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**2021 VADA Annual Meeting**October 20-22, 2021
Marriott Resort Virginia Beach Oceanfront

**“GETTING BACK INTO THE COURTROOM”**

Requesting 9.0 Hours (2.0 Ethics)

**DRAFT AGENDA**

**Wednesday, October 20**

6:00 PM **President’s Welcome Reception** *(Sponsored by Metadata Forensics)*

7:30 PM **Dine Arounds**

9:30 PM **VADA “Late Night”** *(Sponsored by Beacon Forensic and MW Forensic Engineering)*

**Thursday, October 21**

6:00 AM **Wellness Committee Run or Walk**

8:00 AM **Registration & Buffet Breakfast** *(Sponsored by Broughton Associates)*

8:00 AM **Past Presidents’ Breakfast**

8:55 AM **Welcome**

9:00– 10:00 AM **Being a Defense Lawyer (1.0 HR)**

Stan Wellman, a Past-President of the VADA, is opening our annual meeting with an explanation of what it means to be a defense lawyer.  He will start with a summary of the key attributes of civil defense lawyers, including the balance of zealous advocacy with civility, the need for preparation, punctuality, humility, ethics, generosity, etc.  He will then compare the perceptions of the civil defense practice to its realities, including ethical considerations related to the tripartite relationship with insurers and defendant clients, the handling of excess and questionably covered cases, issues related to the reporting to and billing of insurers and clients, etc.  A lengthy bibliography referencing more than 30 related articles also will be provided and discussed.

Stanley P. Wellman, VADA Past President, *Harman Claytor Corrigan & Wellman*

10:00-10:15 AM **Healthful Break** *(Sponsored by the VADA Wellness Committee)*

10:15-11:15 AM **Post-COVID Jury Trials (1.0 HR)**

The Honorable Leslie Lilley of the Virginia Beach Circuit Court, VADA Past-President Brian Casey, and nationally renowned jury consultant Dr. Jeffrey Frederick will present a panel on the challenges that are facing practitioners in the wake of the global COVID-19 pandemic.  This session will focus on issues surrounding the selection of a jury, the presentation of evidence, juror perceptions, and other crucial issues surrounding the resumption of civil jury trials.

Brian Casey, VADA Past President, *TaylorWalker*

Jeffrey Frederick, PhD, *Jeffrey Frederick Trial Consulting Services, LLC*

Hon. Leslie L. Lilley, *2nd Judicial Circuit Court*

11:15 AM-12:15 PM **Technology in the Courtroom (1.0 HR)**

Joseph D. Cohen, a partner in the Houston office of Porter Hedges, is our featured DRI Speaker and will be presenting on the use of technology inside and outside the courtroom in 2021 and forward.  From making your practice mobile through the use of available hardware and software platforms to issues related to the presentation of evidence in courtrooms that are reshaped for COVID protocols, Mr. Cohen will provide insight into effective use of technology by lawyers in a defense practice.

Joseph D. Cohen, *Porter Hedges* (Courtesy DRI)

