



*“Striving for  
Justice . . .  
Serving our  
Community.”*

# VIRGIN ISLANDS BAR ASSOCIATION

## ANNUAL MEETING & CLE SEMINAR



FRENCHMAN'S REEF  
& MORNING STAR  
ST. THOMAS–U.S. VIRGIN ISLANDS RESORT

**Marriott.**

### AGENDA

#### THURSDAY DECEMBER 11, 2014

6:00 pm to 8:00 pm

**Young Lawyers Committee “Last Fridays” (on Thursday) Dinner**  
1.0 CLE

*at Sugar Cane Grille  
(Bunker Hill Hotel)*

Throughout the 2014 Bar Year, the Young Lawyers Committee of the Virgin Islands Bar Association has hosted a CLE and dinner program on (or about) the Last Friday of every month in order to provide economical CLE and networking opportunities to the young lawyers in the Virgin Islands Bar Association. Please join us for our capstone event of the year.

*Add'l Fee: \$30. Maximum capacity: 30 attendees. Attendance priority shall be given to young lawyers, but you do not need to be a young lawyer to attend.*

#### FRIDAY DECEMBER 12, 2014

7:30 am to 8:00 am

**Breakfast with the Candidates**  
Non-credit

Would you like to know more about your colleagues who have stepped forward to run for a spot on the Virgin Islands Bar Association’s Board of Governors? The candidates will be on hand to answer your questions and discuss their ideas for the future of the VIBA in this informal setting.

8:00 am to 8:30 am

**AIRMI Presentation**  
Non-credit

Feasibility and Implementation of Group Health Care Plan for VIBA

8:30 am to 9:20 am

**Introduction to Legal Research with Fastcase**  
1.0 CLE

This talk is designed to introduce members of the Virgin Islands Bar Association to the concepts involved in conducting legal research on Fastcase. Joshua Auriemma, former appellate attorney and head of the legal research

department at Fastcase, will cover the Fastcase scope of coverage, online caselaw and statutory research, and how to identify later-citing cases. This talk will also cover basic Boolean searching and introduce new users to the advanced case analytics built into the Fastcase service. Sample hypotheticals and searches will be used to illustrate these ideas and there will be time to ask questions reserved for the end of the talk.

9:20 am to 9:25am

*Break*

9:25 am to 11:05 am

**Virgin Islands Election Law: Emerging Issues and Overview**

2.0 CLE

Some of the most significant events of the 2014 Virgin Islands gubernatorial and legislative elections did not occur in the political arena, but in the federal and local courts. This panel, led by elections law professor Derek Muller and featuring Adriane Dudley, will provide an overview of these judicial decisions, as well as identify and debate unresolved issues relating to the Virgin Islands elections system, including voting rights for Virgin Islanders and whether our procedure for electing senators violates the principle of “One Man, One Vote.”

11:05 am to 11:10 am

*Break*

11:10 am to 12:00 pm

**The New Virgin Islands Supreme Court Attorney Discipline Rules: Grievances and How to Avoid Them**

1.0 CLE (incl 1.0 Ethics)

The Virgin Islands Rules of Professional Conduct went into effect on February 1, 2014, and the Supreme Court of the Virgin Islands has released, for comment, revised Supreme Court Rules 203 and 207—dealing with attorney discipline—and Rule 212, regarding unauthorized practice of law. The Supreme Court’s Disciplinary Counsel, Delphine Farr Janey, joined by Brendon Levesque and Dana M. Hrelc from the firm of Horton, Shields & Knox, shall provide an overview of these new rules, and provide members of the Virgin Islands Bar with best practices to avoid having a grievance filed against them and—if necessary—how to navigate the new grievance procedure.

12:00 pm to 1:30 pm

**Annual Meeting Luncheon and Friday Keynote**

0.5 CLE

Enjoy a buffet lunch while the Virgin Islands Bar Association conducts its annual meeting, which will feature elections to the Board of Governors for the 2015 Bar Year as well as the passing of the gavel from President Nycole Thompson to President-Elect Natalie Nelson Tang How. Plus, hear from our keynote speaker Alvin Powell.

Alvin Powell is a former NFL offensive lineman for the Miami Dolphins and the Seattle Seahawks. He is the spokesperson for the Saving Station Foundation- a non-profit organization dedicated to the elimination of substance abuse. Mr. Powell has dedicated the past 10 years to the prevention of drug and substance abuse, as well as helping those in crises who are suffering from the disease of addiction. In his keynote address, Mr. Powell will tell his compelling life story of how drugs ruined his NFL career, his life, and brought him to the brink of death.

1:30 pm to 2:20 pm

**Supreme Court of the Virgin Islands: Roundup and Preview**

1.0 CLE

On October 29, 2004, then-Governor Charles W. Turnbull signed Act No. 6687 into law, which at-long last established a local appellate court of last resort—the Supreme Court of the Virgin Islands—and vested it with the supreme judicial power of the Territory.

