

THE FIRM FOR MEN, SWANGO LAW P.C.

# NEWSLETTER

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## The Indisputable Ease of Doing Absolutely Nothing

### A SPECIAL MESSAGE FROM JASON SWANGO

Former UK Prime Minister Harold Wilson once said, “He who rejects change is the architect of decay. The only human institution which rejects progress is the cemetery.” As simple as it may sound, his words are a powerful reminder of the endurance of complacency—the ease of doing absolutely nothing.

Inevitably, I think of the many men I’ve spoken to in over a decade in business who have resigned themselves to “the way things have always been.” They’ve given up, even at the risk of losing their children, their homes, and their livelihood. They’ve settled in comfortably to do nothing.

*But doing nothing bears no fruit; it effects no change.*

So my call to you is this: embrace change. Disrupt the comfort of predictability. Take a risk. Try something new. Weigh your options. Be fluid at all costs. Challenge even your very best. Whatever you do, don’t do nothing.



Jason Swango, Founder & CEO of The Firm For Men, the only family law firm in Virginia representing men exclusively.



## Big Fights, Big Wins

The phrase “winning” is decidedly subjective when it comes to family law where compromise is key, but sometimes the big wins are undeniable.

This was the case recently, when our very own, Ben Hamlet, fought to have spousal support not only stopped, but retroactive by one year based on the ex-wife cohabiting in a relationship “analogous to a marriage” for over one year, a termination trigger of Virginia Code. Attorney Hamlet had to prove the client’s ex-wife was hiding a live-in boyfriend for months, having him move out temporarily in hopes of avoiding the statute. And boy, did he prove it!

The outcome? Support was terminated and the client was awarded twelve thousand dollars to be repaid . . . yet another massive win in the books!

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# The Broken GAL System & How We Can Fix It

## *How can we reign in a program fraught with good intentions & scant resources?*

The New Year brings with it many householders determined to stay on budgets, so they sit down in earnest and divvy up paychecks to be spent on housing, food, and so on. If, like Virginia's legislators, they do this without regard to actual income and expenses, their budgets are doomed. In similar fashion, Virginia's lawmakers often stipulate programs but do not provide clear guidelines on funding these initiatives.

This is the trouble with the system of legal protections for children, guardians ad litem. The term is from Latin, "guardian for the lawsuit;" a lawyer in a legal dispute in which a child (or incapacitated adult) is, essentially, a helpless bystander, like divorce, child custody, or adoption. The program of guardians ad litem, or GAL, is a story of good intentions undermined by scant resources.

### **How Does Administering GALs Work?**

The office of Executive Secretary for the Virginia Supreme Court oversees a list of attorneys qualified to be guardians ad litem, either for children or for incapacitated Virginians. Children's GALs are appointed by juvenile and domestic relations district courts and circuit courts.

Administering and organizing lists of available attorneys does not provide proper oversight, however, as revealed in a recent article from News Leader, a newspaper in Staunton, Virginia. Attorneys performing as children's GALs submit invoices for services conducted on behalf of children. Those attorneys very seldom face any scrutiny about their billable hours or services rendered.

### **Standards for Being a GAL**

The Commonwealth has a published list of performance standards, rules of professional conduct as espoused by the Virginia Bar Association, and a manual for attorneys acting as GALs. The standards a GAL must fulfill:

1. Meet face-to-face and interview the child
2. Conduct an independent investigation in order to ascertain the facts of the case
3. Advise the child, in terms the child can understand, of the nature of all proceedings, the child's rights, the role and responsibilities of the GAL, the court process and the possible consequences of the legal action
4. Participate, as appropriate, in pre-trial conferences, mediation and negotiations
5. Ensure the child's attendance at all proceedings where the child's attendance would be appropriate and/or mandated
6. Appear in Court on the dates and times scheduled for hearings prepared to fully and vigorously represent the child's interests
7. Prepare the child to testify, when necessary and appropriate, in accord with the child's interest and welfare
8. Provide the court sufficient information including specific recommendations for court action based on the findings of the interviews and independent investigation
9. Communicate, coordinate and maintain a professional working relationship in so far as possible with all parties without sacrificing independence
10. File appropriate petitions, motions, pleadings, briefs, and appeals on behalf of the child and ensure the child is represented by a GAL in any appeal involving the case
11. Advise the child, in terms the child can understand, of the court's decision and its consequences for the child and others in the child's life

Most professionals would expect to be justly compensated for their work in conscientiously fulfilling all those tasks. The Virginia GAL system, however, provides only \$75 an hour for in-court appearances and \$55 for work done outside of court. So what happens then? GALs routinely — and without repercussions — skirt their responsibilities, according to a survey of 310 Court Appointed Special Advocates (CASA) volunteers.



