

VADA

VADA Annual Meeting 2020 Sharpen Your Litigation Focus

October 14-16 | The Homestead



DRAFT AGENDA

Requesting 9.0 (2.0 ETHICS) CLE HRS

WEDNESDAY, OCTOBER 14

- 1:00 **Board of Director's Meeting**
- 3:30 **Optional Skeet Shooting (\$80)**
- 6:00 PM **President's Welcome Reception**
- 7:30 PM **Dine Arounds**
Possible Restaurants?
Dining Room
Jefferson's
Les Cochons d'Or
Sneads
Waterwheel
Other?
- 9:30 PM **VADA "Late Night" (Lobby Bar & Georgian Room)**

THURSDAY, OCTOBER 15

- 6:00 AM **DRI for Life Group Run**
- 7:45 AM **Registration & Breakfast Opens**
- 7:45 AM **Past Presidents' Breakfast**
- 8:25 AM **Welcome & Announcements**
- 8:30 AM – 9:30 **Legal Writing in the Digital Age: How to Write a Winning Brief, 1.0 HR**
Erin Ashwell, Office of the Attorney General of Virginia
Hon. David B. Carson, Roanoke City Circuit Court
Hon. Stephen R. McCullough, Supreme Court of Virginia
Jay O'Keeffe, Johnson, Rosen & O'Keeffe
Justice Stephen R. McCullough of the Supreme Court of Virginia, Circuit Judge David B. Carson of the Twenty-Third Judicial Circuit, and Erin B. Ashwell, Chief Deputy Attorney General for the Commonwealth of Virginia will share their thoughts on effective legal writing at all stages of litigation. The panelists' varied backgrounds and the session's focus on practical advice should make for a useful discussion. Jay O'Keeffe will moderate.

9:30 AM - 10:45 AM **Legislative Updates on the Practice of Law, 1.25 HR**
Moderator: Samuel T. Bernier, Frith Anderson + Peake
Stephen Marshall, Two Rivers Law Group
Lindsay Sessa, Macaulay Jamerson
Andrew Willis, Hancock Daniel

10:00 AM VADA Guests meet in the Great Hall for complimentary Homestead History Tour

10:45 AM **Networking Break/Sponsor Visits**

11:00 AM – 12:30 PM **Quick Topics, 1.5 HR**

- **Live Streaming Testimony**

Randy Wimbish, *Wimbish Gentile McCray & Roeber*

- **Motions Craving Oyer**

Nancy Reynolds, *Woods Rogers*

Motions craving oyer have a long and rich history in Virginia jurisprudence. Their use has been challenged and limited to prevent successful demurrers of frivolous lawsuits. This history and the recent Virginia Supreme Court opinion bolstering oyer motions will be explored in this program.

- **Subpoenaing Substance Abuse Treatment/Mental Health Records**

Douglas Penner, *Goodman Allen Donnelly*

The subpoena duces tecum traditionally requires a witness to produce pertinent documents to a proceeding. This procedure is complicated when the pertinent documents contain confidential HEALTHCARE INFORMATION. This session will focus on the unique challenges of issuing subpoena duces tecum for mental health and substance abuse treatment records. Furthermore, this session will discuss the applicable legal standard under 42 C.F.R. Part 2 and the Health Insurance Portability and Accountability Act.

12:30 PM **Awards Luncheon**

2:00–4:00 PM **SECTIONS BREAKOUTS (Choose one) 2.0 HR**

APPELLATE ADVOCACY (2.00 HRS)

AUTO & TRANSPORTATION LIAB./CORPORATE & COMMERCIAL LIT. (2.00 HRS)

LOCAL GOVERNMENT (2.00 HR)

MEDICAL MALPRACTICE (2.00 HRS)

Punishing Healthcare Providers: Punitive Damages in Medical Malpractice

Phylcia Preston, *Byrne Legal Group*

Punitive damages are to be considered an extraordinary remedy, but the Supreme Court's recent decision may lead to an increase in demand for these damages. This presentation will focus on the tips and strategies for the defense of punitive damages claim at the pleading, discovery and trial phases of litigation. The presentation will serve as a refresher on punitive damages claims and discuss the impact of the Supreme Court's recent decision regarding punitive damages in medical malpractice.

