

No. 20-25

IN THE
SUPREME COURT OF THE UNITED STATES

ISIDORO RODRIGUEZ,

PETITIONER,

VS.

VIRGINIA STATE BAR DISCIPLINARY BOARD,

RESPONDENT.

On Petition for Writ of Certiorari
to the Supreme Court of the Commonwealth of Virginia

APPENDIX

Isidoro Rodriguez
Former Member of the Bar, September 11, 1992
2671 Avenir Place, Apt. 2227
Vienna, Virginia 22180
U.S. Cell No. 1.571.477.5350

Rodriguez and Rodriguez
World Trade Center
Calle 76 No. 54-11, Suite 313
Barranquilla, Colombia
Colombian Cell No. 57.300.658.7220

APPENDIX

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VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Monday the 2nd day of March, 2020.

Isidoro Rodriguez, Appellant,
v. Record No. 191136
Circuit Court No. CL-2018001643

Virginia State Bar Disciplinary Board,
Appellee.

From the Circuit Court of Fairfax County

Upon review of the record in this case and consideration of the argument submitted in support of and in opposition to the granting of an appeal, the Court is of the opinion there is no reversible error in the judgment complained of. Accordingly, the Court refuses the petition for appeal.

Justice Kelsey took no part in the resolution of the petition.

A Copy,

Teste:

Douglas B. Robelen, Clerk

By: \S\

Deputy Clerk

Virginia:

In the Circuit Court of Fairfax County

Isidoro Rodriguez,

Plaintiff/Complainant,

v.

Law/Fiduciary/Chancery
No. CL 2018-0016433

Virginia State Bar Disciplinary Board,

Defendant/Respondent.

Order

This case to be heard on the Defendant's Demurrer.

Upon the matters presented to the Court at the Hearing it is, ADJUDGED, ORDERED, and DECREED AS FOLLOWS: that the Court on its own motion pursuant to VA Code § 8.01-271.1 imposes a pre-filing injunction upon Petitioner Isidoro Rodriguez. Mr. Rodriguez is prohibited from filing any action or motion in this Court without the Court's prior review of the pleading and approval unless he is represented by a licensed Virginia attorney in good standing with the Virginia State Bar.

Entered, this 28th day of June, 2019.

\s\

JUDGE RICHARD E. GARDINER

Seen and Object

\s\ Isidoro Rodriguez

Seen and agreed

\s\ Erin McNeill (VSB 78816)

Virginia:

In the Circuit Court of Fairfax County

Isidoro Rodriguez,
Petitioner pro se,

v. Case No. CL 2018-0016433

Virginia State Bar Disciplinary Board,
Defendant/Respondent.

FINAL ORDER

This matter came before the Court on the Virginia State Bar Disciplinary Board's ("VSBDB") Demurrer to Isidoro Rodriguez's ("Rodriguez") Petitions for Writ of Mandamus and Prohibition. A hearing was held on June 28, 2019, at which both sides presented oral arguments in addition to submitting memoranda of points and authorities. Having fully considered the oral arguments and written submissions of both parties, this Court hereby SUSTAINS VSBDB's Demurrer, DENIES Rodriguez's Petitions with prejudice, and REMOVES all pending motions for this case from this docket including the pending July 19, 2019 motion for an injunction. The Clerk of this Court is requested to send attested copies of this Final Order to the parties.

Entered: 6/28/19

\s\
JUDGE RICHARD E. GARDINER

Seen and objected to under
VA Const. Art. VI §§ 1, 5, 7
and VA Code, *Void*
Ab Initio Order Doctrine
(*Marbury v. Madison*).
\s) Isidoro Rodriguez

I ASK FOR THIS:

\S\ Mark R. Herring
Attorney General of Virginia

Erin R. McNeill Esq, (VSB #78816)
Counsel of Record

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 29th day of June, 2007.

Isidoro Rodriguez, Esq.

Appellant,

v. Record No. 070283
VSB Docket Nos. 04-052-0794 And 04-052-1044

Virginia State Bar,

Appellee.

