom landlords will no longer be able to slip through the net, now that § 18.2-130 has been amended to prohibit them from peeping into their own property which has been leased to another. (The statute used to prohibit only peeping into the property of another. I suspect some landlord beat a charge on that basis somewhere in the Commonwealth last year.) The legislature also addressed that problem of citizens being too dumb to know when they are under arrest by adding § 18.2-479.1 to the Code, which explains that when a law enforcement officer grabs you or tells you are under arrest, you are in fact under arrest and should not resist or flee. However, and I am not making this up, this section will only apply where “a reasonable person who receives such communication knows or should know that he is not free to leave.” So extremely dumb defendants may still have an out. Look for the Commonwealth to argue this statute where they have a 4th or 5th Amendment problem in a “stop” case. The argument will be that unless the definition of the officer’s conduct under the statute is met, the person was free to leave, and therefore when the defendant consented to a search or made un-Mirandized statements, they were not seized or coerced. The counter argument is that the Constitution cannot be amended by statute.

Undeterred by (or perhaps unaware of) my criticism in last year’s update of their amendment of the obstructing justice statute, § 18.2-460, making it a crime to make a materially false statement to the police in the investigation of another person (which in practical terms makes you subject to prosecution for telling an officer something he/she *thinks* is a lie or which turns out to be false), the legislature upped

Continued. Page 8

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Criminal and Traffic Law Continued

the penalty from a class 2 to a class 1 misdemeanor. Apparently too many people are still talking to the police. It's still OK under the statute to threaten, intimidate, impede, obstruct, etc. a defense attorney, but not anybody else in the courtroom. Actually, upon closer reading of the statute it appears town and city prosecutors as well have been left off the protected species list, so I suppose they're fair game, too.

The foregoing is not a comprehensive description of changes to the Code in the criminal law area. Counsel as usual should research all the statutes pertinent to particular criminal law issues.

General Practice

By Ronald Robinson

This summary was compiled from other digest sources. The actual Virginia Code section should be checked to ensure the accuracy of the comments below:

§ 4.1-305 - Strengthens underage alcohol possession law and closes presumption loophole

§ 8.01-15.1 - Provides method for parties to proceed anonymously in a proceeding

§ 8.01-27.1 - Fee for bad checks increased from \$25 to \$35 and allows recovery of reasonable attorney fees

§ 8.01-32 - Updates lost evidences of debt statute to include "contract" and "open account agreement"

§ 8.01-217 - Name change orders in divorces must now be separate orders

§ 8.01-470 - Clarifies Sheriff's duties to evict in writs of possession

§§ 8.01-514 (and 16.1-99) - Wage garnishments allowed to last up to 180 days

§ 16.1-248.1 - Cements judge's authority to order juvenile to detention prior to final disposition

§ 16.1-269.6 - Clears up some jurisdiction questions regarding trial of juvenile as an adult with respect to future criminal acts

§ 18.2-57.3 - Updates deferral and probation law on first domestic assault

§ 18.2-113 - Adds corporations to the list regarding fraudulent account entries

Continued, Page 9

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Business Law Continued

§§ 18.2-246.2 & 246.5 (and 19.2-10.1) - Updated requirements on subpoena duces tecums for financial records in a criminal matter

§ 18.2-270 - Updated penalties for DUI's

§ 18.2-308.1 - Clarifies "closed container" requirement for a firearm on school property

§ 18.2-479.1 - Adds detailed resisting arrest provision, including circumstances of fleeing from an officer

§ 19.2-152.8, 152.9 & 152.10 - Updated protective provisions, including requirement of arrest warrant

§ 19.2-299 - Allows waiver of presentence report where both parties and court agree

§§ 22.1-279.3:1, 279.6 & 279.7 - Updated drug testing requirements for public schools, including prohibition on providing reports to law enforcement

§§ 38.2-231, 2113 & 2208 - Updates law on insurance notices required for non-renewal, cancellation, etc.

