

*Greetings From...*



# *Risk-A-Rita-Ville*

*2026 Virginia PRIMA Annual Conference*

*May 13 - 15, 2026*

*Virginia Beach, VA*

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Dear Virginia PRIMA Attendees,

On behalf of the Virginia PRIMA Board of Directors, we are excited to welcome you to the 2026 Virginia PRIMA Spring Conference themed, "Risk-A-Rita-Ville"! We've lined up an outstanding group of speakers, and we're confident this conference will be a valuable opportunity for your professional growth.

I encourage you to take full advantage of this event — network, meet new colleagues, and challenge yourself to think critically about the policies and procedures shaping your organization. This is your chance to exchange ideas, gain fresh insights, and collaborate with fellow professionals in risk management, loss control, and safety.

We also want to extend our sincere gratitude to our sponsors. Thanks to their generous support, we've been able to offer a record number of scholarships covering registration and lodging, helping to make this event accessible to many.

Thank you for being part of Virginia PRIMA. We look forward to a fantastic conference!



We highly encourage all attendees to visit our exhibitor and sponsorship booths and connect with the organizations featured in this conference brochure. These business partners play a vital role in making this event possible, and we truly appreciate their support and collaboration.

Be sure to treat yourself to a **FREE professional headshot** on **Thursday, May 14, from 12:30 PM – 4:30 PM** in the Dorsey Room Headshot Lounge, sponsored by **Midwest Employers Casualty**. Don't miss this opportunity to update your professional profile!

A special thank you to our Conference Program sponsor, **Marsh & McLennan Agency**, for the publication of our conference program — we appreciate your generosity and support.



Enjoy the conference, make meaningful connections, and have a fantastic time in Virginia Beach!

Sincerely,

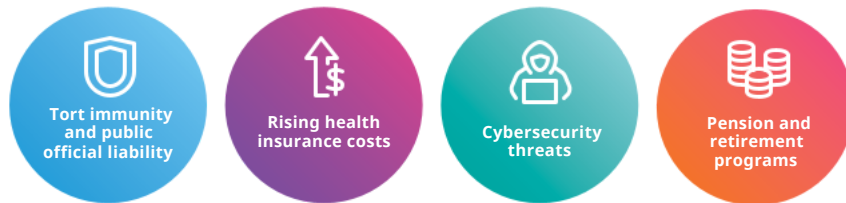
**Bill Miller**  
President, VA PRIMA

# Supporting Public Entities Through Everyday Challenges

You care for the community.  
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Working in the public sector can be rewarding, especially when you see the concrete results of your efforts. At the same time, you face distinct challenges—from fluctuating budgets to shifting political priorities.

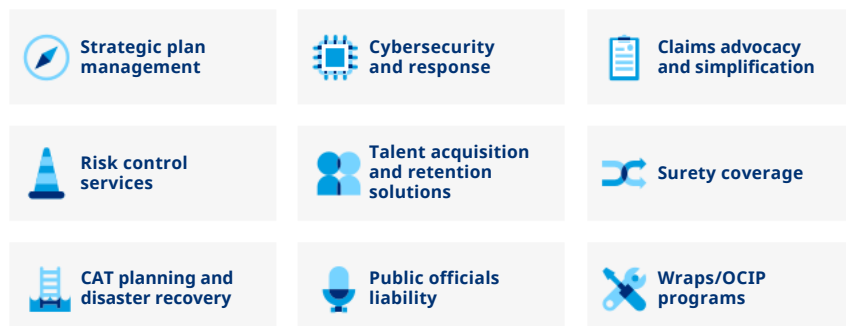
**Managing risk and insurance adds another layer of complexity, including issues like:**



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# Conference Sponsors

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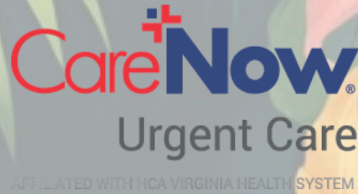