Upon an appeal of right from an order entered by the Virginia State Bar Disciplinary Board.

Upon consideration of the record, briefs, and arguments by appellant, in proper person, and by counsel for the appellee, the Court is of the opinion that there is no error in the order of the Virginia State Bar Disciplinary Board (the "Board") revoking Isidoro Rodriguez's license to practice law in the Commonwealth of Virginia based upon finding that he violated Rules 1.2, 1.5, 1.7, 1.16, 3.1, 3.4, 3.7, 4.4, 7.1 and 8.4 of the Virginia Rules of Professional Conduct.

In reviewing the Board's decision in a disciplinary proceeding, we conduct an independent examination of the entire record. We consider the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the Bar the prevailing party in the Board proceeding. We give the Board's factual finding substantial weight and view them as *prima facie* correct. While we do not give the Board's conclusions the weight of a jury verdict, we will sustain those conclusions unless it appears they are not justified by reasonable view of the evidence or are contrary to law. Barrett v. Virginia State Bar, 269 Va. 583, 587-88, 611 S.E.2d 375, 377 (2005) (quoting Williams v. Virginia State Bar, 261 Va. 258, 264, 542 S.E.2d 385, 389 (2001) (citations omitted); see also El-Amin v. Virginia State Bar, 257 Va. 608 612, 514 S.E.2d 163, 165 (1999); Myers v. Virginia State Bar, 226 Va. 630, 632, 312 S.E.2d 286, 287 (1984)).

In making its determination, the Board considered allegations that Rodriguez violated the Rules of Professional Conduct during litigation involving two sets of cases. One group of cases involving Rodriguez's relationship and work with Sea Search Armada. The other group involved custody litigation regarding his son. The Virginia State Bar proved by clear and convincing evidence that Rodriguez violated Rules 1.2(a), 1.5(a), 1.16(a)(3), 3.4(I), 7.1(a), and 8.4(b) and (c) in his relationship with and representation of Sea Search Armada, including his attempts to recover unpaid

attorney's fees. The Virginia State Bar proved by clear and convincing evidence that Rodriguez violated Rules 1.7(b), 3.1, 3.4(d)(h)(i)(j), 3.7(a), 4.4, and 8.4.

We independently review each of the alleged Rule violations and find no error in the Board's order. Accordingly, the order appealed from is affirmed.

Appellant shall pay to the appellee thirty dollars damages.

This order shall be certified to the Virginia State Bar Disciplinary Board.

A Copy,
Teste: _____ /S/
Patricia L. Hanninton, Clerk

VIRGINIA:
BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF ISIDORO RODRIGUEZ
VSB DOCKET NOS. 04-052-0794 and 04-052-1044

ORDER OF VIRGINIA STATE BAR DISCIPLINARY BOARD

THIS MATTER came on to be heard on the 26th and 27th days of October, 2006, before a panel of the Disciplinary Board consisting of James L Banks, Jr., 1st Vice-Chair, presiding,(the "Chair"), William C. Boyce Jr, Glenn M. Hodge, William F. (Hover, and Stephen A. Wannall, Lay member. The Virginia State Bar ("VSB" or "Bar") was represented by Noel D. Sengel, Senior Assistant Bar Counsel. The Respondent, Isidro Rodriguez, appeared in person and represented himself. The Chair polled the members of the Board Panel as to whether any of them was aware of any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member; including the Chair, responded in the negative. Donna T. Chandler, RPR, RMR, CCR of Chandler & Ralasz, court reporter. P.O. Box 9349, Richmond, Virginia, 23227, (804-730-1222) after being duly sworn, reported the hearing and transcribed the proceedings.

The matter came before the Board on the Subcommittee Determination (Corrected Certification) by the Fifth District Committee Section II.

