

# Metro Pro Bono Advocate

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

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## UR Downtown campus now open to assist Metro residents and organizations

On March 3, 2009, the University of Richmond opened UR Downtown, its new downtown campus at 626 East Broad Street, with a reception that included First Lady Anne Holton, Richmond City Mayor Dwight Jones, and Senior Justice Harry L. Carrico.

The goal of UR Downtown is to address pressing community needs through a combination of pro bono legal services provided by law students and attorneys, and community-based learning, service, and research by undergraduates and faculty.

Richmond,” said University of Richmond President Edward L. Ayers.

Rich Johnson, president and CEO of the Wilton Companies and a University trustee, said, “We are pleased to be able to support UR’s efforts to enable its students and faculty to use its resources to serve our community.” The Wilton Companies spent \$6 million to renovate the building and is providing use of a 5,000 sq. ft. suite for UR Downtown. The renovation was both a historic and green project: as part of the restoration of the former Franklin Federal



*Doug Hicks, Ph.D., Associate Professor and Executive Director, Center for Civic Engagement; Hon. Dwight C. Jones, Mayor, City of Richmond; First Lady Anne Holton; Edward Ayers, Ph.D., President, University of Richmond; John Douglass, Dean, University of Richmond School of Law*

The University of Richmond School of Law and the University’s Bonner Center for Civic Engagement (CCE) developed UR Downtown to allow for practical education that also assists underserved citizens.

“UR Downtown embodies a lot of what I hope the University of Richmond will continue over the next decade—a presence in the city, a collaboration across schools, a partnership with other universities and a meaningful way to matter to

Savings & Loan building, the University applied for gold certification by Leadership in Energy and Environmental Design (LEED).

“UR Downtown continues the law school’s long history of community engagement and clinical learning,” said John G. Douglass, Dean of the University of Richmond School of Law. “One of the strengths of the law school is the fact that it is

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## Tenant’s rights at stake when landlord faces foreclosure

*by Hon. Robert A. Pustilnik, Richmond General District Court*

Of course, “it is the economy, stupid.” The economy has been blamed for many of the problems that face us. The economic ills show up in all aspects of life, but nowhere are they more apparent than in the courtroom.

I cannot speak for other areas of the commonwealth, but in Richmond, unlawful detainer actions are up, way up, from last year. We are receiving more and more actions every month against people who have not been able to pay their rent. This is true not only of actions by apartment developments against their tenants, but of actions by individuals who own and rent out single-family homes.

A particularly difficult case can arise when the owner of the property is not the occupant, but rather is the landlord to third party tenants. Often, the tenant is still paying rent to the landlord, and is in good standing on the existing lease; but, the landlord has defaulted on the mortgage, and the mortgage holder has been foreclosed upon. Often, the tenant does not know of the default, or of the foreclosure. The bank sends the owner (landlord) a notice to vacate, and proceeds with the foreclosure action by filing an unlawful detainer. The notice to vacate is sent to the record owner, the debtor on the note, and is often sent to the premises in question, the mortgage company being unaware of the fact that the owner is not the occupant. Process is served, usually by posting. The first notice that the tenant/occupant has of the foreclosure is either the posted warrant, if received, or the actual lockout when the

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## **Project Homeless Connect provides area's indigent persons with legal advice and more**

On November 20, 2008, attorneys from several local firms participated in the second annual Project Homeless Connect (PHC). Held at the Richmond Convention Center, PHC is a free resource fair coordinated by Homeward for homeless Richmonders. The fair connects clients, in a "one stop" location, with services ranging from haircuts to replacement Social Security cards to housing placements to legal consultations.

Homeward turned to Legal Aid Justice Center to coordinate participation from Richmond's legal community, and other firms responded to LAJC's call to help. Present at the fair throughout the day were representatives not only from LAJC, but also from Williams Mullen and Marks & Harrison. In addition, Central Virginia Legal Aid Society contributed self-help brochures for distribution to attendees.

Several dozen clients received pro bono, on-the-spot legal consultations at

this past year's PHC, in areas ranging from employment law to divorce to Social Security benefits to consumer law to criminal procedure. Where appropriate, clients also received referrals and/or follow-up appointments.