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# *Cruise Schedule*

Wednesday, May 13

Welcome Reception & Registration  
Seaside Event Terrace  
5 PM - 7 PM

Prepare to depart for Risk-A-Rita-Ville at the 2026 Virginia PRIMA Conference Welcome Reception! Enjoy cocktails, hors d'ouvres, and laid-back networking as we set the tone for an engaging and educational conference. Catch up with old friends and make new connections in a relaxed, seaside atmosphere, courtesy of our Welcome Reception sponsor:



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# *Cruise Schedule*

Thursday, May 14

Registration & Breakfast

Salon E

7:30 AM - 8:30 AM

Conference Schedule

Welcome & Opening Remarks

8:30 AM - 8:45 AM

Education Sessions/Exhibit Hall Breaks

8:45 AM - 12:30 PM

Lunch

12:30 PM - 1:30 PM

Education Sessions & Exhibit Hall Breaks

1:30 PM - 4:15 PM

VA PRIMA Signature Event

Salon D

8:00 PM - 11:00 PM

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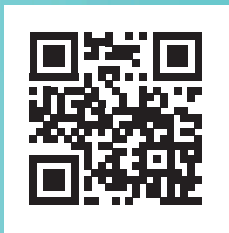


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Friday, May 15

Registration & Breakfast

Salon E

7:30 AM - 9:00 AM

Conference Schedule

Friday Welcome

9:00 AM

Education Sessions/Check-Out Break

9:00 AM - 12:30 PM

Closing Remarks

12:30 PM

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## Our Mission

To foster and empower a state-wide community of Risk Management professionals through education, innovation, collaboration, and shared resources, advancing excellence and resiliency in public service and protecting the communities we serve.

## Our Vision

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# Course Setters - Thursday, May 14

## Registration & Breakfast

Salon E

7:30 AM - 8:30 AM

## Welcome & Opening Remarks - Bill Miller

Salon D

8:30 AM - 8:45 AM

## *Seaside Spotlight - 8:45 AM - 10:00 AM*



**Brock Long**  
Former FEMA  
Administrator

Mr. Brock Long is the former Administrator of FEMA, where he led the nation's disaster response efforts, coordinating more than 144 Presidentially declared disasters and 112 wildfires—including several of the most devastating hurricanes and worst wildfires in U.S. history—while overseeing nearly \$44 billion in federal recovery activity. He led transformative initiatives such as Community Lifelines and FEMA Integration Teams to strengthen public-private partnerships and state and tribal coordination, and helped advance the Disaster Recovery Reform Act to prioritize pre-disaster mitigation. With more than 25 years of experience across all levels of government, he now advises communities and organizations on resilience, disaster recovery, and the future of emergency management.



**Jessi Widhalm**  
Communications  
Director,  
Hagerty  
Consulting

Mrs. Jessi Widhalm is the Communications Director at Hagerty Consulting and a strategic communications and external affairs leader with over a decade of experience in emergency management, policy, and public affairs. She spent nearly seven years in the U.S. Congress, culminating as Chief of Staff to the Chairman of the House Committee on Homeland Security, and later served as Director of External Affairs at FEMA, where she was the agency's senior spokesperson and principal liaison to Congress and state, local, tribal, and territorial leaders. Jessi specializes in crisis communications and external affairs strategies, helping leaders align messaging, coordinate stakeholders, and build trust and resilience during complex, high-consequence events.

## *Fireside Chat: Navigating FEMA, Emergency Preparedness, and Disaster Response*

**Session Description:** Join Virginia PRIMA for a dynamic "fireside chat" on the evolving world of emergency management. As communities face increasingly severe weather events, complex recovery needs, and rising operational costs, federal and state emergency management frameworks are rapidly shifting, impacting preparedness initiatives, mitigation efforts, and long-term recovery planning. This interactive session highlights recent shifts in state responsibilities and what communities should expect in the critical days and months after a disaster. Brock Long and Jessi Widhalm will offer practical insights on how updated preparedness requirements and emerging recovery expectations impact local and state agencies, as well provide vital stakeholder communication strategies for high-consequence events. Virginia PRIMA attendees will gain a clearer understanding of how to adapt strategies, strengthen resilience, and prepare for changing federal guidance while also having the opportunity to raise questions and share experiences with fellow Virginia Risk and Safety Managers.