At the beginning of the proceedings the Respondent renewed his motion for the members of the panel to disqualify themselves as being interested parties for the reasons stated in his written motion previously filed. Upon consideration of this motion it was denied by the Panel for the reasons previously stated in the Board's Order of August 8,2006 that originally addressed Respondent's Motion to Recuse and Disqualify Members of the Disciplinary Board Within the Jurisdiction of N. Virginia and the U.S. Dist. Ct. for the RD. of Va. so to Assure Impartiality.

FINDINGS OF FACT

VSB Exhibits 1-92 were admitted during the course of the hearing without objection. The Respondent's Exhibits 1-42 were admitted during the course of the hearing without objection or over Bar counsel's objection. The VSB presented evidence through its witnesses, the Respondent cross-examined the witnesses and thereafter testified on his own behalf. After consideration of the exhibits and the testimony the Board makes the following findings of fact on the basis of clear and convincing evidence:

VSB No. 04-052-0794

1. At all times relevant hereto, Isidoro Rodriguez, hereinafter the "Respondent", has been an attorney licensed to practice law in the Commonwealth of Virginia and his address of record with the Virginia State Bar has been 7924 Peyton Forest Trail, Annandale, VA 22003-1560. VSB Ex. 1. The Respondent received paper notice of this proceeding as required by Part Six, IV, 13 (E) and (I)(a) of the Rules of Virginia Supreme Court. VSB Ex. 2

2. The Complainant, Jack Harbeston, hereinafter referred to as "Harbeston", was the managing director of Sea Search Armada ("SSA") a Cayman Island entity that invests in and conducts searches for sunken treasure ships and engages in the salvage and the recovery of their contents. Sometime prior to 1988 SSA had discovered what it thought to be the remains of sunken Spanish ships off the coast of Colombia. SSA had been unable to have its rights to any sunken treasure recognized by the government of Columbia and was looking for legal representation in Colombia to assert its claims. Harbeston sought assistance from the Economic Officer at the United States Embassy in Bogota, Colombia for names of attorneys who could represent SSA. The Economic Officer provided Harbeston with a list of attorneys in Colombia which included the Respondent as a member of the partnership of Devis and Rodriguez. Harbeston subsequently contacted the Respondent regarding possible legal representation. In his conversation with the Respondent, Harbeston learned that Devis, a Colombian attorney, would handle any litigation on behalf of SSA in the Colombian courts. Harbeston was looking for an American attorney, if possible, because of his concerns as to the potentially divided loyalty of a Colombian attorney. In correspondence between the Respondent and Harbeston, Respondent noted that he was the only attorney licensed in the United States working in Colombia and as such his firm was subject to the same standards as law firm in the United States; that unlike any other firm in Colombia his firm "must comply with the State of Virginia Bar Association's Ethics of Professional Responsibility." VSB Ex. 4.

3. SSA subsequently hired the firm of Devis and Rodriguez. By agreement dated October 20, 1988, the parties entered into a representation agreement prepared by Rodriguez which set forth the terms of the engagement including a fee arrangement on an hourly basis that had been discussed prior to the execution of the agreement. VSB Ex. 7. By affidavit dated October 21, 1988, Harbeston, as managing Director of SSA, authorized the law firm of Devis and Rodriguez to act as SSA's legal representative to pursue its claims in Colombia.

4. In order for SSA to proceed with its claims in Colombia, SSA was required to appoint an agent with broad powers to represent SSA. By agreement dated December 16, 1988, executed in the District of Columbia, SSA appointed the Respondent as its legal representative in Colombia. Respondent's Ex. 8. However, Harbeston and SSA were concerned with the scope of the general power of attorney appointing Rodriguez as its agent in Colombia (Respondent's Ex. 8) and sought to limit

his authority by advising the Respondent that he could only act upon the written authorization of Harbeston. By letter dated December 14, 1988, the Respondent acknowledged this limitation on his authority, noting that any violation of the restriction "will result in an action before The Virginia Bar Ethics Committee". VSB Ex. 9. By memorandum dated December 13, 1988, Harbeston advised all law firms employed by 58.4, including Devis and Rodriguez, that John Erlichman would coordinate and manage all litigation by SSA. VSB Ex. 8.

