

## HISTORY OF THE VIRGINIA ASSOCIATION OF DEFENSE ATTORNEYS 1968-1993

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This year the Virginia Association of Defense Attorneys celebrates its twenty-fifth anniversary. This article is intended to be a record of the highlights of the first quarter century of the VADA.\*\* It is also intended to serve as a reminder of the debt we owe to those of our members who have given their time, their enthusiasm—and in one tragic case, his life—in service to the Association and their colleagues.<sup>1</sup> Because of their dedication, the Association is today a strong and respected voice for excellence in civil litigation in the Commonwealth.

### THE FORMATIVE YEARS—1968 TO 1976

#### EARLY ORGANIZATIONAL MEETINGS

In September 1968, several attorneys met in Richmond to discuss the formation of an organization to espouse the ideas and principles of attorneys whose practice primarily involved the defense of civil litigation. They tentatively dubbed the inchoate organization “The Insurance Trial Counsel of Virginia” and established liaison with The Defense Research Institute which had urged the formation of such a statewide organization in Virginia. These “founding fathers” were:

Charles H. Duff, Arlington  
William M. Harris, Norfolk  
J. Frederick Larrick, Winchester  
John H. Locke, Roanoke  
G. Kenneth Miller, Richmond  
Samuel J.T. Moore, Jr., Richmond  
Edward R. Slaughter, Jr., Charlottesville

They agreed to invite other interested Virginia defense attorneys to an organizational meeting on December 7, 1968, at the Boar’s Head Inn in Charlottesville. At this second meeting, the organization was renamed “The Virginia Association of Defense Attorneys” and Ken Miller was elected its first President and Bill Harris its first secretary.

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<sup>1</sup> Their names are appended to this article.

On April 25, 1969, the Association met in Richmond and adopted By-Laws. Membership eligibility was limited to attorneys who were: (1) in good standing with the Virginia State Bar; (2) engaged in private practice; (3) engaged in litigation primarily for the defense of damage suits on behalf of individuals, insurance companies, and corporations; and (4) in practice a minimum of three years.<sup>2</sup>

Other meetings were held in 1970 and 1971 in Richmond but were never designated by number as was the 1975 meeting, which is now referred to as the First Annual Meeting. It was held in Richmond with planning and arrangements handled by Willard Walker and President Jim Morris. More than seventy attorneys attended, quite a feat when the treasurer noted a membership in that year of approximately seventy-five! The Honorable A. Christian Compton, the newest Justice of the Supreme Court of Virginia, was the banquet speaker, addressing the issue of whether oral arguments before that Court were needed.

The Second Annual Meeting of the Association was held in Virginia Beach in 1976. The turnout this time was disappointing, primarily because of the disinclination of the membership to spend time at Virginia Beach in late October! But the low attendance was taken as a wake-up call by the leadership.

The Association was "revived" in 1976 with the election of officers and directors who committed themselves to the expansion of the Association.

#### ACTIVITIES OF THE EARLY ASSOCIATION

Although during these formative years the membership numbers remained at about the same level (there was no active recruitment activity), the VADA voice was heard often in the General Assembly. In addition, various members spoke at law schools. Periodically, representatives of VADA met jointly with committees of the Virginia State Bar, Virginia Bar Association, and Virginia Trial Lawyers Association, primarily to discuss the topic of the hour: no-fault insurance legislation. On more than one occasion these committees reached agreements on proposed legislation that were later rejected by the contingent fee association.

#### THE EXPANSION YEARS—1976 TO 1982

##### MEMBERSHIP ACTIVITIES

In light of the poorly attended annual meeting, a stagnant membership roster, and the lack of recognition by the Bench and Bar as a credible statewide organization, the Board in 1976 embarked upon a serious effort to increase the Association's membership. More members meant more people to assist in advancing the causes espoused by the Association and more revenue to finance those efforts and allow the Association to publish an educational periodical. The 1976-77 president, Bob Furniss, asked that board members personally communicate with attorneys in their respective areas known to meet the membership criteria. As a result, membership rose from 95 in 1976 to 325 in 1982.

<sup>2</sup> The original draft of the By-Laws required a minimum of four years of practice.

