

# Bernard J. DiMuro Installed as State Bar President

*When you talk with Bernard J. (“Ben”) DiMuro about the law, you are impressed by how passionate he is about the practice and the profession. He carries that passion with him into his role as the 64th president of the Virginia State Bar.*



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DiMuro's respect and admiration for the legal profession took root early. He grew up in a small town outside of Chicago—the son of the chief of police. The town had only two attorneys, yet these men held the most highly respected positions in the community. The services that these attorneys provided for the town and the dependence the town had on them convinced DiMuro to be a lawyer.

DiMuro graduated from Northwestern University in 1976 and earned his law degree from the George Washington University National Law School three years later. While in law school, DiMuro clerked for one of Virginia's leading trial attorneys, Phil Hirschkop, and upon graduation, became the firm's full-time associate. It was at this boutique litigation firm where DiMuro trained to become one of Northern Virginia's top trial attorneys. And it was this first job that kept DiMuro in the Washington Metropolitan area instead of returning to Illinois after graduation, as he had originally planned. After ten years with the firm, DiMuro launched his own practice with other attorneys in Alexandria.

A founding partner in the Alexandria firm of DiMuro, Ginsberg & Mook, P.C., DiMuro represents corporate and individual clients in complex civil litigation before both federal and state courts and administrative tribunals in the areas of business torts and corporate law (including defamation and intellectual property protection), employment law (including all aspects of federal and state discrimination laws), and professional liability and ethics. A renowned expert on matters relating to business torts, employment law and ethics, DiMuro is in demand for representation by corporate employers and for presentations at seminars and consultations to corporate and individual clients.

DiMuro has adopted a presidential agenda for the bar year that focuses on internal challenges to the bar system and the legal profession, on external issues of alliance building and open dialogue with the General Assembly and on outreach, volunteerism and education for members of the bar and the general public.

## *How and why did you decide to become a lawyer?*

I cannot remember a time when I was not going to be a lawyer. Since early childhood, I had planned to be the first person in my family to graduate from college and to continue to law school to become a lawyer. Not only was this important to me, it was very important to my parents. I had their complete support.

Shortly after I was born in 1954, my family and I moved from Boston to Round Lake, Illinois, a town of 500 people, located just 50 miles northwest of Chicago. My father was the town's first full-time police officer and became the chief of police in the early '60s. At that time, Round Lake had only two lawyers: One handled the real estate settlements, and the other handled wills. As a youth, I would hang around their offices. That experience had a profound impact on me. These two men were the leaders of our community; one was the mayor. They sat on the school board or on the board of the local community college. People came to them with all sorts of problems—most having nothing to do with the law. The town valued the attorneys for their ability to organize thoughts, find paths to and evaluate solutions and decide on a resolution that ended up aiding the community as a whole.

Helping the community as a whole was the role of a lawyer then, and I still view it as a lawyer's role. For me, working in the Virginia State Bar system has been one way to perform that role: providing Virginia lawyers with the fundamentals and the resources to build and maintain their legal practices, so they, in turn, can help the people in their communities.

## *Why did you move from your home state? You are still licensed to practice in Illinois?*

I fully intended to return to Illinois after graduating from George Washington—but I was given a tremendous opportunity for a clerkship. The clerkship came from one of those chance meetings that change the course of your life.

As a first-year law student, I was interning for a clinical professor whom my family knew. I happened to be in the professor's office, waiting to ask

him a question after he had gotten off the phone. When he hung up, he told me that he had been talking with someone at Phil Hirschkop's office, and the firm was looking for a law clerk. My professor said, "I'll give you a two-day head-start." The next thing I knew, I was a new law clerk in an office filled with graduates from Columbia, Harvard, University of Pennsylvania and Yale. I worked very hard for two years as a clerk and was offered full employment upon graduation.

It was a tremendous opportunity because Phil is an amazing, if somewhat controversial, attorney and litigator. From him, I learned the fundamentals of practicing law—from litigating a complex case to running a boutique litigation firm. By the time I joined his firm, he was representing an impressive and diverse group of clients—from Fortune 500 companies to the Hunt family of Texas.

The practice had about five, at most ten, lawyers. We were litigating against the big law firms of 500 lawyers or more—usually against multiple large law firms per case. The experience showed me that not only could a five-person law firm compete against the big firms, but a five-person law firm can represent billion-dollar companies as effectively as the big firms. You have to work harder and smarter, but it can be done. If they file 100 pages, you file ten, but you can match them, motion for motion.

I have been practicing in Virginia since 1979 and do not intend to leave. As for the Illinois license, I keep it in deference to my mother who stills hopes that one day I will move back "home."