5. By letter dated January 10, 1989 SSA authorized Respondent as its legal representative in Colombia to file a lawsuit against the Republic of Colombia to confirm its rights to the sunken ships. VSB Ex. 12. Thereafter, Devis proceeded to pursue SSA's claims in the courts of Colombia with apparent skill and professionalism to the satisfaction of SSA. Harbeston soon became dissatisfied with the Respondent's performance because of actions he took without written authorization but nevertheless continued the representation arrangement because of his satisfaction with Devis' performance as a litigator. By memorandum to Respondent dated June 9, 1989, (VSB Ex. 13) Harbeston reaffirmed that Respondent was to take no action on behalf of SSA without Harbeston's written authorization as Respondent had acknowledged by his December 14, 1988 letter. Sometime thereafter, but prior to January 1990, the law firm of Rodriguez and Devis had dissolved but Devis continued to represent SSA in its ongoing litigation against the Republic of Colombia. By agreement dated January 3, 1991, Respondent, acting as attorney for SSA, entered into a professional services agreement with Devis to continue with the litigation on behalf of SSA against the Republic of Colombia. This agreement changed the fee arrangement to a contingency fee arrangement whereby Devis would receive 20% of any recovery. VSB Ex. 14. Devis and the Respondent then entered into an agreement to share any contingent fee recovery.

6. By request dated January 3, 1990, the Respondent sought a legal ethics opinion from the VSB that as a Virginia attorney who had entered into a contract in Idaho to be performed in a foreign country, whether he could terminate his representation because the client had failed to pay his fee and could sue the client to collect such a fee. The VSB Ethics Committee gave its opinion on the issue (LEO 1325) that under the facts presented, the Respondent could terminate his representation and sue the client for fees, with the opinion concluding with the customary notice that it was an advisory opinion and not binding on any court. VSB Ex. 18.

7. Devis continued the litigation successfully as the case made its way through the Colombian judicial system as the Colombian government appealed each adverse decision. Respondent does not appear to have played any role in the litigation. By letter dated March 24, 2000 Devis advised Respondent not to use his name in Respondent's professional activities, and that Harbeston was upset with Respondent's activities and wanted to revoke the power of attorney. VSB Ex. 15. Devis acknowledged he would

honor their contingent fee sharing arrangement. By letter dated April 6, 2000, Harbeston revoked the general power of attorney from SSA to Respondent (which he had forgotten to do earlier), stating that neither SSA nor its related entities owed Respondent any legal fees and that any understanding relating to fees was in the agreement between Devis and Respondent to share any contingency fee. VSB Ex. 16.

8. In September of 2000 the Respondent filed suit against SSA in the United States District Court for the Eastern District of Virginia seeking to enforce a claim for attorney's fees in the amount of \$4.5 million against SSA. VSB Ex. 19. The Respondent testified that he based the amount of his attorney's fee claim on the annual salary (\$300,000 to \$400,000) of a legal representative of a United States company in a foreign land for a period of 12 years. Included as defendants in this litigation were Harbeston, related entities to SSA and Devis. None of the defendants were residents of the Commonwealth of Virginia. The Respondent basis for jurisdiction by the federal court in Virginia was the fact that he was a Virginia attorney, Virginia Code Section 54.1-3932 grants an attorney a lien for fees and LEO 1325 which said he could sue his client. The defendants in this litigation obtained the services of Harrison Pledger, a Virginia attorney, who filed a motion to dismiss based on the lack of personal jurisdiction over the defendants. This motion was granted and the suit was dismissed. The Respondent then appealed to the Fourth Circuit Court of Appeals and that court affirmed the District Court's ruling. The Respondent then petitioned for a Writ of *Certiorari* in the United States Supreme Court but that petition was denied.