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# Course Setters - Thursday, May 14

**Exhibitor Island Intermission**  
Collect Your Passport Stamps!  
10:00 AM - 10:30 AM

## *Combatting Increasing Costs of Prescriptions in Virginia Workers' Compensation Claims*

*10:30 AM - 11:30 AM*

**Session Description:** The cost of prescription drugs continues to grow as a percentage of claim exposure. It is important that the Virginia adjuster be aware of the law in this area and strategies to mitigate this exposure for workers' compensation claims. Scott and Brian will provide helpful guidance for your entity to ensure that prescriptions are actually related to the workers' compensation injury but also that they are also reasonable and necessary.



**Scott Ford**

Co-founder/Partner  
FordRichardson, PC

Scott is a seasoned trial attorney with over 29 years of experience. He is licensed in Virginia and North Carolina. He has a robust practice handling a wide range of commercial litigation matters in federal and state court. Scott has particular experience with business torts, contract disputes, real estate disputes, business partner disputes, and employment litigation. He also has considerable appellate experience having argued numerous matters before the Court of Appeals of Virginia, the Supreme Court of Virginia, and the United States Fourth Circuit Court of Appeals. Scott has been recognized repeatedly by Virginia Business magazine as one of Virginia's "Legal Elite," Law and Politics magazine as a Virginia "Super Lawyer" and has been featured in The Best Lawyers in America.



**Brian Richardson**

Co-founder/Partner  
FordRichardson, PC

Brian focuses his practice in the areas of business and commercial litigation, workers' compensation defense, general business advice and employment law. Since entering private practice, Brian has had significant trial experience in state and federal court, as well as appellate experience arguing matters before the Virginia Court of Appeals, the Supreme Court of Virginia, and the United States Fourth Circuit Court of Appeals. Brian is active in the community having chaired and served on non-profit boards, including the Youth Life Foundation of Richmond where he served as Chairman of the Board and member of the Executive Committee. Additionally, he has served on the advisory council for the NAACP and currently serves on the Law Council for the Washington and Lee University School of Law.

**Exhibitor Island Intermission**  
Collect Your Passport Stamps!  
11:30 AM - 11:45 AM

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# Course Setters - Thursday, May 14

*Panel Discussion: Case Studies in Mitigating Civil Unrest*

*11:45 AM - 12:30 PM*

*Thomas Bullock, Joe Phillips, & Sara Rowe*



**Thomas Bullock**  
Director of  
Education,  
VRSA

Thomas obtained an Associate of Applied Science in Police Science from Southside Virginia Community College prior to earning his Bachelor of Science in the Administration of Justice from Virginia Commonwealth University and his Master of Science in Administration-Human Resources Administration from Central Michigan University. Thomas has also attained the Associate in Risk Management-Enterprise Risk Management designation. As a police officer for 14 years, Thomas worked in narcotics, community policing and patrol. He joined Virginia Risk Sharing Association in 2006 as a Law Enforcement Specialist and was promoted to Director of Education and Training in 2018.



**Joe Phillips**  
Deputy Fire Chief,  
Charlottesville  
Fire Dept.

Deputy Chief Joe Phillips brings more than twenty-five years of public safety leadership to the Charlottesville Fire Department, where he oversees the Community Risk Reduction Division, including event planning, data analysis, public information officer, internal affairs, and Fire Marshal functions. Deputy Chief Phillips has an extensive background in emergency medical services, including service with the Thomas Jefferson EMS Task Force, UVA Special Events Medical Management, Charlottesville Police SWAT & SRT Medic and Life Member of the Charlottesville Albemarle Rescue Squad. He is a certified HazMat Technician, nationally registered paramedic, and sworn law enforcement officer.