### ***What does your civil trial work entail?***

For me, civil trial work involves any form of civil dispute, excluding agency and administrative law issues. I have practiced civil trial work since 1976 as a law clerk, and then, from 1979 as a lawyer. In 1989, I opened our own firm in Alexandria (now DiMuro Ginsberg & Mook, P.C.) on the same block where I worked for Phil. Initially, our office handled the kinds of personal injury work and general litigation that all small firm lawyers do. Over the years, we have grown to focus on corporate and commercial litigation, employment litigation and professional responsibility and ethics.

I find the variety of clients and cases exciting. My firm and I have tried defamation cases, including one against ABC News, privacy cases, including one against a nationally recognized best-selling author, and securities actions against the thoroughbred racing-stallion breeding syndicate in Kentucky. We have represented Fortune 100 companies, like General Electric and Mitsubishi, tiny 5-person start-up technology companies, and local mom-and-pop shops. We have represented major law firms on matters of professional responsibility. We have represented lawyers against their law firms and law firms against departing lawyers.

When starting up a small law firm, you do not have the luxury of controlling your legal practice. Larger firms have legal departments in areas such as securities, anti-trust, or whatever. A young lawyer can pick his or her focus and have available cases on which to work. In a small law firm, you never know what's going to walk through the door. For the first

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## **Bernard J. DiMuro**

### **Education:**

B.A., Political Science, Northwestern University

J.D., George Washington University National Law Center

### **Law Firm:**

Founding Partner, DiMuro, Ginsberg & Mook, P.C.,  
Alexandria, Va.

### **Bar Involvement:**

Virginia State Bar

Member: 1979–present

President-elect: 2001–2002

Council: 1999–present

Executive Committee: 1995–1997 and 2000–present

Chair, Task Force on Public Access to the Disciplinary  
System: 2001–2002

Member, Task Force on Corporate Counsel: 2001–present

Member, Virginia Model Rules Committee: 1995–1999

Member, Lawyers Serving as Fiduciaries Committee:  
1993–1994

Vice Chair, Publications/Public Information Committee:  
1996–2001

Member, Faculty for the Professionalism Course:  
1995–1998

Member, Disciplinary Board: 1988–1995

Chair, Disciplinary Board: 1993–1995

Member, Illinois State Bar Association, 1980–present

Member, The District of Columbia Bar, 1985–present

### **Other Law-Related Positions:**

Fellow, Virginia Law Foundation: 1995

Fellow, American Bar Association: 1998

Founder and President, The Civil Workplace: 1996–present

Board of Governors, Virginia Trial Lawyers Association:  
1997–2000

Admitted to U.S. Supreme Court and numerous federal courts.

many years, most small-firm lawyers represent a lot of individuals. But over time, you develop a “pipeline” of work that comes from earning a strong reputation. You begin to have more latitude to focus on the areas of law in which you are more interested. Today, I do more commercial and corporate litigation and professional responsibility and ethics work, than when I started. I still appreciate the opportunity to represent individuals. Representing larger corporate clients gives our firm the ability to continue that type of work.

### ***What are some of your goals as bar president?***

My goals will be better defined as I talk with the lawyers in Virginia about what they need. But during my year as president-elect, I was able to identify some initial goals, including improving relations and fostering better communications between the bar and the General Assembly. The General Assembly needs to become more aware of our views on certain bar-related issues, including multijurisdictional practices, judicial independence and the successful heritage of the legal industry’s self-regulation process through the bar system.

Lawyers in the Commonwealth need more education on what Lawyers Helping Lawyers actually does. Lawyers Helping Lawyers is really an under-utilized organization. To date, it has been helping specific individuals only after they have disciplinary problems, but it should be used to *identify* lawyers who are in trouble—before that trouble escalates to disciplinary complaints or to burnout. The Commonwealth cannot afford to lose strong legal advocates to impairments that can be prevented or treated, whether or not they are caused by substance abuse or by depression, stress-related disorders or other mental health problems. The statistics show us that small firm lawyers are more likely to become overwhelmed by their practices, which puts too much in their lives and which can lead to disciplinary infractions. Lawyers Helping Lawyers should be used as preventive maintenance. We all know that it is less costly to the lawyer, the profession and the community to prevent transgressions than to regulate and discipline them.

### ***You will preside over a momentous council vote related to Multi-disciplinary Practices, or MDPs. How will you handle the result?***

Whether the VSB votes for permitting MDPs or not, we as a regulatory system have our work cut out for us. If the vote is against MDPs, the VSB will need to be on guard for nonlawyers influencing lawyers on how and what legal advice is given. It will still be a disciplinary violation for lawyers to be tainted by nonlawyers. Without the self-regulation that would come with a formalized MDP system, we would have to step up our vigilance.