9. After the denial of The Writ of *Certiorari* by the United States Supreme Court the Respondent filed a slightly different law suit in the United States District Court for the Eastern District of Virginia against the defendants in the earlier suit and also added several other defendants who were investors in SSA or related entities. VSB Ex. 20. The District Court dismissed this second law suit, finding that the Respondent had failed to plead additional facts to the first suit to give the court personal jurisdiction over any of the defendants. This ruling was affirmed on appeal to the Fourth Circuit. The Respondent then sought a Writ of *Certiorari* from the United States Supreme Court which was also denied.

10. While the appeal of the second lawsuit was pending, the Respondent filed a third similar lawsuit -this time in the Circuit Court of Fairfax County against SSA. In this third lawsuit the Respondent named the defendants in the second law suit and Harrison Pledger and his law firm as defendants. VSB Ex. 21. This law suit was also dismissed but the court denied the defendants' motions for sanctions.

11. The Respondent created a website which displayed false and misleading information regarding his relationship with SSA and his participation in the litigation in Colombia. VSB Ex 24 & 25. On the site, the Respondent claimed that in 1988, at the request of the United States Department of State, he became SSA's legal representative and managing attorney responsible for managing alternative dispute

resolution negotiations and outside counsel in litigation against the government of Colombia, posts he claims he held until 2000. These assertions are not true. On his resume, the Respondent listed a LLM Civil law degree from the University of Bordeaux. While the Respondent attended a class at the University of Bordeaux, he never received a degree from that university. The Respondent also listed an American Trial Lawyers Ultimate Trial Lawyer Certification. There is no such certification. The basis for Respondent's claim is the fact that he attended a one week continuing legal education program sponsored by the Association of Trial Lawyers of American titled "Ultimate Trial Advocacy".

12. Respondent, in 2004, while communicating with the U.S. State Department regarding Freedom of Information Act ("FOIA") requests he had made for information relating to SSA litigation, represented that he was the attorney for SSA notwithstanding the fact that Harbeston had revoked his authority in 2000. VSB Ex. 23. Respondent claimed that since the power of attorney filed with the Colombian government had never been terminated he was not making a misrepresentation in his FOIA request.

VSB Docket No. 04-502-1044

1. The Respondent lived for many years in Colombia and had married Amalin Hazbun Escaf a citizen of Colombia. One son was born of the marriage. The marriage ultimately ended in a divorce in Colombia with the wife/mother obtaining custody of the son by order of a Colombian court with visitation rights to the Respondent.

2. The Respondent subsequently returned to the United States where he has been living and his son visited him pursuant to the visitation rights granted by the Colombian Court. In 2001 while the son was visiting the Respondent the Respondent refused to return his son to Colombia and filed an action in the Juvenile and Domestic Relations Court in Fairfax County to gain custody of his son.

3. In 2001, subsequent to the filing of Respondent's suit in the Juvenile and Domestic Relations Court in Fairfax County, Respondent's ex-wife filed an action in the United States District Court for the Eastern District of Virginia, under the Hague Convention on the Civil Aspects of Child Abduction (the "Hague Convention") and the International Child Abduction Remedies Act ("ICARA") in order to secure the return to Colombia of her son. VSB Ex. 34. In this litigation she was represented by Patrick Stiehm, a Virginia attorney who had undertaken this representation *pro bono* at the request of the National Center for Missing and Exploited Children ("NCMEC"). NCMEC is a non profit corporation that acts as a neutral in facilitating the processing of claims under the Hague Convention and ICARA. When Stiehm initially contacted Respondent to inform him of the pending litigation, Respondent told Stiehm that his *pro bono* representation would cost Stiehm "a big chunk of change." In keeping with

this threat, Respondent immediately filed a motion for sanctions against Stiehn (VSB Ex. 35) but that motion was denied. VSB Ex. 38. However, Respondent's subsequent litigation described herein, which included Stiehm as a defendant, resulted in Stiehm incurring significant legal expenses to respond to meritless and vexatious litigation.. After a bench trial the Court ruled that the Respondent had kept the child in Virginia in violation of his ex-wife's custody rights. VSB Ex. 39. The Court ordered that the child be removed from the Respondent's custody and returned to the child's mother in Colombia. The Respondent's appeals to the Fourth Circuit Court of Appeals and the United States Supreme Court were denied. After all appeals and stays were denied the son was reunited with his mother and left for Colombia in June of 2002.