PHC will be held again this November, and - as the event becomes more widely known and with the homeless population increasing in the current economy - there may be more clients than ever to serve. Although there are opportunities for more substantial involvement, participating in PHC requires as little as two hours of time, and provides a valuable service to the community by connecting homeless Richmonders to legal advice in matters that affect their lives.

For more information, or to participate this year, please contact Pat Levy-Lavelle at Legal Aid Justice Center at 643-1086, x108 ([pat@justice4all.org](mailto:pat@justice4all.org)).

## **Emergency Pro Bono program is an emerging success**

The calls come in routinely to Legal Aids - the ones where life is happening fast for a client, and the court hearing is bearing down. Sometimes a battered wife faces the expiration of an emergency protective order - and the wrath of an abusive husband if she cannot get one. Or sometimes a tenant thought a dispute could again be resolved with the landlord, but this time the landlord summoned the sheriff. The tenant knows nowhere to turn except Legal Aid.

Legal Aid societies are on the point for so much need, but can satisfy only a fifth. Legal Aids have emergency practices in place, with lawyers on rotation, but sometimes the crisis calls overwhelm the response teams' ability to handle them.

At the request of Central Virginia Legal Aid Society, McGuire Woods started a pilot program last year to aid CVLAS with short-notice matters, usually cases involving evictions and family violence. CVLAS trained 20 McGuire Woods lawyers, coordinated by partner Mike Daglio. "Clients in deep distress have been amazed that busy lawyers would drop everything and come to their aid" said Henry McLaughlin, CVLAS' Executive Director and the originator of the emergency pro bono program. "In one case, the client seemed ready to give up and accept eviction, but the fact that a major law firm took her on gave her hope and the confidence to come to court rather than spend her time moving out." Said McLaughlin "McGuire Woods prevailed; the Court stayed the eviction."

Another stalwart volunteer is Charles K. Seyfarth of O'Hagan Spencer LLP, a member of the Pro Bono Committee of the Richmond Bar Association. "Because of this help by McGuire Woods and Chuck Seyfarth, CVLAS no longer faces those instances where all CVLAS lawyers were committed to be in court and CVLAS had to advise a client how to represent themselves in an emergency case."

This emergency pro bono effort would welcome new lawyers. Please call Henry McLaughlin (804)200-6048 if you are interested in joining this program.

## **No-Fault Divorce project off to a successful start**

*by W. Benjamin Pace of Williams Mullen*

Although in existence for only a few months, the No Fault Divorce Project has matched over a dozen individuals with volunteer attorneys from the Richmond Bar Association. Spearheaded by the University of Richmond Law School's Tara Casey and assisted by law student volunteers, the Project partners with the Central Virginia Legal Aid Society to fill this crucial legal need in our community.

As a Project volunteer, I am currently handling my first no fault divorce, and have found it to be as uncomplicated and rewarding as advertised. After being provided with all of the forms necessary to carry out the no fault divorce, I set up a meeting with my client at the UR Downtown Center, located on Broad Street right across from the new Federal Courthouse. I was assigned a University of Richmond law student volunteer, June Kim, who has provided excellent assistance in preparing the pleadings for filing. UR's support for the Project, in the

form of meeting space and law student support, truly makes this Project one of the easiest ways to provide pro bono service to our community. Of course, as with any matter, the attorney must diligently review and confirm the accuracy of the pleadings and their compliance with the Virginia Code, but the process is designed to make these matters as straightforward as possible.

The best aspect of the Project, however, is the interaction with the client. In just my first experience, I have found my client to be a wonderful person for whom a divorce is a necessary step in moving forward with her life. Although she has been through hard times, her efforts to move on with her life are inspirational and her gratitude for the assistance this Project provides is ample reward for the volunteer attorney. To volunteer for the Project, please contact Tara Casey at 287-1207 ([tcasey@richmond.edu](mailto:tcasey@richmond.edu)).

# Unlawful detainer actions on the rise

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sheriff executes the writ. Mortgage companies have typically relied on 8.01-470 as authority to remove all occupants, after foreclosure.

Several legal issues arise, when the occupants try to stop the eviction, in their own right. I have tried a number of these cases, and have researched the subject. This is a new area of the law. Therefore, I admit up front that the following conclusions are mine alone, and that I do not speak for any other judge.