12:15-12:30 PM **Break**

12:30 PM **Awards Luncheon** *(Sponsored by The McCammon Group)*

2:30–4:30 PM **SECTIONS BREAKOUTS**

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|  | **APPELLATE ADVOCACY** |
| 2:30-3:30 PM3:30-4:30 PM | **Strategic Use of Amicus Briefs (1.0 HR)**This CLE course will provide practical guidance to appellate attorneys and litigators on the strategic use of amicus briefs in appellate advocacy. The panel will discuss the nuts and bolts of representing amici in state and federal appellate courts and provide insights and advice on writing effective amicus briefs. Joseph R. Pope, *Goodman Allen***Preserving Your Appeal (1.0 HR)**Few words strike more fear in the hearts of litigators than “waiver.”  Yet it is hard to keep all the issue-preservation doctrines straight while trying to win your case in  the trial court.  This presentation will provide a systematic—and usable—way to think about preserving appeal issues and avoiding waiver.Joseph Rainsbury, *Miles and Stockbridge* |
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|  | **AUTO & TRANSPORTATION LIABILITY** |
| 2:30-3:30 PM3:30-4:30 PM | **Social Inflation in the Courtroom (1.0 HR)**Despite the court’s instructions to the contrary, a jury’s verdict is never limited to just the facts and evidence of the case.  Jurors filter the facts and evidence through the lens of their own beliefs, experiences, and cultural outlook.  We will look at the various drivers of social inflation, how it will impact your case, and how to minimize its impact on the jury’s verdict.Lacey U. Conn, *Thomas, Thomas & Hafer* **The “Substantial Connection Test”: Lombard, Graves and Where We Go Now (1.0 HR)**In 2001 the Virginia Supreme Court held that in certain circumstances a jury could be informed by what insurance company an expert witness was being compensated. In 2020, the Virginia Supreme Court again addressed this issue in Graves v. Shoemaker. We will look at Graves, the cases that came before it and strategies going forward. Tate C. Love, *TimberlakeSmith* |
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|  | **JOINT SESSION: CORPORATE AND COMMERCIAL LITIGATION, PRODUCT AND TOXIC TORTS, AND PROFESSIONAL LIABILITY** *(Sponsored by J.S. Held)* |
| 2:30-4:30 PM | **Corporate Representative Depositions – Organizing the Organization (2.0 HRS)**Our speakers will share practical insight and advice as they take attendees through all aspects of a corporate representative deposition—from receiving and processing the notice of deposition through defending the deposition itself in state and federal court.  This will include a discussion of how to properly object to a notice of deposition, whether a defendant should seek a protective order prior to the deposition, how to work with clients to select the appropriate corporate designee(s), how to ensure that the designee is adequately prepared, and how to handle objections during the deposition, including whether a client should ever be instructed not to answer.  Dustin M. Paul*, Vandeventer Black* Eric G. Reeves, *Moran Reeves Conn*The Honorable John M. Tran*, 19th Judicial Circuit Court*  |
|  | **LOCAL GOVERNMENT** |
| 2:30 – 3:30 PM | **Police Reform in the Commonwealth of Virginia (1.0 HR)**Discussing the status of police reform efforts in the Commonwealth of Virginia by reviewing new laws passed by the Virginia General Assembly in recent years, identifying recent trends in case law and potential changes regarding qualified immunity and sovereign immunity in the Commonwealth of Virginia.  Charles “Chuck” Slemp, *Commonwealth’s Attorney for Wise County*Ara Tramblian, *Bancroft McGavin Horvath & Judkins*Moderator: Gerald “Jerry” Harris, *Virginia Beach City Attorney’s Office* |
| 3:30-4:30 PM | **Ethical Considerations in Local Government (1.0 HR ETHICS)** Discussing several topics regarding ethical considerations for attorneys that represent localities in their daily practice. Topics will include managing conflicts of interest between the locality and its employees, conflicts between multiple different employees, establishing attorney-client relationships with employees, developing competency to handle local government issues and litigation ethics for local governments. Gary Bryant, *Wilcox & Savage*Gerald “Jerry” Harris, *Virginia Beach City Attorney’s Office* Brett Spain, *Wilcox & Savage* |
|  | **MEDICAL MALPRACTICE** |
| 2:30 – 4:30 PM | **Handling Virginia Consumer Protection Act Claims in Medical Malpractice Cases (2.0 HRS)**This session will cover defending against VCPA claims in medical malpractice cases. Ms. Reynolds will discuss initial pleadings and motions practice and will analyze why the nature of VCPA claims makes them ill-suited for medical malpractice litigation.Nancy Reynolds, *Woods Rogers*Ken Roeber, *Wimbish Gentile McCray & Roeber* |
|  | **POLICY COVERAGE** |
| 2:30-3:30 PM3:30-4:30 PM | **More Money, More Problems:  A Discussion of the Recent General District Court Jurisdictional Increase (1.0 HR)**General District Court’s increase from $25,000 to $50,000 – Pros v. Cons from Plaintiff and Defendant’s perspectives, anticipated coverage problems created, failed legislation to increase statutory minimum limits, pitfalls to navigate when defending as either liability or UIM counsel, who can appeal/duty to defend on appeal, motions to increase ad damnum in pending cases, and motions to transfer case down to general district court.Emily Bishop, *McAngus Gougelock & Courie***A Tender-and-Walk to Remember:  Five Years of Liability Settlements under § 38.2-2206(K) (1.0 HR)**Reflections five years after the creation of Sec. 38.2-2206’s “Pay and Walk” – Legislative intent v. Practical application, problems it solved and problems it created, and proposed fixes.Steve Lane, *Williams, Negler, Verser & Lane* (tentative) |
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|  | **WORKERS’ COMPENSATION**  |
| 2:30-3:30 PM | **SB 1351 and its Effect on the Defense of Workers’ Compensation Claims and Commission Updates (1.0 HR)**Commissioner Rapaport will present on SB 1351 which took effect July 1 to “correct” the situation created by the Brock decision and its progeny. He will discuss its potential effect on claims pending before the Commission and the defense of workers’ compensation claims. Commissioner Rapaport will also provide an update on the latest caselaw and the Workers’ Compensation Commission. Hon. Robert Rapaport, Chairman, *Va. Workers’ Compensation Comm.* |
| 3:30-4:30 PM | **Recent Developments in the Presumption Laws Under the Virginia Workers’ Compensation Act (1.0 HR)**The seminar will provide an overview of the recent developments in the presumption laws under the Virginia Workers’ Compensation Act, including the new presumptions for post-traumatic stress disorder and COVID-19.  The seminar will also address how the date of communication can and should be used to limit liability.Ralph Whitt, *Whitt & Del Bueno* |