4. In January of 2003, the Respondent filed suit in the District Court for the District of Columbia against numerous defendants, including NCMEC, several employees of NCMEC, the United States District Court for the Eastern District of Virginia, the Fourth Circuit Court of Appeals, the Circuit Court of Fairfax County, the Court of Appeals of Virginia, the District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia, various judges, a court clerk, the United States Department of State, Patrick Stiehm and Stephen Cullen (an attorney who had assisted Stiehm in the Virginia litigation) claiming a constitutional conspiracy by the defendants against him in his litigation in Virginia. VSB Ex. 43. Staff members of NCMEC had been witnesses in the Virginia litigation and NCMEC had provided legal representation to witnesses in the October 27, 2006, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13 (M) shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

It is further ORDERED that pursuant to Part Six, § IV, ¶ 13.B.8.c. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to the Respondent at his address of record with the Virginia State Bar, being 7924 Peyton Forest Trail, Annandale, VA 22003-1560, by certified mail, return receipt requested, and by regular mail to Noel O. Sengel, Bar Counsel, Virginia State Bar, Suite 310, 100 North Pitt Street, Alexandria, Virginia, 22314-3133.

ENTERED this 28th day of November, 2006

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: /S/

James Leroy Banks., Jr. 1st Vice Chair

U.S. CONSTITUTIONAL PROVISIONS INVOLVED

First Amendment to the United States Constitution, guarantees the right to petition the government for grievances.

Fifth Amendment to the United States Constitution, states in relevant part, "No person shall . . . be deprived of . . . property, without due process of law; . . ."

Seventh Amendment to the United States Constitution, grants the right to a common law trial by jury for alleged malfeasance by any government employee, including judges.

Fourteenth Amendment to the United States Constitution, states in relevant part, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of . . . property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law."

COMMONWEALTH OF VIRGINIA SECTIONS INVOLVED

Article I § 5 VA Const. "That the legislative, executive, and judicial departments of the commonwealth should be separate and distinct; and that the members thereof may be restrained from oppression,"

Article I § 9 VA Const. "Prohibition of . . . *ex post facto* laws. . . ; that the General Assembly shall not pass . . . any *ex post facto* law."

Article IV § 1 VA Const. "The legislative power of the Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and House of Delegates."

Article IV § 14¶3(18) VA Const. Powers of General Assembly; limitations "The authority of the General Assembly shall extend to all subjects of legislation not herein forbidden or restricted; The General Assembly shall not enact any local, special, or private law in the following cases: (18) Granting to any private corporation, association, or individual any special or exclusive right, privilege, or immunity."

Article VI § 1 VA Const., states in relevant part that judicial power shall be vested, in "courts of original or appellate jurisdiction subordinate to the Supreme Court as the General Assembly may from time to time establish."

Article VI § 5 VA Const., states that although the Supreme Court shall have the authority to make rules, "such rules shall not be in conflict with the general law" enacted by the General Assembly.

Article VI § 7 VA Const., states in relevant part that justices of, "all other courts of record shall be chosen by . . . the general assembly....

Article XII § 1 VA Const., states in relevant part, "that any amendment to this constitution are to be referred to the general assembly, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the citizens for approval."

Virginia Code Sections Involved

2019 SESSION INTRODUCEDHOUSE BILL NO. 2111

Offered January 9, 2019

A BILL to amend and reenact § 8.01-223.2 of the Code of Virginia, relating to immunity of persons; abuse of process, malicious prosecution, or intentional infliction of emotional distress; statements made in the course of judicial proceedings or communications made relating to criminal conduct.

VA Code§ 8.01-223.2. Immunity of persons for statements made at public hearing or communicated to third party; statements made in the course of judicial proceedings; communications regarding potential criminal conduct.