**Standing to object to service of process** - While the property (former) owner might successfully object to service of process, I am satisfied that the occupants have no standing to object, on the owner's behalf, even though the owner clearly was not properly served. However, I am also satisfied that post foreclosure occupants have rights of their own. Unlike the landlord/tenant cases contemplated by the Code, the party is there lawfully, in his or her own right. Therefore, in order to evict such parties, the (new) owner, usually the bank or mortgage company, must meet several criteria.

**Superiority of the lien to the tenancy** - First, its lien, the one upon which it foreclosed, must be senior to the lease, or other right of the occupant. Many of the foreclosed properties have been recently refinanced. The tenant in possession may have a lease that can be renewed, if rent is current. There may be a party in the property with life rights, but that party did not sign the mortgage, and therefore did not convey away its rights. If the mortgage is

not superior to the tenancy, the mortgage holder may have the right to collect the rent, but not the right to put the party out. The rights of the mortgage holder cannot rise above the rights of the party from whom the property was acquired, unless the mortgage is superior to the right of the occupant.

**Actual notice to the occupants** - Even if the mortgage is superior, in order for the new owner to prevail, it must give the occupant notice of the proceedings; at the least a notice to vacate in a form calculated to reach the occupant. A notice sent to the previous owner, even if it says "and occupant," or "and John Doe, and Jayne Roe" is not sufficient, as such notices are unlikely to reach the third parties. A notice must be sent to anyone that the new owner knows is in the property, and, a notice to any occupants, addressed to such occupants, not to the former owner.

**Service of process upon the occupants** - Finally, when suit is filed, there must be a separate warrant served on all known parties, and/or any John Doe or Jayne Roe. This is the occupant's best protection, as the sheriff will deliver the paper to anyone in the home. If it is posted, the occupants will have an actual opportunity to discover the suit affects their rights, and they will be able to defend the action if a defense exists.

Only if the occupants are properly notified, and only if they are properly served, is it possible for the occupants to properly defend such rights, if any, that they may have in the property.

# UR downtown opens

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in a remarkably large, diverse legal community, which creates a rich opportunity for learning," said Douglass. UR Downtown's location makes the programs "more accessible to the bar, to potential clients and to the many community partner organizations with which we'll be working."

UR Downtown will serve Richmond families through three programs:

The Richmond Families Initiative: faculty and undergraduate students conduct research and analyze programs run by local agencies to support area families. The agencies will use this information to enhance their effectiveness and develop new programs.

The Harry L. Carrico Center for Pro Bono Service: through partnerships with volunteer attorneys and organizations, pro bono legal services are provided to low-income clients in areas ranging from no-fault divorces to protective orders for victims of domestic violence. The No Fault Divorce program, a partnership program with the Richmond Bar Association, particularly responds to an immediate need because of the great demand for such services in the Richmond area.

The Jeanette S. Lipman Family Law Clinic: directed by law professor Dale Margolin, the clinic consists of up to eight law students who represent clients in a range of family law matters. A multidisciplinary project of the law school's National Center for Family Law and Virginia Commonwealth University, the clinic is also comprised of graduate students in VCU's social work and psychology departments to ensure that clients have access to psychological care, counseling and social work services.

In addition to the launch event, the University marked its official opening with a series of open houses, during which donors, community leaders and partners toured the facility. For more information please visit [www.downtown.richmond.edu](http://www.downtown.richmond.edu) or contact Tara Casey at [tcasey@richmond.edu](mailto:tcasey@richmond.edu).

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## 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 Henry McLaughlin	643-1086 648-1012
Community Tax Law Project	Elaine Javonovich	358-5855
LAJC Housing Law	Marcel Slag	643-1086
CVLAS Wills Program	Kathy Brigman	862-1100
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	Kevin Georgerian; Rich Brooks	787-8960, 787-8058
Pro Bono Clearinghouse (www.grbf.org)	Carol Deitrick	780-2600
Legal Information Network for Cancer (LINC)	Allison Held	371-9543
Virginia Poverty Law Center	Jay Speer	782-9430
Richmond Domestic Violence Project	Robbi Gray/Alexis Fishel	775-1227/771-5765
VBA-YLD Legal Services for the Mentally Ill	John Phelps	662-7242
VSJ Young Lawyers Board Match	Beth Hungate-Noland	783-6913
Refugee and Immigration Services - Catholic Diocese of Richmond	Marilyn Breslow	355-4559

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