If the vote is for MDPs, we would have a regulatory scheme that becomes much easier for the VSB to manage than trying to regulate “influence.” It would leverage the powerful self-regulation tradition of our legal profession. By acknowledging the MDP as an entity, with lawyers and nonlawyers working together, we would have the MDPs’ affirmative representation that the core values of lawyers are sacrosanct.

Lawyers and nonlawyers are already working together anyway, but in an informal and unregulated way. However the vote turns out, I am confident we will find an appropriate way to resolve the regulation issue.

### ***You chaired a task force to evaluate openness in the bar’s disciplinary system that has made public a lawyer’s discipline at an earlier stage in the process. Where is the issue of openness going in the future?***

I cannot predict where openness in the disciplinary system is going, but we have the precautions of protecting the lawyers’ privacy where appropriate. Presently, we are able to maintain lawyers’ privacy where complaints are not meritorious and should never have been filed by the complaining witness. The vast majority of complaints, around 98 to 99 percent, remain private and confidential because they are dismissed or resolved early on. We have in place a mechanism for private discipline in the event of an infraction that is resolved early in the process.

What the public demands and what we offer as a state agency is a public forum for complaints that are meritorious. A complaint goes through several levels of screening to determine if a hearing is merited. If so, we will open those hearings up to the public. I expect maybe 40 cases a year will involve a public hearing—that’s a very small percentage of total complaints filed each year. While the public will be able to attend the public hearings, I suspect it will be rare if anyone actually does.

### ***Why don’t we hear more about the Client’s Protection Fund? You list its success and its need for publicity among your agenda items.***

The State Bar exists primarily to perform the disciplinary and regulatory functions. We don’t often promote the good things that we do for the general public—but we should.

The Virginia State Bar Client’s Protection Fund is a great example of a good thing we do that does not get publicized. The fund was established in 1976 to make monetary awards to persons who have suffered financial losses because of dishonest conduct by Virginia lawyers. It’s a remedy of last resort for clients who are not able to obtain reimbursement from other sources, such as a bond, surety agreement or the lawyer involved. The money for this fund has come from a portion of the mandatory dues paid by all licensed lawyers practicing in Virginia. It truly represents an effort by all members of the Virginia State Bar to compensate for the misdeeds of a few.

There are other good things the state bar does, besides discipline and regulation. These include providing services to lawyers who need assistance, sponsoring vast amounts of continuing education to lawyers and conducting law office management audits of law firms, to name a few. All of these efforts are separate and apart from the bar’s disciplinary role. During my term, I hope to help increase the publicity for the positive things that we do for Virginia lawyers and the people of Virginia.

***What is different about the challenges before the bar today compared to those in earlier bar years, and how does the Virginia State Bar rate among other state bars?***

I think the issues before the bar today reflect increased complexity in the public's lifestyle. On the whole, we have more urban, faster-paced, more "connected" lifestyles and a different way people view, use and work with lawyers. People want one-stop shopping for issues that require legal and non-legal expertise. That's the MDP issue.

In this information age, people have instantaneous access to information and a seemingly instantaneous ability to convey their thoughts and opinions to the public. People, whether your average citizens or elected officials, expect their thoughts and opinions to be heard and to have an impact. Well, not all public or political opinions should have an impact on judges and justices. This is the issue of judicial independence.

We must ensure that judges maintain decisional independence, without external pressures, influences or threats designed to affect or to alter their decisions. Because of computerization and instant access, people can generate vast amounts of information, to spam them, so to speak. The general public, or their representatives and private interest groups, should not be lobbying judges or justices.

As for our state bar, I'd rate it right at the top of all state bars. Already this year, I have been to several national meetings of state bar presidents and presidents-elect. I'm not sure why, but I was initially surprised to find out that the VSB's structure, organization and staff are much more efficient, effective and knowledgeable than those of the other states. Having worked with the VSB office for the last year as president-elect, I am no longer surprised about this. Unlike most state bars, the VSB will embrace and address cutting-edge issues in the legal profession. We can deal with issues ahead of our time, and head on.

***We continue to hear about the lack of civility in the legal community. What does this mean?***

I think our behavior in the courtrooms and our relationships with fellow attorneys reflect the changes in our society—people are more informal in their speech, more open to "speaking their minds" and often less sensitive to how their words affect others. Fortunately, I believe collegiality and civility are making a resurgence in the legal profession, thanks to the concerted efforts of our judges, the judges' associations, the Virginia State Bar, The Virginia Bar Association and the independent local bar associations.

Having said that, I feel strongly that judges and justices must continue to play an important role by enforcing and upholding proper decorum in their courtrooms. If the judges don't comment on incivility or lack of professionalism in their courtrooms, then lawyers sometimes believe that their actions are acceptable modes of practice. I actually think judges have to become even more proactive in this regard.