§§ 53.1-116 & 129 - Updates jail policies, including good conduct credit and requirement that certain policies be in writing

Litigation

By Jack Robbins

TITLE 8.01-PROCEDURE

General Provisions

§8.01-3: Amended to remove the requirement that the Supreme Court distribute Rules of Court to the various Clerks' offices, and that the Clerks keep a special Book of Rules and Amendments. New rules and rule changes will be available through the Supreme Court's website, followed by updates of the Code of Virginia.

§8.01-9: Amended to make provisions for the payment of Guardian *ad litem* fees incurred in divorce actions involving incarcerated felons. The fee is to be paid from the criminal fund, and taxed against the felon as costs of the proceeding, in certain circumstances involving domestic physical or sexual assault.

Parties

§8.01-15.1: New section allowing any party to a proceeding to contest the propriety of allowing a plaintiff to proceed anonymously. The section provides that the Court may make

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Litigation, Continued

an initial determination, and then to reconsider that determination at any stage of the litigation as developing circumstances may warrant. The section provides for the entry of “appropriate” orders to afford all parties the rights, procedures and discovery to which they are entitled when a plaintiff is permitted to proceed anonymously.

Actions

§8.01-27.1 (Actions on contracts): Increases from \$25.00 to \$35.00 the processing charge a holder of a bad check may claim, and allows recovery of reasonable attorney’s fees, if awarded by the Court.

§8.01-32 (Actions on contracts): Re-written to eliminate the requirement for a bond in lost note cases, and to specifically add contracts and open account agreements to that class of documents evidencing debt upon which a civil action may be maintained where no written evidence of the documents exist. The section now contains a specific provision for a “lost written evidence of debt” affidavit. Finally, the amendment requires the Court to accept a true and accurate copy of the written evidence of debt produced in the normal course of business in lieu of the original.

§8.01-53 (Wrongful Death): Amended to include a new “default” class of beneficiaries under the Wrongful Death statute. If no survivors exist under the previously recognized classes, then the award is to be distributed according to intestate succession.

§§8.01-66.2, 8.01-66.5, 8.01-66.6, 8.01-66.8, and 8.01-66.9 (Liens for hospital, medical and nursing services): All amended to provide (1) that, nursing homes be included as service providers that have liens against an injured persons personal injury claim under Article 7.1, (2) that a plaintiff in a Wrongful Death or personal injury action against a nursing home reimbursed for services by the Department of Medical Assistance Services must give the Department notice of the suit within 60 days of the filing date, or within 21 days of determining that the Department has paid for healthcare services, and (3) that the Department respond in writing to requests for lien amounts within 60 days of the request.

§§8.01-66.2, 8.01-66.5, 8.01-66.7, and 8.01-66.8 (Liens for hospital, medical and nursing services): Amended to include ambulance service providers as lienors under Article 7.1, and increases the maximum lien amount that an ambulance service provider may claim to \$200.00.

§§8.01-217 and 20-121.4 (Change of name): Amended to provide that Court orders granting name changes omit sensitive information required for the name change application. Additionally, the amendment requires that where name changes occur as a part of a Decree of Divorce, the name change order will be separate from the Decree of Divorce, in order that sensitive information within the Decree not be disclosed through the legitimate or necessary use of the name change order.

§§8.01-384.1:1 and 19.2-164 (Certain incidents of trial): Amended to provide that the Court shall fix compensation of interpreters appointed in civil and criminal cases for non-English speaking parties or witnesses in accordance with guidelines set by the Judicial Council.

§8.01-470 (Execution and other means of recovery): Amended to specifically include authorized occupants, guests or invitees and any trespassers among those a sheriff may evict pursuant to a Writ of Possession.

§§8.01-514 and 16.1-99 (Execution and other means of recovery): Amended to extend the return period on wage garnishments, and writs of Fi.Fa. issued thereon, to 180 days from the date of issuance.

Medical Malpractice

N.B. - §8.01-581.1: Amended to expand the definition of “health care providers” to include emergency medical care attendants or technicians providing services on a fee basis, and independent contractors for other healthcare providers, for the purposes of limitation of liability for medical malpractice actions.