In 1979, the time-in-practice membership requirement was shortened from three years to two years and attorneys otherwise qualified but in government—rather than private—practice were allowed to be members. In 1981, the membership rejected a proposed by-law amendment which would have reduced the time-in-practice requirement to one year.

#### FIRST PUBLICATIONS

In May 1976, the Association distributed its first publication. Entitled the *Newsletter*, it was to be published quarterly and contain educational material and information regarding activities of the Board. The first editor was Sally Furniss, wife of the president. The first *Newsletter* contained articles on third-party practice and the use of economists as expert witnesses.

On April 4, 1977, Bob and Sally Furniss were returning to Norfolk from a business and DRI annual meeting trip when their plane crashed in Georgia. Bob died and Sally was severely injured. President-Elect Dick Rakes assumed the leadership of the Association and Bill Poff agreed to serve as editor of the *Newsletter*. With no advance notice, he was able to publish two editions during the rest of that year. In 1978 the Association published four editions of the *Newsletter*.

Two single-issue publications were distributed near the end of this period—*Limitations* in 1981, and a *Courts Directory* in 1982.

#### NATIONAL AND STATE RECOGNITION AND IMPACT

In 1978, the By-Laws were amended to create a regional vice-president for Southside, thereby separating the Danville area from Roanoke. Bill Poff represented the Association at the first annual meeting of the North Carolina Association of Defense Attorneys at Pinehurst and Phil Stone attended the DRI Annual Conference of Local Defense Associations in Des Moines.

In 1979, the Board decided to seek recognition as a statewide bar organization. Sections 17-228 and 16.1-218 of the Code provided that the president and secretary of the Virginia State Bar, Virginia Bar Association, and VTLA were nonvoting members of the Judicial Conferences of Circuit and General District Courts. Legislation was introduced at the 1980 session of the General Assembly according the same privileges to the president and secretary of VADA. Opposition by the contingent fee bar was great enough that the legislation did not pass—but, instead, the statutes were amended to eliminate VTLA officers from both conferences. During the next session of the General Assembly, VTLA-supported opposition to VADA participation in the conference was withdrawn, and the statutes were amended in 1981 to add the presidents and secretaries of VADA and VTLA as members of those conferences. VADA officers have attended both conferences regularly since 1981.

The pros and cons of establishing an Intermediate Court of Appeals were hotly debated in the late 1970s. After much debate, the Board of VADA recommended an expansion of the Supreme Court or, in the alternative, the establish-

ment of an appellate court to handle appeals of criminal cases, but not an intermediate court. This position was not advocated by any of the other statewide bar groups. The eventual creation of the Intermediate Court of Appeals was a partial victory for the VADA in that the court was not given jurisdiction over most civil actions.

#### SEMINARS AND MEETINGS

Our Third Annual Meeting was held in Charlottesville in 1977, chaired by Phil Stone. More than one half of the membership registered for the convention. Educational topics were highlighted by a panel discussion of the “new” Title 8.01 by the consultants to the Virginia Code Commission in connection with the revision of Title 8, Leigh B. Middleditch, Jr., T. Munford Boyd, and Edward S. Graves. From 1978 to 1982, annual meetings were held in Fredericksburg, Richmond, Williamsburg, Roanoke, and Charlottesville.

The first joint seminar with the Virginia State Claims Association was held in December 1980. One hundred thirty VADA and VSCA members attended the one-day event. Held annually since 1980, attendance at the seminar in 1992 was 250. Virginia State Bar CLE credits are available to VADA members who attend or participate in the seminar.

#### ADMINISTRATIVE EXPANSION

In 1979 the Board hired the Association’s first executive director, James M. Phemister, a professor at the Washington & Lee School of Law. His responsibilities included administering the overall activities of the association and editing the *Newsletter*. In 1981 he was replaced by W. Clark Williams, Jr., a professor at the T.C. Williams School of Law.

#### THE QUALITY YEARS—1983 TO 1993

##### MEMBERSHIP

Membership has increased steadily and currently stands at 685. This is an impressive number considering the restrictive membership criteria. It is thought that we now comprise more than seventy-five percent of those Virginia attorneys who are eligible for membership. At present, members must be in good standing with the Virginia State Bar, have a minimum of two years in private or governmental practice or as insurance company staff counsel, twenty-five percent of that practice must be in civil litigation and at least fifty percent of that civil practice must be in the defense of civil actions.

