

Metro Pro Bono Advocate

A publication of the Pro Bono Committee of The Bar Association of the City of Richmond

Vol. 5, Issue 2

Spring 2004

Small Claims Court -- the people's court

by The Honorable Robert A. Pustilnik
Judge, Richmond General District Court

The Virginia General District Court system is designed to accommodate all comers — whether hospitals and banks with hundreds of thousands of cases a week; companies with a few cases a month; landlords that manage a few units and have an occasional case; apartment complexes with hundreds of units and hundreds of cases a month; or individuals and companies that may need to go to court once a month, once a year, or once in a lifetime. The procedure is simple. The courts are easily accessible. The jurisdictional limit of \$15,000 is substantial. As a result, most of the litigation in Virginia is commenced in the General District Court system, by both attorneys and by non-attorneys.

When neither party is represented, the judges try to strike a balance between formality and adherence to the rules of evidence, and informality and an equi-

table treatment of the parties. The statutory fiat of the court is that it sits as a court of law and of equity, but when the principles conflict, the judge is to be guided by equity. However, there are still rules that must be followed, even when parties appear *pro se*.

As a result, when a *pro se* litigant, unfamiliar with courtroom procedures, finds himself/herself in court opposite a party with considerably more experience and knowledge of the system, the *pro se* party is substantially disadvantaged. Just the burden of filing a bill of particulars or grounds of defense overwhelms many first time litigants. As a consequence, many cases are dismissed as to such plaintiffs, or summary judgments are granted against such defendants, because the party did not (or could not) file pleadings. Additionally, because of the restrictions on corporations

continued on page 2

Virginia Poverty Law Center celebrates twenty-five years of service

The Virginia Poverty Law Center is celebrating twenty-five years of service to low-income Virginians. Since 1978, the Virginia Poverty Law Center has represented low-income Virginians in civil cases, provided training for legal aid programs and advocated for low-income citizens before the legislature and regulatory agencies.

The Center hosted a public forum entitled "Society's Greatest Unfinished Work, The War on Poverty: Where Are We Now?," on March 16th at the University of Richmond's T. C. Williams School of Law. Rodney A. Smolla, Dean of the Law School, guided panelists and the audience through a role-playing exercise and discussion to draw out different wel-

fare reform scenarios and their political impact. The forum took place on the fortieth anniversary of President Lyndon Johnson's speech to Congress calling for a national war on poverty.

The twenty-five year celebration culminated with a dinner on March 18th at the University of Richmond's Jepson Alumni Center, where best-selling author David Baldacci was the featured speaker.

The Center now has five attorneys that focus on health, domestic, housing, consumer, elder, and public benefits law. Its primary mission is to advocate legal issues of statewide importance to low-income clients and to provide training and assistance for Virginia's legal aid attorneys and staff.

A letter from the Committee Chair

by Tara Louise Casey, Chair
Pro Bono Service Committee

The Richmond Bar Association has long enjoyed a partnership with the Central Virginia Legal Aid Society (CVLAS) in providing legal services to the indigent in our community. Over the years, Richmond attorneys have selflessly given invaluable support to CVLAS, either through financial contributions or pro bono assistance. As a result, Richmond has earned an impressive reputation throughout the Commonwealth for its commitment to CVLAS and to the provision of pro bono services.

In particular, the Richmond Bar Association is grateful for the legal community's financial support of CVLAS through its annual appeal. Every year, the Richmond Bar Association invites area firms to support CVLAS by contributing an amount equal to \$50 for each lawyer in every firm. All of the monies are used to support the delivery of legal services in the greater Richmond area through CVLAS. Last year, for example, law firms in the greater Richmond area contributed more than \$40,000 to CVLAS. To recognize firms generously pledging their financial support to date for 2004, the Richmond Bar published their names in the April-May edition of the Association's newsletter. I would encourage you to review the list and heartily thank those firms for their contributions.

Unfortunately, CVLAS continues to struggle with unyielding budget cuts. It has been forced to eliminate employer contributions to retirement accounts, reduce employer contributions to health care, and has frozen salaries. Through attrition, the lawyer staff at CVLAS has been reduced by one-fourth and the sup-

continued on page 2

Small Claims Court docket increasing

continued from page 1

and partnerships in the filing of pleadings and motions, many companies are forced, in contested matters, to hire counsel to file simple pleadings, and, therefore, to incur costs far in excess of the value of their claims. Thus, businesses are sometimes forced to non-suit meritorious claims, because it is not economically feasible to pursue them.