***What is your management style? How will you get the job done?***

I grew up in an environment where a free flow of ideas was important. The dictator falls on his face and doesn't get anything done. So I like to walk around, talk with as many people as possible and find out about their views, concerns and ideas. The job and responsibilities of the VSB president are enormous—and remember, voluntary. I have a day job. So, the goals set for the VSB will only be accomplished through delegation and the contributions of as many people as possible. This is one of the reasons I will be emphasizing the importance of volunteering throughout this year. Fortunately, there are a lot of volunteers looking for something to do—provided that there is a little structure and a little guidance on the issues. I am hoping that I can provide some of the structure through my own efforts and rely on the bar staff for the rest.

***You have mentioned computers and the rapid flow of information. What does the new technology portend for how we will do business?***

Technology has its advantages and its disadvantages. Law firms can be much more efficient and, therefore, provide better services at lower cost. Computers, the Internet, information gathering—all have become more cost effective. This is the advantage of technology. While legal services for the ordinary person can be extraordinarily expensive, it is hoped that small firm practitioners can adopt these technologies and provide more affordable services.

The disadvantages are equally significant. These new technologies tend to replace human contact. Clients rarely want to come into the office anymore. They want to fax or Federal Express their information to you, and they want the answer returned by the same method.

The increased speed afforded by these new technologies makes people expect information and answers, faster and faster—sometimes to the point where the lawyer is compelled to act before he has finished fully deliberating the problem. E-mails, cell phones, Blackberries, voice mail . . . none promote quiet reflection. And lawyers can get in a lot of trouble by making knee-jerk decisions.

The relationship between lawyer and client is becoming very transactional, which is too bad. I really regret that clients view lawyers in such a commercial way. Meeting with lawyers and understanding their thinking process is being replaced by demanding instantaneous, almost canned, answers to complex legal queries. Lawyers are becoming cyber-service providers, not partners. We all know this eventually hurts the client. The lawyer gets paid for the amount of time he or she puts in the case, but the quality of that time is usually improved when the client teams with the lawyer.

In this era of commercialism, we are losing the battle to keep the law as one of the last two professions, the other being the medical profession—and even doctors are complaining of a de-professionalization. I don't mean that the legal profession should not evolve to meet new market

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*Ben DiMuro inside the historic Alexandria U.S. District Court.*

demands. But a profession is more than a job, it is an occupation with the fiduciary responsibilities of loyalty, independence and confidentiality to the client. There are plenty of fine occupations, but the legal and medical professions are the only ones that embrace these core values. While the public still sees doctors as embracing their profession's core values, commercialism and new technologies are affecting how the public views lawyers.

Justice Carrico often reminds us that lawyers are not merely purveyors of services. We, as members of the legal profession, should remind the general public that the core values of our profession are still there.

***Where were you on September 11, and what does that event teach us about law in our society?***

As the events of September 11 were unfolding, I was driving to the State Bar offices in Richmond. I was scheduled to make a presentation with Michael Glasser to the VSB staff at an orientation meeting. I listened to the first two hours of the event on the radio, and I saw the pictures afterward. For me, I think it was more shocking . . . more compelling . . . more sobering . . . to listen to the description over the radio, as opposed to seeing it. It struck me that this may have been what it was like during

Orson Welles' "War of the Worlds" presentation, only no one came on later to say that the September 11th attacks were fiction.

The lessons we could draw from the September 11th attacks and the aftermath are numerous. The first is how you treat others during conflicts. I have seen too many litigators acting as gladiators who crush their opponents with bravado—and will admit, myself, having done the same at times. Granted, there are some cases where the other side deserves to be crushed, but these are few and far between. In most cases, we just need to resolve a problem. How we resolve problems is important because we have to live with the other side after the current problem is solved. We should spend less time crushing each other to win a battle and more time on finding solutions.

September 11th also brought home the fact that we are all very vulnerable. Regardless of political, economic or social status, we will all need help at some point in our lives. This brings me back to the role of lawyers helping their communities. Helping people strikes me as the most important thing one can do with one's life.

“We, the 30,000 members of the Virginia State Bar, can help people by using our legal knowledge and our problem-solving skills, and giving our time—whether through pro bono services, or non-legal charities and causes, or through the VSB.

I am often asked why I give so much time to the state bar when I ‘don't seem to get as much back in return.’ Perhaps that's true if you're thinking about it financially, although I will admit that meeting people throughout the Commonwealth and the state bar has resulted in a case referral or two. But I receive invaluable, if intangible, rewards from my work with the VSB. Just being a part of an association of lawyers who share the same goal: helping those in the community in which they live.

For the two lawyers who were irreplaceable leaders of the 500-person town where I grew up, and for my father, the town's chief of police, there was no greater service to the community than being a lawyer. I believed that's enough to become a lawyer—and I believe it today.”

—Ben DiMuro