##### PUBLICATIONS DEVELOPMENT

In 1983 the name of the Association’s educational publication was changed to *The Quarterly*. In 1988, it was replaced by *The Journal of Civil Litigation*, a quarterly journal containing scholarly articles on topics of interest to the practi-

ing defense attorney and reprints of unpublished decisions that have had an impact on defense litigation in Virginia.

In June 1990, the Association's second periodic publication was launched. The purpose of the *Bulletin* is to provide a quick update on fast-breaking developments in Virginia defense law to VADA members. One of the most important services made possible by the *Bulletin* is the distribution of Supreme Court of Virginia decisions. These are reprinted and in the hands of our membership within three working days of their being handed down. Through the *Bulletin*, members can alert their colleagues to decisions or settlements in which they have been involved that may have some precedential value.

#### MEETINGS AND SEMINARS

During this period, annual meetings have been held in Fredericksburg, Richmond, Williamsburg, Alexandria, Norfolk, Charlottesville, Roanoke, and McLean. Unlike VSB, VBA, and VTLA, this Association holds its annual meetings at different locations around the Commonwealth to facilitate the attendance of all our members.

In 1986, Virginia State Bar approval was received for CLE credits for the educational portion of the annual meeting. All educational seminars sponsored or cosponsored by the Association receive CLE approval.

A Young Lawyers Seminar was first conducted in 1989 in conjunction with the Virginia Law Foundation. Designed as orientation program for new defense lawyers, it is conducted biannually and provides a means for them to learn some of the practical tools of our trade.

In 1991, the Association gained national recognition when it hosted the Defense Research Institute's Annual National Conference. Attended by more than 300 of the nation's leading defense attorneys, the Williamsburg meeting received high praise from our out-of-state colleagues for its educational content, historical atmosphere, and conviviality.

#### ADMINISTRATIVE CHANGES

After the launching of the *Journal*, Clark Williams became the director of publications and the position of administrative director was created. Molly McClellan was hired to fill the new position and a permanent administrative office was opened in Richmond. Molly resigned in 1991 but retained her affiliation with the Association as a member of the Board of Editors and managing editor of the *Journal*. Leigh Farmer became the Association's new administrative director in January 1992. In June 1993, Clark Williams resigned his position with the Association in order to take advantage of a sabbatical year abroad.

In 1985, the Board hired the Association's first lobbyist, William G. Broadus. He reported to the Board on proposed legislation in the General Assembly that might be of interest to the Association. The current lobbyist is Theodore F. Adams III.

## MEETING THE MEMBERS' PROFESSIONAL NEEDS

In 1984, four substantive law "sections" were established. They were medical malpractice, workers' compensation, toxic torts (later commercial litigation), and policy coverage, initially chaired by Phil Stone, Tom Bell, Arch Wallace, and John Claytor, respectively. These were expanded to six in 1990 with the addition of employment law and product liability sections. Section seminars at annual meetings began in 1988 and with their addition to the program, the educational (CLE) portion of annual meetings now occupies three days beginning on the first Thursday in October.

Also in 1990, the Board created a Public Relations Committee, chaired by Howard McElroy. Over the last few years, however, the committee format has devolved into a single Public Relations Coordinator, currently Joe Owen. The PR Coordinator offers guidance to the members in the handling of the media during cases that have attracted public attention. He also directs media inquiries to members who have volunteered to field such questions for the Association. It is also through him that the public statements of the VADA are voiced.

An Expert Witness Bank was begun in 1990. It contains the names of experts who have testified for either the plaintiffs or defendants in civil suits, gives a list of cases in which they have testified, and often gives comments on the quality of their testimony. It also identifies VADA members who may be contacted for information regarding those persons.

## CONCLUSION

The author hopes those of the Association who have been with it since its early days will have enjoyed remembering the people and events that have shaped it. It is also hoped that the newer members will be inspired by the dedication and professionalism of their predecessors and carry on their good work during the Association's next quarter century.