In 1999, the Legislature set up the Small Claims Court, to solve these problems in smaller cases. The court was given concurrent jurisdiction with the General District Court up to \$1,000. The amount was raised to \$2,000 in 2003. Code 16.1-121.1, *et seq.*

Small Claims Court is truly the people's court. Parties represent themselves. Corporations and partnerships may be represented by an owner, general partner, officer or an employee and are given all of the privileges a *pro se* individual enjoys. There are no pleadings, except any answer or counterclaim filed by the defendant. Unless good cause is shown, no continuances are granted and cases are tried on the return date. If a defendant wishes to be represented by counsel, the case is transferred to the regular docket of the General District Court.

By statute, the witnesses are sworn. The rules of evidence are waived. Except for privileged communications, the judge has the discretion to admit all evidence of probative value, without regard to formal rules of pleading or practice. The trials are informal, so as to do substantial justice between the parties.

Richmond has experienced a recent explosion in its Small Claims Court docket. From seven to ten cases weekly

two years ago, our docket now averages 20-25 cases weekly. The judges of our court rotate. We each handle a Small Claims Court docket every third Tuesday at 11 a.m. We are able, in most weeks, to try all the cases in two hours or less. When there is an unusually big docket, we assist each other, in order to comply with the Supreme Court of Virginia standard that no litigant wait more than an hour to have his/her case called. To help reduce the size of the dockets, we have added two Friday Small Claims Court dockets each month.

In corresponding with other area judges, it is clear that other local courts have not had a significant increase in small claims cases. Henrico and Chesterfield Counties have a few each week; Petersburg and Hanover have a very few cases each month.

Our success in increasing this docket is due, in large part, to our advertising the court. We have a special clerk for small claims cases. The counter clerks tell the *pro se* litigants about the availability of the court. When I make my morning announcements, I talk about the Small Claims Court, its procedure, and its informal nature.

The Small Claims Court docket is always interesting. Its informal nature makes it very challenging for the judges handling the cases. But, this truly is the people's court. It gives all *pro se* litigants an opportunity to be heard, on the case's return date, and without procedural problems associated with the regular General District Court docket. Above all, the judges are provided with a unique opportunity "to do substantial justice between the parties," pursuant to the statutory mandate.

Letter from the chair

continued from page 1

port staff has been reduced by one-third. In these austere circumstances, contributions from the greater Richmond legal community are crucial.

It is not too late to lend your support to this important appeal. If you or your firm would like more information or would like to make a donation, please feel free to contact the Bar office at 780-0700. If you would like to donate directly to CVLAS, please make your check payable to the Central Virginia Legal Aid Society and mail it to CVLAS at P.O. Box 12206, Richmond, Virginia, 23241.

Thank you so much for your continued support of legal services and pro bono activities in the greater Richmond area.

Thank you to the Boleman Law Firm

Central Virginia Legal Aid Society has reduced its lawyer staff by one-fourth and support staff by one-third because of funding cuts. As a result, CVLAS has been forced to suspend its handling of bankruptcy cases in the Richmond metropolitan area. The Boleman Law Firm, 2201 West Broad Street, Suite 204, Richmond, VA 23220 generously has agreed to represent legal aid clients, pro bono, in filing bankruptcies to stop wage garnishments; to restore utilities; to regain driver's licenses; or to stop home foreclosures where there are grounds over the long run to save homes under the Virginia Usury Code, the Virginia Home Solicitation Sales Act, or the federal Truth In Lending Act. The Boleman Law Firm has ten lawyers whose practices consist solely of handling bankruptcy matters. Many thanks to the Boleman Law Firm!



For more information on
volunteer opportunities visit
www.grbf.org

Pro Bono Committee Members:

Tara L. Casey, Chair
Hon. Kimberly B. O'Donnell
Hon. J. Stephen Buis
Hon. Robert A. Pustilnik
Charles G. Meyer III
George H. Hettrick
Margaret I. Bacigal
Brian R. Marron
Marilynn Goss
Henry W. McLaughlin III

Maureen K. Petrini
King F. Tower
Courtney M. Joyce
David N. Anthony
Peter A. Gilbert
John M. Oakey Jr.
James W. Speer
Nancy D. Cook
Christopher M. Malone

Allison Held receives Association's John C. Kenny Pro Bono Award

Allison L. Held is the 2004 recipient of the John C. Kenny Pro Bono Award. She was recognized for her dedication to furthering the delivery of legal services to the poor and underserved in Richmond. While at the University of Richmond School of Law, Ms. Held began volunteering with the Legal Information Network for Cancer ("LINC"), a non-profit organization which serves cancer patients. Upon graduation, Ms. Held worked as LINC's program director before joining the State Corporation Commission's Office of Legal Counsel. Her involvement with LINC, however, has continued. She has served on its Board, including a term as president, and worked as a volunteer to assist clients. Currently, Ms. Held is chairing an ad-hoc committee created to expand LINC's services to the Tidewater area. In discussing her work with LINC, Ms. Held stated, "it has helped me learn to listen and respect others and their particular circumstances. Best of all, I actually get to see the results of my work." Ms. Held is

also a volunteer lawyer with the Virginia Minors Access Project and serves on its Board of Directors as secretary. Ms. Held notes that she has found great personal satisfaction from her volunteer work and feels "like everybody should give back to the community in one way or another."