Medical Malpractice and Telemedicine

Jason Davis, *Kaufman & Canoles*

An overview of medical practice liability risks associated with telemedicine, including jurisdictional issues, licensure requirements, privacy issues, Board investigations, and the standard of care.

POLICY COVERAGE (2.00 HRS)

PRODUCT & TOXIC TORTS (2.00 HRS)

PROFESSIONAL LIABILITY (2.00 HR) 1.0 ETHICS

WORKERS' COMPENSATION (2.00 HRS)

3:00-4:00 VADA Guests meet in the Great Hall for Homestead's *Southern Social Hour*

4:00-6:00 PM **FREE TIME**

Optional Activities (Minimum number of participants must be met for activity to occur)

ACTIVITY	Cost
Archery	\$45 PP
Waterfall Wellness Hike	\$23 PP
Trail Ride - one hour	\$105 PP
Red Tail Racer Zipline	\$57 PP
Mixology Class	\$75 PP
Golf	\$100 OC/\$130 CC PP
Falconry	\$75 pp

In addition to these VADA group activities, the resort offers many additional activities like the spa, serenity garden, game room, indoor and outdoor pools, fitness center and more. Fees may apply. Visit the Homestead webpage for additional information.

6:00 PM **NETWORKING RECEPTION (*Business Casual*)** (*Casino Lawn, Commonwealth backup*)

7:30 PM **Dinner on own**

9:30 PM **VADA "Late Night"**

FRIDAY, OCTOBER 16

6:00 AM **DRI for Life Group Walk**

7:45 AM **Breakfast Buffet Opens**

8:00 AM **Breakfast Honoring the Virginia Judiciary**

8:50 AM **Sponsor Raffle Drawing & Fitness Challenge Winners Announced**

9:00 AM – 10:00 AM **Perfect Persuasion: Effective Oral Advocacy, 1.0 HR**

Frank Friedman, Woods Rogers

Hon. S. Bernard Goodwyn, Supreme Court of Virginia

Hon. Ricardo Rigual, Spotsylvania Circuit Court

Hon. Michael F. Urbanski, U.S. District Court for the Western District

This panel will focus on oral advocacy in both the trial and appellate courts. A panel comprised of a seasoned appellate attorney, a federal judge, a state circuit court judge and a Supreme Court of Virginia Justice will share insight on properly framing and arguing a case in any court.

10:00 AM – 11:00 AM **The Innocence of Earl Washington, 1.0 HR**

Robert T. Hall, Hall & Sethi

Earl Washington, Jr. was a Virginia death-row inmate who was exonerated in 2000, in part due to Mr. Hall's efforts. Mr. Hall will summarize the case from inception through its many appeals, discussing both criminal and appellate procedure. He will also discuss the use of DNA evidence, which was in its infancy during the Washington trial, both in the courtroom and during the appeals process, including but not limited to strategies for defending against the use of DNA evidence.

11:00 AM **Networking Break/Sponsor Visits**

11:15 AM – 12:15 PM **The Power of Compassion: Empathy, Sympathy & Kindness From a Defense Perspective, 1.0 HR**

John W. Bell, Johnson & Bell (Courtesy DRI)

Imagine that you are preparing a case for trial. The plaintiff has sustained catastrophic injuries and to make matters worse the evidence is aggravating and could inflame the jury. It is a case of liability for your client. It is case that should be settled and you have substantial eight figure authority to try and resolve it. Unfortunately, plaintiff's counsel has just rejected your high seven figure structured offer and informed you that plaintiff does NOT want to settle. He wants to try his winners.

What strategies can you employ to prevent an aggravated "runaway" verdict that could put your client out of business? Controlling the jurors' emotions is crucial in preventing an excessive verdict. This presentation will describe various approaches to achieving your goal of capping your client's exposure to a "fair & reasonable" verdict. There is power in Compassion, Sympathy, Empathy & Kindness. Taking the "Moral High Ground" can be very effective in controlling jurors' emotions.

12:15 PM – 1:15 PM **Ethics and Professionalism in the Heat of Battle: Taming a Tricky Adversary, 1.0 HR ETHICS**

Hon. Randall G. Johnson, Jr., Henrico Circuit Court

Paul Kuhnel, Lewis Brisbois

Hon. Deborah Welsh, Loudoun County General District Court

1:15 PM **CLE Adjourn "Grab & Go or Sit & Chat" Lunch**