ADDENDA  
ORGANIZATIONAL MEETING, DECEMBER 1968  
ATTENDEES

William W. Bennett, South Boston	S.D. Roberts Moore, Roanoke
Robert G. Butcher, Richmond	Samuel J.T. Moore, Jr., Richmond
Robert Coleburn, Arlington	James W. Morris III, Richmond
E. Waller Dudley, Alexandria	Leslie M. Mullins, Norton
Charles H. Duff, Arlington	E. Page Preston, Norfolk
William B. Eley, Norfolk	John Preston, Norfolk
William W. Eskridge, Abingdon	William T. Prince, Norfolk
Robert M. Furniss, Jr., Norfolk	Richard C. Rakes, Roanoke
Frank D.Harris, South Hill	Michaux Raine III, Rocky Mount
William M. Harris, Norfolk	Robert J. Rogers, Roanoke
J. Frederick Larrick, Winchester	Philip M. Sadler, Pulaski
Richard H. Lewis, Fairfax	Anthony J. Siciliano, Arlington
John H. Locke, Roanoke	Edward R. Slaughter, Jr., Charlottesville
Philip L. Lotz, Staunton	Kenneth E. Trabue, Roanoke
Frank Meade, Danville	Harvey E. White, Jr., Norfolk
G. Kenneth Miller, Richmond	Jackson E. White, Jr., Abingdon
Duane E. Mink, Radford	Gilbert H. Wilson, Norfolk
Michael W. Moncure III, Richmond	

VADA OFFICERS & DIRECTORS 1969-1993

(P)—President; (PP)—Immediate Past President; (PE)—President Elect; (T)—Treasurer; (S)—Secretary; (DL)—Director at Large; (RD)—Regional Director; (DE)—Director Emeritus; (EO)—Ex Officio, State DRI Chairman

1969-70 K. Miller (P); Harris (S)  
 1970-71 Harris (P); Prince (S/T)  
 1971-73 Meade (P); Prince (S/T); Morris (RD); Daly (RD); Furniss (RD); Rakes (RD)  
 1973-75 Morris (P); Prince (S/T)  
 1975-76 Furniss (P); Prince (T); Stone (DL); Poir (DL); Alexander (DL); Roberts (DL); Walker (RD); Daly (RD); Preston (RD); Rakes (RD)  
 1976-77 Furniss/Rakes (P); Rakes (PE); Roberts (T); Stone (DL); Poff (DL); Corson (DL); Preston (DL); Morris (RD); Larrick (RD); R. West (RD); Sadler (RD)  
 1977-78 Rakes (P); Stone (PE); Roberts (T); Corson (S); Appler (DL); Poff (DL); Swope (DL); Thomas (DL); Morris (RD); N. West (RD); R. West (RD); Sadler (RD)  
 1978-79 Stone (P); Rakes (PP); Roberts (PE); R. West (T); Corson (S); Appler (DL); Poff (DL); Swope (DL); Thomas (DL); F. Miller (RD); Garrett (RD); N. West (RD); Green (RD); Eskridge (RD)  
 1979-80 Roberts (P); Stone (PP); R. West (PE); N. West (T); Corson (S); Appler (DL); Moore (DL); Swope (DL); F. Miller (RD); Garrett (RD); Eskridge (RD) Coleburn (RD); Green (RD); Thomas (RD)  
 1980-81 R. West (P); Roberts (PP); Corson (PE); N. West (T); F. Miller (S); Landin (DL); Moore (DL); Swope (DL); Page (RD); Garrett (RD); Eskridge (RD); Appler (RD); Green (RD); Thomas (RD)