A. A person shall be immune from civil liability for a violation of § 18.2-499, a claim of tortious interference with an existing contract or a business or contractual expectancy, or a claim of defamation, abuse of process, malicious prosecution, or intentional infliction of emotional distress based solely on (i) statements regarding matters of public concern that would be protected under the First Amendment to the United States Constitution made by that person that are communicated to a third party; (ii) statements made at a public hearing before the governing body of any locality or other political subdivision, or the boards, commissions, agencies and authorities thereof, and other governing bodies of any local governmental entity concerning matters properly before such body; (iii) statements made in the course of judicial proceedings; or (iv) any written or oral communication made to any agent or officer of any federal, state, or local government branch or agency relating to potential criminal conduct. The immunity provided by this section shall not apply to any statements made with actual or constructive knowledge that they are false or with reckless disregard for whether they are false.

B. Any person who has a suit against him dismissed pursuant to the immunity provided by this section may be awarded reasonable attorney fees and costs.

VA Code § 18.2-499. Combinations to injure others in their reputation, trade, business or profession; rights of employees. A. Any two or more persons who combine, associate, agree, mutually undertake or concert together for the purpose of (i) willfully

and maliciously injuring another in his reputation, trade, business or profession by any means whatever or (ii) willfully and maliciously compelling another to do or perform any act against his will, or preventing or hindering another from doing or performing any lawful act, shall be jointly and severally guilty of a Class 1 misdemeanor. Such punishment shall be in addition to any civil relief recoverable under § 18.2-500.

B. Any person who attempts to procure the participation, cooperation, agreement or other assistance of any one or more persons to enter into any combination, association, agreement, mutual understanding or concert prohibited in subsection A of this section shall be guilty of a violation of this section and subject to the same penalties set out in subsection A.

VA Code § 18.2-500. Same; civil relief; damages and counsel fees; injunctions. — (a) Any person who shall be injured in his reputation, trade, business or profession by reason of a violation of § 18.2-499, may sue therefor and recover three-fold the damages by him sustained, and the costs of suit, including a reasonable fee to plaintiff's counsel; and without limiting the generality of the term, "damages" shall include loss of profits. . . .

VA Code § 54.1-3915. Restrictions as to rules and regulations.---Notwithstanding the foregoing provisions of this article, the Supreme Court shall not promulgate rules or regulations prescribing a code of ethics governing the professional conduct of attorneys which are inconsistent with any statute; nor shall it promulgate any rule or regulation or method of procedure which eliminates the jurisdiction of the courts to deal with the discipline of attorneys. In no case, shall an attorney who demands to be tried by a court of competent jurisdiction for the violation of any rule or regulation adopted under this article be tried in any other manner.

VA Code 54.1-3932. Lien for fees. A. Any person having or claiming a right of action sounding in tort, or for liquidated or unliquidated damages on contract or for a cause of action for annulment or divorce, may contract with any attorney to prosecute the same, and the attorney shall have a lien upon the cause of action as security for his fees for any services rendered in relation to the cause of action or claim. When any such contract is made, and written notice of the claim of such lien is given to the opposite party, his attorney or agent, any settlement or adjustment of the cause of action shall be void against the lien so created, except as proof of liability on such cause of action.

VA Code § 54.1-3934. Revocation of license by Board. The Board of Bar Examiners may, for good cause, revoke any license issued by it at any time before there has been a qualification under it in any of the courts of this Commonwealth. Code 1950, § 54-72; 1988, c. 765.

VA Code § 54.1-3935 (1950-2017). Procedure for revocation of license.

A. If the Supreme Court, the Court of Appeals, or any circuit court of this Commonwealth observes, or if a complaint, verified by affidavit is made by any person to such court, that any attorney has. . . violated the Virginia Code of Professional Responsibility, the court may assign the matter to the Virginia State Bar for investigation. Upon receipt of the report of the Virginia State Bar, the court may issue a rule against such attorney to show cause why his license to practice law shall not be revoked. If the complaint, verified by affidavit, is made by a district committee of the Virginia State Bar, the court shall issue a rule against the attorney to show cause why his license to practice law shall not be revoked.