### Court Appointed Special Advocates (CASA)

CASA volunteers are everyday Virginians, not paid attorneys, who team with the GALs to provide services for Virginia's children in the legal system.

The unpaid CASA volunteer has intrinsic, altruistic motivations to help her or his community's most helpless, while the court-appointed GAL has, at least in part, a financial stake in swiftly finishing a case. CASA volunteers, according to the survey, said GALs cut corners by:

- Not bothering to meet with their child clients — 31 percent “sometimes,” 36 percent “seldom,” nine percent “never”
- Not usually investigating their cases — only nine percent of GALs “always investigate the case”
- Communicating with their clients “seldom” or “sometimes” (54 percent of GALs)
- Being less than exemplary in their GAL work — CASA volunteers, those working most frequently and most closely with GALs, said only nine percent of the GALs were “role model quality”

CASA volunteers aren't the only ones concerned, however. According to a Virginia Lawyers Weekly article, The Supreme Court of Virginia appointed a 14-member workgroup of judges, lawyers, and others to bring forth solutions. Their recommendation to require GALs sign a certification of their work was quickly shot down in the General Assembly and before a judicial-legislative panel. The same article captures striking viewpoints from Virginia attorneys who have been hesitant to bring GAL issues to light, fearing potential repercussions, one even referring to the system as “off the rails a little bit.”

### Repairing the Broken GAL System

Most attorneys working as GALs present invoices for under \$1,000, which makes the invoices unlikely to be scrutinized. The cumulative effect on taxpayers, however, is noticeable; The News Leader's research put one year's total of local invoices at \$326,679. What can taxpayers do to ensure that money is wisely spent?

The Supreme Court can order audits of the GAL invoice system. The Virginia Auditor of Public Accounts could also be compelled to examine the invoices. These actions will not happen unless public opinion and pressure mandates them. That pressure can be brought to bear on local political leaders, since every taxpayer has a stake not only in the GAL system but in the safe, effective protection of Virginia's children.

**PLEASE NOTE:** *The information contained herein is not necessarily the opinion of the firm, its attorneys, or its staff, and is a summary of published opinions of those cited.*

## 2017 Family Law Frontrunners

While many others failed, six bills related to family law were enacted in 2017 and signed into law by the governor early in the calendar year:

- 1. VA H 1456** — This law, enacted February 17, allows a court (in a case involving the custody or visitation of a child) to use the phrase “parenting time” to be synonymous with the term “visitation”
- 2. VA H 1492** — Enacted February 20, the law allows the court to order that child support payments, upon the request of either parent, be made to a special needs trust or an ABLE savings trust account
- 3. VA H 2216** — This law, enacted February 23, changed the name of the Putative Father Registry to the Virginia Birth Father Registry and modifies certain registration and notice provisions associated with such registry; it also waives specified requirements or penalties for a man led to believe that the pregnancy was terminated or the mother miscarried and requires, upon discovery of the misrepresentation, the man to register with the Virginia Birth Father Registry within specified days
- 4. VA S 815** — Enacted March 16, this law prioritizes debts owed for unpaid child support obligations over debts and taxes owed to other entities
- 5. VA H 1586** — Enacted March 16, this law details the procedure for notifying a child's school if a custody or visitation order has been made prohibiting a parent from picking the child up from school
- 6. VA S 817** — Enacted March 24, the law allows a person whose license has been revoked or suspended for failure to pay child support to obtain a restricted license allowing them to travel to and from a job interview for which he or she maintains on his or her person written proof from the prospective employer

# DOLLARS & SENSE: DIVORCE AND YOUR INVESTMENTS

Going through a divorce can put a strain on your finances, leaving you uncertain of the path forward. In this column, Danijel Velicki, founder of Opus Wealth Strategies, provides great insight into some of the most common questions we get about divorce and wealth.

