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**Spring Sections Seminar**

**May 5-7, 2021**

**Via Zoom**

***AGENDA***

***Requesting 17.0 Hours (1.0 Ethics) CLE***

# WEDNESDAY, MAY 5

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| **1:00-3:00 PM** | CORPORATE & COMMERCIAL LITIGATION, 2.0 HRS |
| **1:00-3:00 PM** | Privacy, The Final Frontier: Exploring Virginia’s Consumer Data Protection Act |
|  | Everything you ever wanted to know about data privacy but were afraid to ask, plus some things you've never thought of . . . Virginia has passed a comprehensive, statutory consumer data-privacy scheme with requirements for covered entities taking effect on January 1, 2023.  This timely session will help attorneys understand the basics of data privacy and security and the Virginia Consumer Data Protection Act.  This will include a discussion of Virginia’s CDPA requirements, applicability, and relationship to other notable data privacy regulations (i.e. other state-specific schemes, industry specific laws and regulations, and international privacy schemes). Attorneys will learn how to identify and assess data privacy problems for client businesses, as well as better anticipate emerging client needs.  This session will also touch on probable insurance complications and policy changes expected in 2023. Karissa Kaseorg, *McCandlish Holton*Risa S. Katz-Albert, *Spilman, Thomas, & Battle*Joseph Schaffer, *Spilman, Thomas, & Battle* |
| **3:15-5:15 PM** | APPELLATE ADVOCACY, 2.0 HRS |
| **3:15-4:15** | **Annual Review of Important Supreme Court of Virginia and Federal Appellate Cases**Each year, the VADA appellate section provides members an overview of critical Supreme Court of Virginia cases, as well as important decisions from the United States Supreme Court and the United States Court of Appeals. This year’s program will provide members important updates on decisions that impact their practice and how those decisions may affect future cases.Joseph Pope, *Goodman Allen Donnelly* |
| **4:15-5:15** | **Expansion of the Court of Appeals’ Jurisdiction and Implications for Future Appeals** |
|  | This spring, the General Assembly approved the expansion of the Court of Appeals’ jurisdiction to encompass final decisions in all civil cases.  This will end Virginia’s archaic writ-panel system of discretionary review.  Come January 1, 2022, litigants in all civil cases will have an appeal of right in the Court of Appeals.  Mr. Rainsbury, who has over 20 years of experience in Virginia’s state and federal appellate courts, will detail this tectonic change in Virginia appellate practice and discuss how it will affect civil litigation in years to come.Joseph Rainsbury, *Miles and Stockbridge* |

# THURSDAY, MAY 6

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| 8:30-10:30 | PROFESSIONAL LIABILITY, 2.0 HRS (1.0 Ethics)\* |
| 8:30-9:30 | **Legal Malpractice Claims in the Wake of COVID-19 (1.0 Ethics)** |
|  | The legal and insurance markets are feeling the impact of the coronavirus and likely will for many years to come.  However, the impact of COVID-19 on future legal malpractice claims remains to be seen.   Although there have not been many claims tied to the coronavirus yet, history tells us that claims increase after economic downturns as we have experienced with COVID-19.  This session will discuss what can be learned from past claims surveys; practice areas and errors susceptible to claims; practice areas that might trigger future claims; and ways to avoid those claims by understanding your ethical duties in Virginia. Eileen Garczynski, *Ames & Gough*   |
| 9:30-10:30 | Defense Strategies and Tips in Pro Se Litigation |
|  | Self-representation is becoming more common. Lawsuits filed by pro se parties touch and concern a wide variety of issues and subjects, from personal injury to domestic relations, employment discrimination, civil rights claims, medical malpractice, and legal malpractice. Defending claims brought by pro se litigants would appear to be simple, easy, and without much risk. These claims, however, present their own unique set of challenges, obstacles, and traps for the unwary practitioner. Therefore, you must know how to deal with the untrained litigant without antagonizing the court or making your pro se opponent appear sympathetic. This program will provide practical guidance to help you to identify and address the issues and challenges in dealing with unrepresented parties and the court in pro se litigation to ensure a favorable outcome for your clients.William L. Mitchell, *Eccleston and Wolf* |
| 10:45-12:45 | LOCAL GOVERNMENT, 2.0 HRS |
| 10:45-11:45 | Virginia Legislative Update |
|  | This session will provide a legislative update from the recent sessions of the General Assembly in 2020 and 2021 relating to new laws impacting local governmental bodies across the Commonwealth of Virginia.  Phyllis Errico, *Virginia Association of Counties*Chris McDonald, *Virginia Association of Counties* Moderator: Gerald Harris, *Virginia Beach City Attorney’s Office* |
| 11:45-12:45 | **Redistricting 2020**  |
|  | This panel will discuss legal requirements and other considerations for 2021 redistricting at the local level. Topics will include managing the delay of the 2020 Census data; the potential need for racially-polarized voting analyses; expert consultants; public input requirements; the potential impact of pending legislation; and Virginia’s pilot program for ranked-choice voting method. Hear from lawyers and a seasoned expert who just completed a trial together on claims related to redistricting at the local level.Kimball Brace, *Election Data Services* Joseph Kurt,*Virginia Beach City Attorney’s Office* Katherine McKnight, *Baker Hostetler* |
| 1:00-3:00 | **POLICY COVERAGE, 2.0 HRS** |
|  | **COVID-19 Business Interruption Claims: Elegant Massage and Beyond**While a majority of courts have found no coverage at early dispositive stages, the Eastern District of Virginia recently bucked this trend and found the term “direct physical loss” ambiguous and the virus exclusion inapplicable in denying a motion to dismiss.  This CLE will explore how other courts applying Virginia law may treat this decision and what policy terms and exclusions are relevant.Jonathan Gonzalez, *Gordon Rees Scully Mansukhani*Walker Terry, *McCandlish Holton*Peter Schurig, *Setliff Law*Kevin Streit, *Setliff Law* |
| 3:15-4:15 | MEDICAL MALPRACTICE (PART 1), 1.0 HRS |
| 3:15-4:15 | **Federal Peer Review Privilege and the Virginia PSO** |
|  | This CLE will discuss and examine the non-waivable privilege and confidentiality protections of the Patient Safety and Quality Improvement Act (PSQIA), including the non-waivable privilege of patient safety work product (PSWP), confidentiality, and how an alleged breach of confidentiality or disclosure does not waive either of these protections.  Recent caselaw, national trends, and current legal arguments being advanced will also be discussed.Peggy Binzer, *Alliance for Quality Improvement and Patient Safety*Madelaine A. Kramer, *Sands Anderson* |
| 4:15-5:15 | Medical Malpractice Roundtable |
| 5:30 | Virtual Happy HourAll meeting attendees are invited to join fellow VADA members for some networking and fun. |