B. If the rule is issued by the Supreme Court. . . the rule shall be returnable to the Circuit Court of the City of Richmond. At the time, the rule is issued by the Supreme Court, the Chief Justice shall designate three circuit court judges to hear and decide the case. . . . In proceedings under this section, the court shall adopt the Rules and Procedures described in Part Six, Section IV, Paragraph 13 of the Rules of Court.

VA Code § 54.1-3935 (February 2017). Procedure for disciplining attorneys by three-judge circuit court .

A. Any attorney who is the subject of a disciplinary proceeding or the Virginia State Bar may elect to terminate the proceeding before the Bar Disciplinary Board or a district committee and demand that further proceedings be conducted by a three-judge circuit court. Such demand shall be made in accordance with the rules and procedures set forth in Part Six, Section IV, Paragraph 13 of the Rules of Supreme Court of Virginia. Upon receipt of a demand for a three-judge circuit court, the Virginia State Bar shall file a complaint in a circuit court where venue is proper and the chief judge of the circuit court shall issue a rule against the attorney to show cause why the attorney shall not be disciplined. At the time the rule is issued by the circuit court, the court shall certify the fact of such issuance and the time and place of the hearing thereon to the Chief Justice of the Supreme Court, who shall designate the three-judge circuit court, which shall consist of three circuit court judges of circuits other than the circuit in which the case is pending, to hear and decide the case. The rules and procedures set forth in Part Six, Section IV, Paragraph 13 of the Rules of Supreme Court of Virginia shall govern any attorney disciplinary proceeding before a three-judge circuit court.

B. Bar Counsel of the Virginia State Bar shall prosecute the case. Special counsel may be appointed to prosecute the case pursuant to § 2.2-510.

C. The three-judge circuit court hearing the case may dismiss the case or impose any sanction authorized by Part Six, Section IV, Paragraph 13 of the Rules of Supreme Court of Virginia. In any case in which the attorney is found to have engaged in any criminal activity that violates the Virginia Rules of Professional Conduct and results in the loss of property of one or more of the attorney's clients, the three-judge circuit court shall also require, in instances where the attorney is allowed to retain his license,

or is permitted to have his license reinstated or restored, that such attorney maintain professional malpractice insurance during the time for which he is licensed to practice law in the Commonwealth. The Virginia State Bar shall establish standards setting forth the minimum amount of coverage that the attorney shall maintain in order to meet the requirements of this subsection. Before resuming the practice of law in the Commonwealth, the attorney shall certify to the Virginia State Bar that he has the required insurance and shall provide the name of the insurance carrier and the policy number.

D. The attorney, may, as of right, appeal from the judgment of the three-judge circuit court to the Supreme Court pursuant to the procedure for filing an appeal from a trial court, as set forth in Part 5 of the Rules of Supreme Court of Virginia. In any such appeal, the Supreme Court may, upon petition of the attorney, stay the effect of an order of revocation or suspension during the pendency of the appeal. Any other sanction imposed by a three-judge circuit court shall be automatically stayed prior to or during the pendency of the appeal.

E. Nothing in this section shall affect the right of a court to require from an attorney security for good behavior or to fine the attorney for contempt of court. Code 1950, §§ 54-74, 54-75; 1956, Ex. Sess., c. 33; 1964, c. 201; 1970, c. 430; 1972, c. 103; 1980, c. 289; 1984, cc. 289, 703; 1988, c. 765; 1997, c. 238; 1998, cc. 339, 637; 2009, c. 287; 2017, cc. 40, 91. The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Legislative History for 2017 SESSION, HB 1479 introduced by James A. Leftwich. SUMMARY AS INTRODUCED: Attorney discipline; procedures. Conforms the statutory procedures for disciplining attorneys to the Rules of Supreme Court of Virginia. This bill is identical to SB 874.