Ms. Held was recently named assistant to The Honorable Mark Christie, newly elected judge for the State Corporation Commission. While with the General Counsel's Office, Ms. Held concentrated her practice in the areas of telecommunications and energy law.

The John C. Kenny Pro Bono Award is presented annually to an individual or law firm dedicated to delivering pro bono legal services to the poor. All lawyers are encouraged to submit the names of nominees to the Richmond Bar's Pro Bono Committee. Next year's award ceremony and luncheon speaker will celebrate the work of lawyers who strive to insure that all persons, regardless of income, receive quality legal representation.

Appeal Loan Fund available for use by low income tenants

The Greater Richmond Bar Foundation has an appeal loan fund to make loans to low income tenants appealing eviction orders from General District Court to Circuit Court. The fund makes loans of up to \$750 in each case. In the past, such loans have made the difference in the ability of indigent tenants to file appeals in eviction cases. This fund is available to low income tenants in the Richmond metropolitan area, the Tri-Cities areas, and the Charlottesville-Albemarle area. Generally, loans are made in response to requests for clients through Central Virginia Legal Aid Society. However, this fund is also available to clients represented by private lawyers in cases not involving legal aid, so long as the application for such a loan is for a low income client.

This loan fund has historically been administered by the Richmond Bar Association. Recently, the administration of this fund was transferred to the Greater Richmond Bar Foundation.

Most importantly, the fund has been crucial in allowing indigent clients to avoid eviction and retain rent subsidies. For example, a former school teacher suffering from cancer was able to prevent eviction only because she was able to appeal an eviction order with the help of this loan fund.

Attention Ukrop's Shoppers

Did you know that you have been accumulating points that you can designate in the form of dollars to your favorite charity? In May Ukrop's may be mailing you a Golden Gift Certificate showing your total dollars earned. Please consider donating your certificate to the Greater Richmond Bar Foundation. These funds will be used to support projects such as the Pro Bono Clearinghouse. Certificates can be mailed to the Greater Richmond Bar Foundation, P. O. Box 1213, Richmond, VA 23218-1213.

Thanks Clearinghouse volunteers!

Since its inception in 2001 the Pro Bono Clearinghouse has provided more than \$275,000 in pro bono legal services to Richmond area non-profit organizations. A special thanks goes to those who volunteered their services on behalf of the Clearinghouse in 2003 and 2004:

Sean M. Beard
Roger G. Bowers
Robert S. Carter
Donna C. Dabney
Brydon M. DeWitt
Karen E. Dunivan
Robert A. Dybing
Timothy S. Feehan
E. K. (Tom) Geisler
Marie E. Graham
William A. Gray
M. Christina Hewett
Robyn E. Hill
Kevin D. Holden

Manus E. Holmes
D. Michael Jones
Johnson Kanady III
David M. Lay
Donald F. (Frank) Lynch III
Renata M. Manzo
Anne D. McDougall
J. G. (Jay) Myers, II
David N. Oakey
Charles D. Patterson
Katheryn Surface Burks
Neil S. Talegaonkar
Amy M. Williams
Andrew M. Winston

RICHMOND METRO PRO BONO SAMPLER

Attorneys, please refer to the list below to learn more about the activity that interests you.

<u>Program</u>	<u>Contact Person</u>	<u>Telephone</u>
Appeal Bond Fund	Marcel Slag	648-1086
Community Tax Law Project	Elaine Javonovich	358-5855
LAJC Housing Law	Marcel Slag	648-1086
CVLAS Wills Program	Kathy Brigman	862-8801
Henrico Bar Association Pro Bono Volunteers	Christopher H. Macturk	762-9500
Hunton & Williams - Church Hill office	George Hettrick	775-2248
VBA-YLD Central VA Pro Bono Hotline	Coburn Beck, Agustin Rodriguez	788-8576, 274-5731
Pro Bono Clearinghouse (www.grbf.org)	Carol Murray	780-2600
Legal Information Network for Cancer (LINC)	Sushella Varky	662-5462
Virginia Poverty Law Center	Steve Myers	782-9430
Richmond Domestic Violence Project	Erin Fratkin	915-4113
VBA-YLD Legal Services for the Mentally Ill	H. Malloy Evans III	(202) 419-2024
VSB Young Lawyers Board Match	Beth Hungate-Noland	783-6913
Refugee and Immigration Services - Catholic Diocese of Richmond	Marilyn Breslow	355-4559

PRESORT STANDARD
US. POSTAGE
PAID
RICHMOND, VA
PERMIT NO. 1225

The Bar Association of the
City of Richmond
P.O. Box 1213
Richmond, Virginia 23218-1213