

THE ADVOCATE

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SPECIALIZING IN:

- Personal injury
- Medical malpractice
- Family law
- Wrongful death
- Nursing home litigation

Dan Frith joins the Million Dollar Advocates Forum

Mundy, Rogers & Frith, LLP, is pleased to announce that attorney **Dan Frith** has been certified as a member of the Million Dollar Advocates Forum, one of the most prestigious groups of trial lawyers in the United States. Membership is limited to attorneys who have won million- and multimillion-dollar verdicts, awards, and settlements.

The organization was founded in 1993, and there are approximately 2,500 members throughout the United States. Forum membership acknowledges excellence in advocacy and provides members with a network of experienced colleagues for referral and information exchange in major cases. To learn more about the Million Dollar Advocates Forum, go to their Web site at www.MillionDollarAdvocates.com.

Defining and addressing family abuse

Virginia law defines family abuse as any act involving violence, force, or threat, including any forceful detention, that results in physical injury or places one in reasonable apprehension of serious bodily injury, and which is committed by a person against such person's family or household member.

The title "family abuse" can be misleading because, for many people, the traditional notion of family connotes people who are married or live in the same house. Virginia has adopted an expansive definition of family that includes former spouses, stepparents and stepchildren, in-laws, and unmarried persons who have a child in common. The end result is that a person can be charged with committing acts of family abuse whether or not he or she was ever married to or lived with the victim.

Because any act of family abuse is a crime, the victim has the right not only to pursue criminal charges against the aggressor, but also to obtain a protective order. A protective order can prohibit contact between the aggressor and the victim, grant the victim exclusive use of the home if the parties live together, and prevent the aggressor from carrying a firearm. While temporary protective orders are effective for only a few hours or days, a permanent protective order can remain in effect for up to two years.

If you or someone you know may be a victim of family abuse, seek help immediately. Contact **Virginia's Family Violence and Sexual Assault Hotline at 1-800-838-8238** to get the names of area agencies that can assist you, or contact our office at **540-982-2900** for additional information.

E-mail newsletter

Would you like to receive future copies of *The Advocate* via e-mail—in Adobe Acrobat Format—in addition to or instead of your mailed copy? If so, please contact our office via phone at **540-982-2900** or e-mail info@mrf-law.com, and we'll put you on the e-mail mailing list.

The best legal thinking gets the best results

TERRORISM... ...and its remedies

Americans have been the victims of domestic terror for the past several years.

1993—6 died in the first terror attack on the World Trade Center.

1995—167 people died from a massive truck-bomb explosion at the Alfred P. Murrah Federal Building in Oklahoma City.

1995-6—24 servicemen were killed in attacks in Saudi Arabia.

1998—228 people were killed in attacks on two east African U.S. embassies.

2000—17 U.S. sailors perished in an attack on the *U.S.S. Cole* in Yemen.

2001—A combined 3,042 people were killed at the World Trade Center, the Pentagon, and on an airliner.

Trial lawyers respond

Following the 9/11 tragedy, members of the Association of Trial Lawyers of America volunteered to provide free legal services to any family wishing to pursue justice through its Trial Lawyers Care program, a fund established by humanitarian legislation.

A recent award in a pending case

As our nation continues to address the issues of international and domestic terrorism, American victims of terrorism are obtaining satisfaction through the American justice system. In 1985, hijackers from the Iran-sponsored Hamas and Hezbollah terrorist organizations beat, tortured, and held six U.S. Navy divers hostage in Beirut for 17 days. Hijackers murdered one diver.

The servicemen and their families sued the Islamic Republic of Iran for damages based on its support of the terrorists. In April 2002, a federal trial court awarded the plaintiffs \$300 million in punitive damages and \$7.8 million in compensatory damages against Iran and its Ministry of Information and Security.

Our goal An effective lawyer-client relationship

In everything we do, for each client, we strive to achieve the kind of relationship that will be mutually beneficial. What are its hallmarks?

Courtesy—We should both expect to always be treated with the consideration of good manners between partners.

Faith in judgment—From working together, we must come to mutually value a client's understanding of issues in the case and a lawyer's legal experience necessary to resolve them.

Involvement—To succeed, we must agree to cooperate to become full stakeholders in the legal processes and outcomes.

Respect—We both endeavor to do our best to appreciate each other's experience and skills, even when information or news that is shared is not what either wants to hear.

Support—The client and the attorney have a joint responsibility to make every effort to further the successful completion of the case.

Trust—Our goal is to establish and maintain a common confidence in each other's knowledge, ways of thinking, and sense of urgency about the matters at hand.



FOR YOUR SAFETY Recalled product roundup

Here are some recently recalled products you may have in your home or at work.

- ✓ **Black & Decker** recalled 140,000 cordless electric lawn mowers in which an electrical component can overheat and catch fire.
- ✓ **Lawn-Boy, Inc.**, called back 36,000 Lawn-Boy walk-behind mowers. Mower mulch plates for Lawn-Boy can crack or break if struck by high-speed objects and injure operators or others.
- ✓ **Motorola, Inc.**, Broadband Communications Sector recalled one million DCT2000 digital cable boxes installed in 2002. Power cord pins at the back of the box may break, causing electrical shock to consumers.
- ✓ **Invensys Building Systems** wants 560,000 Siebe actuators returned for testing and/or replacement. The actuators control fire and smoke dampers in heating, ventilation, and air conditioning systems. The actuator spring mechanism can jam, prevent dampers from closing, and permit smoke, fire, and fumes to spread through a building's ventilation system.
- ✓ **Leifheit International USA, Inc.**, recalled 31,000 apple slicers/corers whose blades can separate and cut users' hands and fingers.
- ✓ **Fluke Corporation** has recalled 40,000 digital multimeters, which measure voltage, resistance, and current. Recalled units can take longer than normal to display AC voltages above 500 volts. Users who misinterpret the delayed reading for no voltage are at risk of thermal burns, shock, or electrocution.