This panel, led by Dana M. Hrelc and Brendon Levesque, partners at the appellate litigation boutique of Horton, Shields & Knox, will commemorate the 10-year anniversary of this historic legislation. The panelists will highlight the Virgin Islands Supreme Court's seminal cases as well as provide an overview of its most significant decisions of the 2014 Term. Additionally, the panelists will provide a preview of pending cases of interest to watch during the 2015 Term.

2:20 pm to 3:35 pm

**Virgin Islands Law in a Post-1 V.I.C. § 4 World**

1.5 CLE

For nearly 60 years, the Restatements of Law promulgated by the American Law Institute constituted the law of the Virgin Islands by virtue of 1 V.I.C. § 4. But when the Virgin Islands Supreme Court, in its watershed decisions of *Banks v. Int'l Rental & Leasing Corp.*, 55 V.I. 967 (V.I. 2011), and *Gov't of the V.I. v. Connor*, \_\_ V.I. \_\_, 2014 V.I. Supreme LEXIS 17, 2014 WL 702639 (V.I. Feb. 24, 2014), recognized the implicit repeal of 1 V.I.C. § 4, Virgin Islands law was forever changed. In fact, one Virgin Islands Superior Court judge has even held that reflexive citation to the Restatements with no further analysis may constitute ethical misconduct and results in sanctions. *Benjamin v. Coral World*, \_\_ V.I. \_\_, 2014 V.I. LEXIS 35, at \*14 n.38 (V.I. Super. Ct. June 12, 2014).

The panel, consisting of law professor Kristen David Adams—whose law review article on 1 V.I.C. § 4 was cited by the Virgin Islands Supreme Court in *Connor*—Dwyer Arce, Esq., and Tracy Myers, Esq. will provide an overview of *Banks*, *Connor*, and their progeny, and discuss the nuts-and-bolts of conducting an effective *Banks* analysis. Additionally, the panel will discuss several practical implications of the *Banks* and *Connor* decisions, including how to determine whether a pre-*Banks* decision remains binding precedent and how to advise clients when Virgin Islands common law has become uncertain.

3:35 pm to 3:45 pm

*Break*

3:45 pm to 5:00 pm

**Federalism and the Courts of the U.S. Virgin Islands: From *Erie* to the Revised Organic Act to Superior Court Rule 7**

1.5 CLE

From the earliest days of our republic to the present, power has been divided between state governments and the federal government. The United States Constitution, however, does not establish a similar relationship between the federal government and territorial governments; instead, it grants the federal government plenary authority over the affairs of the Virgin Islands and other territories. Yet Congress, through the Revised Organic Act of 1954 and other statutes, has extended federalist principles to the Virgin Islands by providing that Virgin Islands local courts (the V.I. Supreme Court and the V.I. Superior Court) shall have the same relationship with federal courts (such as the U.S. District Court of the Virgin Islands, the U.S. Court of Appeals for the Third Circuit, and the U.S. Supreme Court) as do the courts of the several states.

The panel, consisting of law professors Kristen David Adams and Derek Muller as well as Dwyer Arce and Soraya Diase-Coffelt, will discuss and debate cutting-edge, largely unresolved issues in relations between the Virgin Islands and the federal government, including:

- (1) Who is the final arbiter of Virgin Islands law?
- (2) Should federal courts defer to the V.I. Supreme Court's interpretation of the Revised Organic Act, our *de facto* constitution?
- (3) Is Superior Court Rule 7 an unlawful delegation of the Superior Court's rulemaking authority to the U.S. Supreme Court, Congress, and the U.S. District Court of the Virgin Islands?
- (4) Can Act No. 7161, adopting the Federal Rules of Evidence, be interpreted as enacting all future amendments to the Federal Rules? If so, can the Virgin Islands government delegate its authority in such a way?

5:00 pm to 7:00 pm

### **President's Inauguration & Awards Reception**

Non-credit

Celebrate the passing of the gavel with President Natalie Nelson Tang How, Immediate Past President Nycole Thompson, and the newly-installed 2015 Board of Governors with a reception and gala, featuring music, drinks, and hors d'oeuvres. Join us as we honor and celebrate the members of the Virgin Islands Bar Association selected for recognition by the Awards and Memorial Committee, including the recipient of the Winston A. Hodge Award.

## **SATURDAY DECEMBER 13, 2014**

8:00 am to 8:55 am

### **"Sit With Someone You Don't Know" Networking Breakfast**

Non-credit

The Virgin Islands Bar Association annual meeting is a great opportunity to reconnect with your colleagues, but it also the perfect place to meet new people. Instead of sitting with your usual crowd, make new professional connections by eating breakfast with a member of the VIBA you have never met before.