- 1981-82 Corson (P); R. West (PP); N. West (PE); F. Miller (T); Thomas (S); Eskridge (DL); McVey (DL); Swope (DL); Page (RD); Garrett (RD); Moore (RD); Appler (RD); Green (RD); Landin (RD)
- 1982-83 N. West (P); Corson (PP); F. Miller (PE); Thomas (T); Eskridge (S); Rutherford (DL); McVey (DL); Sackett (DL); Page (RD); Daniel (RD); Moore (RD); Sheridan (RD); Manson (RD); Landin (RD)
- 1983-84 F. Miller (P); N. West (PP); Thomas (PE); McVey (T); Eskridge (S); Rutherford (DL); Landin (DL); Thompson (DL); Price (RD); Daniel (RD); Jennings (RD); Sheridan (RD); Manson (RD); Wallinger (RD)
- 1984-85 Thomas (P); F. Miller (PP); McVey (PE); Landin (T); Manson (S); Rutherford (DL); Eskridge (DL); Monahan (DL); Price (RD); Daniel (RD); Jennings (RD); Sheridan (RD); Heilig (RD); Wallinger (RD)
- 1985-86 McVey (P); Thomas (PP); Manson (PE); Landin (T); Price (S); Stillman (DL); Palmer (DL); Monahan (DL); Rucker (RD); Pulley (RD); Jennings (RD); Dudley (RD); Heilig (RD); Wallinger (RD)
- 1986-87 Manson (P); McVey (PP); Landin (PE); Jennings (T); Wallinger (S); Stillman (DL); Palmer (DL); Monahan (DL); Rucker (RD); Pulley (RD); Austin (RD); Dudley (RD); Heilig (RD); Moses (RD)
- 1987-88 Landin (P); Manson (PP); Jennings (PE); Rucker (T); Wallinger (S); Stillman (DL); Palmer (DL); Zunka (DL); Claytor (RD); Pulley (RD); Austin (RD); Dudley (RD); Swope (RD); Moses (RD)
- 1988-89 Jennings (P); Landin (PP); Wallinger (PE); Rucker (T); Palmer (S); Oakey (DL); McElroy (DL); Zunka (DL); Claytor (RD); Medley (RD); Austin (RD); Brandt (RD); Swope (RD); Moses (RD)
- 1989-90 Wallinger (P); Jennings (PP); Rucker (PE); Palmer (T); Austin (S); Oakey (DL); Whitt (DL); Zunka (DL); Epps (DL); Stillman (DL); Claytor (RD); Medley (RD); McElroy (RD); Brandt (RD); Swope (RD); Thompson (RD)
- 1990-91 Rucker (P); Wallinger (PP); Palmer (PE); Austin (T); Claytor (S); Oakey (DL); Whitt (DL); Waddell (DL); Epps (DL); Stillman (DL); Palmore (RD); Medley (RD); McElroy (RD); Locklin (RD); Brydges (RD); Thompson (RD)
- 1991-92 Palmer (P); Rucker (PP); Austin (PE); Claytor (T); Oakey (S); Zunka (DL); Whitt (DL); Waddell (DL); Epps (DL); Stillman (DL); Palmore (RD); Morrison (RD); Joyce (RD); Locklin (RD); Brydges (RD); Thompson (RD); McElroy (DE)
- 1992-93 Austin (P); Palmer (PP); Claytor (PE); Oakey (T); McElroy (S); Zunka (DL); Goodwyn (DL); Waddell (DL); Kramer (DL); Trichilo (DL); Owen (RD); Morrison (RD); Joyce (RD); White (RD); Brydges (RD); Dawson (RD); Epps (DE); Stillman (DE); Whitt (DE); Rucker (EO)



## CONVENTION SITES, CHAIRS, AND ADMINISTRATIVE STAFF

DATE	SITE	CHAIR	STAFF <sup>3</sup>
1973-75	Richmond	Morris/Walker	—
1975-76	Va. Beach	Harris	S. Furniss
1976-77	Char'ville	Stone	S. Furniss/Poff
1977-78	Fred'burg	R. West	Poff
1978-79	Richmond	Morris	Poff
1979-80	Wmsburg	Swope	Phemister
1980-81	Roanoke	Moore	Phemister
1981-82	Char'ville	Landin	Williams
1982-83	Fred'burg	Roberts	Williams
1983-84	Richmond	Price	Williams
1984-85	Wmsburg	Rucker	Williams
1985-86	Alexandria	Palmer	Williams
1986-87	Norfolk	Heilig	Williams
1987-88	Char'ville	Zunka	Williams/McClellan
1988-89	Roanoke	Austin	Williams/McClellan
1989-90	Richmond	Claytor	Williams/McClellan
1990-91	Wmsburg	Whitt	Williams/McClellan
1991-92	McLean	Whitt	Williams/Farmer
1992-93	Char'ville	C. Wood	Williams/Farmer

<sup>3</sup> Until 1979, Mrs. Furniss and Mr. Poff served as editors of the *Newsletter* and *Quarterly*. From that time until 1989, Messrs. Phemister and Williams served as Executive Director. After 1989, Mr. Williams served as Director of Publications, and Mrs. McClellan and Mrs. Farmer served as Administrative Director.