Seniors and falls

One of the most common, and serious, problems facing retirement facility or nursing home residents is the risk of falls. Anyone who is responsible for a senior parent or elderly relative in a residence can collaborate with management and staff to reduce the potential for falls by their loved ones. They can...

- check to see that corridor and room lighting is sufficiently bright.
- periodically inspect and eliminate hazardous obstacles such as rugs, lamp cords, or other objects.
- schedule annual eye-health and vision-quality checkups.
- promote participation in exercise and other programs to maintain physical strength and improve balance.
- request that aides monitor residents after administering medications that may cause dizziness or confusion.
- encourage the elderly to use canes, walkers, or other mobility devices when needed.
- ask caregivers about the use of bed rails or restraints if unsteadiness or falling from bed occurs.

A resident's fall

After his mother suffered a fatal head injury after falling from her bed, a son won a jury verdict on her behalf in a lawsuit. He alleged that the nursing home failed to provide

safe care and services because it did not use appropriate bed-safety restraints, even though the staff was aware of her known tendency to fall out of bed.



LEGAL LEXICON

Many clients find legal terms puzzling. From time to time, we'll offer some easy-to-understand definitions to help clear things up. This time, we'll address the meanings of several important legal terms related to employees and the workplace.

Affirmative action

State and federal regulations and policies intended to compensate members of minorities for unfair discriminatory practices that existed in the past.

At-will employment

Two parts: An employer's right to terminate workers without providing any reason; an employee's right to quit a job without explanation.

Disability benefits

Social Security Administration funds available to employees under age 65 who qualify under medical regulations describing an inability to work due to accident or injury.

ERISA

The Employee Retirement Income Security Act of 1974 is a federal law that requires employers to furnish employees with clear and comprehensive information about their pension rights. Court interpretation of ERISA has made HMOs and other managed-care insurers immune from lawsuits for injuries they cause by delaying or denying appropriate care. A federal Patients' Bill of Rights that would allow patients to hold HMOs accountable in court has been under consideration for several years.

Sexual harassment

Unwelcome sexual conduct on the job that makes workers feel that they are in an intimidating, hostile, or offensive workplace.

The ABCDs of skin moles

Everyone has moles—pigmented skin spots that usually pose no health threats. Physicians recommend examining moles twice yearly to monitor changes in appearance, which might indicate problems.

Medical experts recommend using the "ABCD" rule to determine if a mole needs a physician's attention. Evaluate each mole's...

ASYMMETRY Healthy moles are symmetrical. Both sides should look the same.

BORDER A mole's border should be round, not jagged or splotchy.

COLOR Normal moles are light to medium brown, not black.

DIAMETER Typically, healthy moles are smaller than the size of a pencil eraser and do not grow in size.

Some people are more prone to skin conditions than others. Individuals with more than 75 moles and skin that burns easily should pay particularly close attention to mole changes. If you have a mole that looks different than the last time you checked it, please ask your physician about it.

More than a mole

Even those who take great care of their skin can run into trouble. A 45-year-old patient was scrupulous about reporting skin disorders to his dermatologists. A year after a lesion appeared, doctors ordered a biopsy, which revealed it was not a hemangioma—a noncancerous vascular tumor—but a malignant melanoma. The patient sued and received a settlement, after alleging failure to diagnose in a timely manner, permitting the melanoma to metastasize to other organs.

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PAYER BEWARE!

Proper procedures to modify or terminate a child-support obligation

A legal debate is raging in Virginia courts about the proper procedure for modifying or terminating child-support obligations. Trial courts have given inconsistent rulings, and two recent appellate court decisions have generated concern among family law attorneys. The following scenario illustrates the questions surrounding this issue.

During their divorce, two parents agreed that the father (payer) would pay \$1,000 per month to the mother for support of their two children. They also agreed that the child-support obligation would end when a child turned 18 or—if the child is still in high school and not self-supporting—when the child turned 19 or graduated from high school, whichever came first. When the oldest child meets one of the termination criteria, how much should the father pay to support the remaining child? Does the amount need to be negotiated? Should the agreed-upon amount be embodied in a court order or decree?

While recent appellate decisions vary, it is advisable for this payer to return to court and seek entry of an order reflecting a change in his child-support obligation. This is the only way a payer can prevent the other parent from claiming that the payer is behind in his payments

or in contempt of court. It is also best to compute support for the remaining child using Virginia's child-support guideline worksheets. If the parties agree on a new amount, it should be submitted to the appropriate court for approval in a consent order. If no agreement is reached, the payer must petition the court for an order of modification.

Recent reported cases also indicate that...

- The payer supporting only one child will not be affected. His or her obligation will end upon the occurrence of the indicated events.
- If a payer's agreement provides that the child-support obligation steps down in amount automatically by a given sum or percentage upon the occurrence of certain events, that payer need not return to court but may do so to fully protect his or her interests.
- The payer who is subject to language obligating the

parties to renegotiate child support when a payer's obligation as to one child ceases *must* return to court for a formal modification.

Parties paying child support must take care to ensure that their interests are adequately protected. If a parent has any questions about an obligation, he or she should consult with an attorney skilled in the family law practice area.