8:55 am to 9:00 am

### **Introductory Remarks**

Non-credit

9:00 am to 10:40 am

### **Someone Online Hates You (or Your Client): The Law and Ethics of the Internet and Social Media**

1.0 CLE (incl 1.0 Ethics)

The popularization of the Internet, and particularly social media, has ensured that, for the first time in human history, speech is in a position where it can truly be free. Not surprisingly, the Internet has become a critical component of the marketing strategies for many businesses, including law firms. Yet the same forces that allow businesses and lawyers to market their services on the Internet at little or no cost also allow dissatisfied clients—or even people with no connection to you at all—to leave negative feedback on consumer review

sites, Facebook, and other forums.

First Amendment attorney Marc Randazza, joined by Disciplinary Counsel Delphine Farr Janey and ethics practitioner Brendon Levesque, will explore numerous issues related to the Internet and social media, including, but not necessarily limited to:

- (1) An overview of how the law of the Internet is different from that governing other media, with an emphasis on Section 230 of the Communications Decency Act.
- (2) Effective ways for you to assist a client in addressing negative—or even extremely inflammatory—comments posted about them online.
- (3) The ethics of the Internet and social media as applied to lawyers, including how a lawyer may respond to negative, disparaging, or even defamatory online content.

10:40 am to 10:45 am *Break*

10:45 am to 12:00 pm **Claims Against the Virgin Islands: From 42 U.S.C. § 1983 to the Tort Claims Act and (Almost) Everything In Between**  
1.5 CLE

This presentation, led by Joshua R. Garber, will focus on the liability of both the Virgin Islands Government and individual government employees under both local and federal law. The panelists will begin with an overview of the concept of sovereign immunity and applicable Virgin Islands law, including the Revised Organic Act of 1954 and the Virgin Islands Tort Claims Act. The panel shall further explore 42 U.S.C. § 1983, which authorizes certain government employees and agencies to be sued for violating their rights under the United States Constitution, as well as identify and discuss other potential means through which liability may be established.

12:00 pm to 1:30 pm **Committee Showcase Luncheon and Saturday Keynote**  
0.5 CLE

Some of the most important work performed by the Virgin Islands Bar Association is not done by the Board of Governors, but by the VIBA's various committees. While you enjoy your buffet lunch, representatives from the VIBA's committees will explain the roles of their committees and make their case for why you should consider joining them in the upcoming Bar Year. Plus, hear from our Saturday keynote speaker, Marc Randazza, managing partner of the Randazza Legal Group.

1:30 pm to 3:10pm **Legal Pot-Pourri: Marijuana in the Virgin Islands**  
2.0 CLE (incl 1.0 Ethics)

The status of marijuana in the Virgin Islands has been the subject of considerable public debate in the past year, with the unanimous passage by the legislature of a bill to decriminalize possession of small amounts and the inclusion of a referendum on the legalization of medical marijuana on the November 2014 general election ballot. Yet marijuana remains illegal under federal law for all purposes.

The panel, led by Joshua R. Garber and Disciplinary Counsel Delphine Farr Janey, will provide a comprehensive overview and debate of numerous issues

relating to the legalization or decriminalization of marijuana in the Virgin Islands, including, but not necessarily limited to:

- (1) The difference between decriminalization and legalization.
- (2) How the Virgin Islands' territorial status affects decriminalization or legalization efforts relative to those undertaken in Washington, Colorado, and elsewhere, i.e. would payment of a marijuana fine in the Virgin Islands Superior Court preclude prosecution by the federal government under the Double Jeopardy Clause?
- (3) Would firing an employee for using marijuana as permitted by Virgin Islands law subject an employer for liability under the Virgin Islands Wrongful Discharge Act?
- (4) May an attorney be disciplined for using marijuana as permitted under Virgin Islands law given that it remains illegal under federal law? Would it be ethical for an attorney to assist the owner of a medical marijuana dispensary in obtaining a business license or establishing a corporation?

3:10 pm to 3:20 pm

*Break*

3:20 pm to 5:00 pm

**Virgin Islands Tax Law: What Every Practitioner Needs To Know**  
2.0 CLE

Tax has a reputation for being amongst the most difficult areas of the law to master, and that is even truer given the eccentricities of Virgin Islands law. The panel, consisting of Alex Golubitsky, Joseph DiRuzzo III, David Nissman, and Erika Kellerhals, will summarize, in plain English, the most important concepts of tax law as they apply to the Virgin Islands that all attorneys—even those who do not practice in the tax field—should have a basic familiarity with in order to best serve their clients, as well as their own law practices, including, but not necessarily limited to, the “Mirror Code,” jurisdiction, determining Virgin Islands residency for tax purposes, and the tax consequences of certain legally significant acts. Time permitting, the panel will also address more advanced—and unresolved—topics in tax law, such as whether IRS regulations and other non-statutory sources apply to the Virgin Islands through the “Mirror Code” and the role of the Virgin Islands Supreme Court in interpreting the tax laws of the Virgin Islands.

5:00 pm to 6:00 pm

**Closing Remarks**  
Non-credit