N.B. - §8.01-581.20: Amended to limit the number of expert witnesses (other than treating health care providers) a party may designate to no more than two (2) per medical discipline on any issue presented. Treating health care providers called as experts pursuant to 8.01-399 are not subject to the limitation. The amendment contains provisions for a waiver of the limitation by Court order, so long as the proponent of the additional witnesses pays all costs incurred in discovery as a result thereof. The amendment allows the Court to limit the number of expert witnesses not described in the subsection for good cause shown.

Receivers, General and Special

N.B. - §8.01-606: Amended to increase the amount which may be paid through the Court to a person under a disability without the intervention of a fiduciary from \$10,000.00 to \$15,000.00. (This section is often used for distribution of infant settlements).

TITLE 38.2-INSURANCE

General Provisions

§38.2-231, 38.2-2113, and 38.2-2208: Amended to provide the manner in which insurers may issue effective notices of cancellation, notices of non-renewals, and certain other notices regarding motor vehicle, homeowner, and liability policies. Notices are effective if the insurer (1) obtains a written receipt from the United States Postal Service showing the date of mailing and number of items mailed, and (2) retains a mailing list showing the name and address of the insurer to whom the notice was mailed, together with a signed statement that the United States Postal Service receipt corresponds to the insurer’s mailing list.

Unfair Trade Practices

§38.2-517: Amended to require insurance companies to disclose to its insured and claimants any time that it recommends the use of a designated replacement or repair facility or service or products of a designated manufacturer that (1) such person is not obligated to use such facilities, service, or materials and (2) to disclose any financial interest in the replacement or repair facility that the insurer may have.

Insurance Information and Privacy Protection

§38.2-612: Amended to prohibit an insurer from basing an adverse underwriting decision solely on the loss history of a previous owner of the property to be insured.

Liability Insurance Policies

§38.2-2204: Amended to allow a named insured to exclude any person under personal umbrella and excess insurance policies. The exclusion must be made in writing by the first named insured and acknowledged in writing by the excluded driver.

N.B. - §38.2-2206: Amended to allow an immune defendant to remain as a party to litigation as an anonymous party if the Court refuses to dismiss the defendant upon his immunity. A judgment rendered against the immune defendant is enforceable against the insurer to the same extent as though the judgment were entered in the actual name of the immune defendant.

Bankruptcy Law Update

By Scott Donovan

STUDENT LOANS-Are they dischargeable any longer? The short answer is rarely. The long answer is only where someone is essentially very poor, unlikely to ever make a living, and has at least tried to pay it. In other words, someone who has suffered a long term disability type injury and is not likely to recover may be a candidate. Otherwise, it is just about impossible. A good recent case on the topic is *Barongan v. U.S. Dept. of Ed.*, Case No. 7-02-01113 (W.D. Va 2003) (Stone,J).

Classified Ads

Vacation Property For Rent-- Florida Keys Vacation Home Waterfront with beach in your backyard; snorkeling, sunsets; 2BR/2Ba Call Garth Wainman for rental info 703-330-7400.

Help Wanted: Old Town law firm seeks litigation associate for varied practice. Fax resume to John Primeau at (703) 361-4171.

Help Wanted: Associate attorney wanted for real estate and other transactional work with familiarity with contract review/preparation and lender representation and loan document preparation. Please contact Cathy Asselin at Curran & Whittington, P.C., (703) 590-2580.

Office Space Available: Across from Courthouse, individual offices with or without secretarial space. Use of conference room, reception area and kitchen. Utilities included. Ample free parking. Separate entrance. Copier, phones and fax negotiable. Call Jon Shields, (703) 367-9636.

Office Space Available: Fairfax City, Sublease in suite, 2 offices, 2 secretary stations, private entrance, (approx. 1400 sq. ft.), available immediately; call for details, (703) 273-2811.

Office Space Available: Office space in Manassas. Beautifully decorated. One full service office with receptionist. One two room office with outside entrance. Call Carol Hill at 703-330-5288.

Office Space Available: Fair Lakes - Two attorney offices in first class office building. Includes use of conference room, reception area and kitchen. Secretarial space, copier and fax available. Ample free parking. Easy access to I-66 and Fairfax County Parkway. Available immediately. Ask for Ken or Elden at (703) 968-8000.