4:30-6:00 PM **BREAK**

6:00 PM **NETWORKING RECEPTION***(Sponsored by MDD*)

7:30 PM **Dinner** (On your own) or **Optional Women’s Section Dinner**

9:30-11:00 PM **VADA “Late Night”** *(Sponsored by Planet Depos and S-E-A)*

**Friday, October 22**

6:30-7:15 AM **Wellness Committee Yoga**

7:30 AM **Breakfast Buffet Opens**

7:45–8:40 AM **Breakfast Honoring the Virginia Judiciary**

8:40-8:50 AM **Break**

8:50-9:00 AM **Wellness Challenge Awards Presentation, Community Service Project
 Presentation, and Sponsors Raffle**

9:00-9:45 AM **Mediation and ADR (1.0 HR)**

Our panelists will discuss alternative dispute resolution—including mediation and arbitration—in the context of unique challenges we face during the COVID-19 pandemic and its ever-changing landscape. Our speakers will discuss their respective experiences with online/digital mediation, pros and cons of moving to virtual procedures, and how to get the most out of ADR during COVID.

Hon. Catherine C. Hammond (Ret.), *Juridical Solutions*

Hon. Jane Marum Roush (Ret.), *The McCammon Group*

Hon. Randall D. Smith, (Ret.), *The McCammon Group*

9:45-10:45 AM **Using Social Media in Discovery and at Trial (1.0 HR)**Our panelists will explain the different social media platforms, the types of evidence available on each, and techniques for capturing social media evidence. The panel will discuss the effective use of social media during discovery, in *voir dire*, and at trial.

Jonathan Hyslop, *Furniss Davis Rashkind & Saunders*

Coreen Silverman, *Hancock Daniel*

Moderator: Brittany McGill, *Office of the Attorney General of Virginia*

10:45-11:00 AM **Break**

11:00 AM-12:00 PM **Effective Motions Practice and Oral Advocacy**

Judge Roderick C. Young of the U.S. District Court for the Eastern District of Virginia, Judge David B. Carson of the Twenty-Third Judicial Circuit, and Judge Bradley B. Cavedo of the Thirteenth Judicial Circuit will share their thoughts on effective oral advocacy, specifically in motions practice.  The panelists will offer insight into effective advocacy strategies and provide guidance as to ongoing changes brought on by the COVID-19 pandemic. This presentation includes strategies for approaching motions practice at all stages of litigation in both Virginia and federal court – ranging from discovery motions to motions in limine on the eve of trial.

Hon. David B. Carson, *23rd Judicial Circuit Court*

 Hon. Bradley B. Cavedo, *13th Judicial Circuit Court*

Hon. Roderick C. Young, *U.S. District Court for the Eastern**District of Virginia*

12:00-1:00 PM **Attorney Mental Health** **(1.0 HR ETHICS)** *(Sponsored by VADA Wellness Cmte.)*

This presentation reviews (i) the individual, occupational, and environmental influences on stress; (ii) the impact of stress on physical, mental, and emotional well-being; (iii) what it means when stress evolves into burnout; (iv) how to build and support resilience; and (v) science-driven techniques for managing stress. The discussion will focus on the intersection of the occupational risks of practicing law; pandemic-, reopening-, and Delta-variant-related influences; and short attention spans and attention deficit/attention deficit disorders.

Samuel T. Bernier, VADA Board Member, *Frith Anderson & Peake*Barbara Mardigian, *Virginia Judges and Lawyers Assistance Program*Janet Van Cuyk, *The Virginia Judges & Lawyers Assistance Program*

1:00 PM **Adjourn and Box Lunches** *(Sponsored by MLM Insurance)*