# Friday, May 7

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| 8:30-10:30 | WORKERS COMPENSATION, 2.0 HRS |
| 8:30-9:15 | **The Ombuds Program** |
|  | The Virginia Workers’ Compensation Commission began its new Ombuds program in January 2021. The purpose of the program is to provide neutral educational information and assistance to persons who are not represented by an attorney, including those persons who have claims pending or docketed before the Commission. Mrs. D’Angelo will discuss how the defense bar should utilize the program to help pending claims before the Commission.Lorraine D'Angelo, *Va. Workers’ Compensation Commission* |
| 9:15-10:00 | **The Best Practices for Virtual Hearings** |
|  | Due to the COVID-19 pandemic, the Virginia Workers’ Compensation Commission implemented a virtual hearing process to ensure claims pending before the Commission were able to be adjudicated. After almost a year of virtual hearings, Deputy Commissioner Lynne Ferris, Deputy Commissioner Brooke Anne Hunter and Brian Kelly, the Commission Help Desk Support Tech, will speak on their observations of the best practices and the worst practices that have arisen due to virtual hearings and the required pre-hearing disclosures.Lynne Ferris, *Va. Workers’ Compensation Commission*Brooke Anne Hunter, *Va. Workers’ Compensation Commission*Brian Kelly, *Va. Workers’ Compensation Commission* |
| 10:00-10:30 | **The Medical Fee Schedule Dispute Process**  |
|  | Dr. Drema Thompson, Manager of the Medical Fee Services Department at the Virginia Workers’ Compensation Commission, will present a deep dive into the Medical Fee Schedule Dispute Resolution Process.  The presentation will also provide information and insights into best practices to assist the defense bar in navigating the administrative process for resolving medical provider disputes.  Drema Thompson, *Va. Workers’ Compensation Commission* |
| 10:45-12:45 | JOINT: PRODUCT & TOXIC TORTS with AUTO & TRANSPORTATION LIABILITY, 2.0 HRS*Sponsored by Forcon* |
| 10:45-11:45 | **PRODUCT & TOXIC TORTS: Cannabis** |
|  | A robust panel of industry leaders discuss the current landscape of cannabis legalization in Virginia, legal challenges in other states, and takeaways for Virginia manufacturers and businesses looking to enter this space.  They will assist Virginia practitioners in navigating cannabis and CBD regulations at the federal and state levels, licensing requirements, and relevant litigation in the industry, including Vapegate, and its implications for vaping device manufacturers.   Jenn Michelle Pedini, *The National Organization for the Reform of Marijuana Laws (NORML)*Stewart Pollock, *Moran Reeves Conn*Brian Quigley, *Respira Technologies* |
| 11:45-12:45 | **AUTO & TRANSPORTATION LIABILITY: Defending Non-Auto Transportation Cases** |
|  | Personal injury cases involving farm equipment and personal watercraft pose challenges not seen in cases involving motor vehicles.  This presentation will focus on the body of law applicable to farm equipment and personal watercraft, highlight potential traps for the unwary defense attorney, and present strategies for obtaining a favorable outcome.  Allen Kidd, *Sinnott Nuckols & Logan* W. Benjamin Woody, *Harman Claytor Corrigan & Wellman* |
| 1:00-3:00 | MEDICAL MALPRACTICE (PART 2), 2.0 HRS |
| 1:00-2:00 | Medical Malpractice in the COVID Era |
|  | COVID-19 has significantly impacted the way we live, work and how healthcare providers practice medicine.  The full impact of COVID-19 on medical malpractice liability is not yet fully known, but this presentation will provide an overview of the impact of COVID-19 and medical malpractice claims and lawsuits, including the types of potential claims, the application of immunity doctrine and statutes, and defining the standard of care.  The presentation will also provide information on current lawsuits filed in Virginia and other jurisdictions for insight on claim and case management.Davis Powell, *Byrne Legal Group*Frank Talbot V, *McGuireWoods* Davis Walsh, *McGuireWoods* |
| 2;00-3:00 | Medical Malpractice and Telemedicine |
|  | An overview of medical practice liability risks associated with telemedicine, including jurisdictional issues, licensure requirements, privacy issues, Board investigations, and the standard of care.Jason Davis, *Kaufman & Canoles* |
| 3:00 | Adjourn CLE |

# Many thanks to our sponsors,

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