Prince William County Bar Foundation Update

Summary of June 20, 2003

- The Knights of Columbus presented the PWCBF with a check for \$3000 for the 2004 Beat the Odds program.
- The Virginia Law Foundation awarded a \$2500 grant to the PWCBF for the 2004 Beat the Odds program.
- The PWCBF approved a grant request for \$100 to fund a grand prize winner for the 2003 Character Counts essay contest.
- The PWCBF tabled a grant application for \$3600 to cover the cost of two recently commissioned judicial portraits. This will be discussed at their August meeting.
- The PWCBF continues to consider whether to expense funds as received, or whether to fund an endowment and expense only the income generated.
- The next meeting will be August 21, 2003, at 12:30 p.m. in the grand jury room.

Upcoming Dates:

August 1, 12:30 p.m., General Luncheon meeting at Jake's Seafood Restaurant, program: FREE CLE on A.S.A.P., Alcohol/Drugs, DMV and other driving related laws presented by Kimball Peele, Director of Bull Run A.S.A.P. and by The Honorable Peter Steketee, Chief Judge of General District Court. See registration flyer in this newsletter.

August 11, 12, 13, fall Judicial Conference for Districts Courts, clerk's offices open, courts closed.

August 11, deadline for submittals for September issue of Hear Ye! Hear Ye!

August 21, PWCBF meeting, 12:30 p.m. in Grand Jury room.

August 22, "Business Valuations" CLE, 2:00-4:00 p.m., Circuit Courtroom #4, see registration flyer in this newsletter for details.

August 29, 7:30 a.m., PWCBA board meeting, Ambrosia's Café.



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Remember to RSVP for the August 1st, 2003 luncheon meeting and FREE CLE on "A.S.A.P., Alcohol/Drugs, DMV and other Driving Related Laws" presented by Kimball T. Peele, Director of Bull Run A.S.A.P. and The Honorable Peter W. Steketee, Chief Judge of General District Court. The **CLE is free**, the lunch costs \$7.00 per member and \$13.00 per guest. Please RSVP for the CLE by calling the bar office at (703) 393-2306 or by mailing/faxing the enclosed reservation form to the bar office by 5:00 p.m., Wednesday, July 30th.



Hear Ye! Hear Ye!
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Manassas, VA 20108

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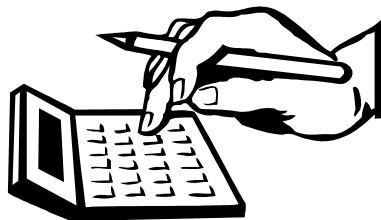
A Publication of the Prince William County Bar Association

The Prince William County Bar Association

Presents

Business Valuations and their use in the Litigation Process

A Continuing Legal Education Seminar



Friday, August 22, 2003
2:00 to 4:00 PM
Circuit Courtroom #4
PWC Judicial Center
9311 Lee Avenue
Manassas, VA 20110

Advance Registration for CLE: \$35.00 PWCBA Members; \$45.00 Non-members
Walk in Registration for CLE: \$45.00 PWCBA Members; \$55.00 Non-members

**Presented by:
William S. Duvall, CPA, CVA
Fiducial Duvall Wheeler**

MCLE approval is pending for 2.0 Credits for this presentation

Please use the form below to pre-register for the Business Valuations CLE

8/22/03

ATTORNEY'S NAME: _____

WILL YOU VOLUNTEER TO STAFF THE REGISTRATION DESK IN EXCHANGE FOR FREE CLE
CREDIT? YES _____ Call Cathy Croft at (703) 335-9390 For Details

FIRM: _____

ADDRESS: _____

PHONE: _____ FAX: _____ EMAIL: _____

Please return this registration form along with payment to Alissa N. Hudson, Executive Director, Prince William County Bar Association, Inc., P.O. Box 31, Manassas, VA 20108. If you are making a late decision to attend, you may fax your reservation form to (703) 331-5683 by 5:00 PM 8/21/03. Of course, we always plan for a few walk-in registrants, (faxed reservations received after 5:00 PM on 8/21/03 will be considered walk-in registrations), but we cannot guarantee the availability of materials. This form may be photocopied.