## ***Should I pull money out of my 401k or other investments for legal fees?***

Early withdrawal from a 401k or similar retirement fund should only be used as a last resort, purely because these withdrawals are often accompanied by stiff penalties and/or taxes. If you are able to take out a loan as an alternative option, that would be a better decision as you will be able to pay back the loan without worrying about federal tax penalties. That being said, if there is no other cash available, yes, you may be able to withdraw funds from your 401k or similar retirement funds to help finance unforeseen legal fees.

## ***Since I'm getting divorced, do I have to invest double now to hit my retirement goals?***

This is a big question! The easy answer is that it depends on your age. The more relevant answer is that retirement is based on so many variables working together—your discretionary income, your risk tolerance and desired return, the number of years you have until retirement. The most challenging aspect is acknowledging you must give something up in order to be able to save something else. Here's a quick "50% Rule" for any time you receive a bonus, tax refund, income increase or unexpected influx in cash: take 50% and commit it immediately to savings . . . and take the other 50% and enjoy it! This should feel less overwhelming because this is "new" money that previously did not exist for you, so you're making a smart move to benefit your future, while also padding your lifestyle with the remaining 50%.

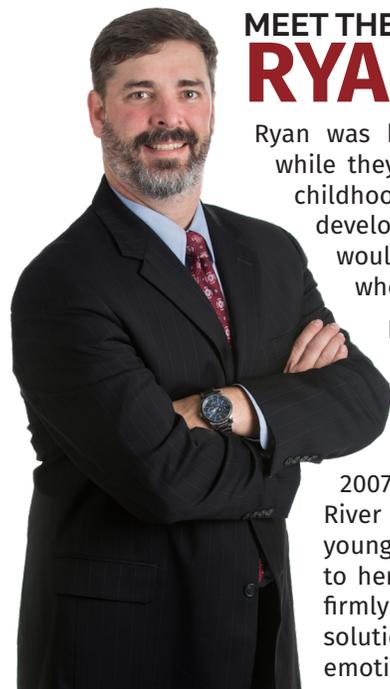
## ***Should I reassess my investment strategy after divorce?***

Planning for a married couple is quite different than planning for an individual. There are varying levels of stress and different areas that require unique assessments as a couple. You may find some points of relief when planning as an individual. For example, your income need will most likely be reduced in retirement, so your savings strategy will change to match new goals. It's always important to regularly assess and adjust your investment strategies, especially after significant life events. Maintaining an ongoing relationship with your financial adviser will always work to your benefit—stay informed and stay engaged—your financial goals are a constantly moving target. A good adviser will walk with you every step of the way.



### **About Danijel Velicki**

As an industry leader and financial educator, Danijel has successfully crafted a professional empire that revolves around a cutting edge dialogue and personalized curriculum designed to equip and empower his clients and students to powerfully thrive across all facets of life. Reach out to Danijel at (757) 227-5000.



## **MEET THE ATTORNEY: RYAN THUM**

Ryan was born into an Air Force family in March 1977 while they were stationed in Wichita, Kansas. During his childhood, the family relocated to Texas where he developed a love for God, Family and Country. His family would eventually relocate to Raleigh, North Carolina where he grew to love ACC Basketball.

Ryan would remain in North Carolina for most his childhood and would attend college there. He earned multiple degrees from Appalachian State University as well as graduating from Campbell University with his law degree in 2007. After a few years of practicing law in the New River Valley, his wife and he decided to move their young family to Hampton Roads in 2012 to be closer to her family. Known as tough but fair litigator, Ryan firmly believes in helping clients develop reasonable solutions by focusing on the rational moves and not the emotional ones.



## **EMPLOYEE OF THE QUARTER JASMINE GOODING**

Jasmine was selected as Employee of the Quarter because in her time here, she has taken her ever-evolving role and made it her own! She's always willing to lend a helping hand to the team, even jumping into various job roles within the firm with little direction ... and no complaints. Jasmine has a pleasant attitude, a perma-smile, and is uplifting to all of our teammates!

**CONTACT US**

**Proudly serving all of Hampton Roads**  
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