**Sara Rowe**  
VP - Director -  
WC & Claims,  
Marsh McLennan

Sara Rowe joined Marsh McLennan Agency in 2002 and manages the Workers' Compensation unit, as well as claims operations for the Mid-Atlantic region of MMA. She is responsible for providing claims advocacy, data and reserve analysis, coverage review, trending reports and overall carrier service plans for clients. Sara serves as intermediary between clients and their carriers to bring all claims to a fair and mutually satisfactory resolution while matching client needs with carrier resources. Her overall risk management knowledge has developed over 40 years of experience. Sara is a licensed Property & Casualty agent and holds the certifications of CPCU, AIC, ARM, and CMIP.

**Session Description:** Civil unrest can often be anticipated during both organized and spontaneous events; however, the main challenge lies in developing a suitable response to incidents that are naturally unpredictable. Plans are not rigid scripts but flexible frameworks, allowing the teams, whether police, fire or political, to pivot as the situation evolves. Adaptability ensures that response strategies remain effective despite shifting dynamics. Joe and Thomas will relate their experiences from a public safety standpoint while Sara will address after action post exposure treatment that often is necessary for those that may suffer injuries.

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# Course Setters - Thursday, May 14

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*Lunch - 12:30 - 1:30 PM*

Join us for lunch in Salon E at 12:30 PM. Enjoy great food, conversation, and a chance to network with fellow attendees in a relaxed setting. Don't miss this opportunity to recharge and make meaningful connections, courtesy of our lunch sponsor:



## *\*\*Headshot Lounge Open\*\**

*12:30 PM - 4:30 PM*

Back by popular demand... Virginia PRIMA is offering the opportunity to take a free, professional Headshot! This is a great tool for enhancing your LinkedIn profile, Outlook contact information, and expanding your networking opportunities, courtesy of our Headshot Lounge sponsor:



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Why did the risk manager bring a map to the deserted island?

Because even in paradise, they like to navigate uncertainty!



**Natalie Forbes**

**Account Manager**

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# Course Setters - Thursday, May 14

*Navigating the Poisons of Occupational Safety:  
Strategies to Ensure the Workplace Well-Being*

*1:30 PM - 2:30 PM*



**Matt Phillips**  
Safety & Risk  
Manager,  
Hanover County

Matthew J. Phillips is a safety and risk management leader with 20+ years of experience spanning industrial hygiene, construction safety, emergency services, and enterprise risk. He serves as Safety & Risk Manager for Hanover County Government and Public Schools, leading safety programs, claims management, and risk strategy. He holds graduate degrees in business and safety management and completed the Chief Risk Officer Program at George Mason University. He is a Six Sigma Advanced Blue Belt and Virginia EMT and has served in leadership roles with regional safety and risk management organizations. Matthew is also active in community service and has contributed to the field through publications on safety and risk management.

**Session Description:** Safety failures rarely start with broken rules—they start with unchallenged assumptions. Statements like “we’re OSHA compliant,” “we’ve always done it this way,” or “incidents are inevitable” may sound reasonable, but can quietly weaken safety culture. This session explores the beliefs that undermine effective safety programs and examines how normalization of risk, complacency, and compliance-driven thinking contribute to preventable incidents. Participants will learn practical strategies to challenge these assumptions and strengthen a proactive, prevention-focused safety culture within their organizations.

\*Handout Located in Handout Section of Program\*

## Exhibitor Island Intermission

Last Chance to Collect Your Passport Stamps!

2:30 PM - 3:00 PM

# Don't Forget to Register for Your Credits!

*Greetings From...*  
**Risk-A-Rita-Ville**

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# Course Setters - Thursday, May 14

*Dueling Banjos:*

*Unique Differences Between Cities and Counties*

*3:00 PM - 4:00 PM*



**Bob Samuel**  
Shareholder,  
Pender & Coward  
PC

Bob Samuel is a firm shareholder of Pender & Coward PC and chairman of the firm's workers' compensation section. He routinely advises municipalities and businesses assessing the merits of workers' compensation and injury cases and the risks of defense. He has been selected as a top lawyer in workers' compensation in Best Lawyers of America, Legal Elite, and Coastal Virginia's Top Lawyer. He received his Law degree from the University of Richmond in 1979 and graduated from Hampden Sydney College in 1976. This May, he will be inducted into the Patrick Henry Society as a part of the Bicentennial class.



**Kerry Stolz**  
Shareholder,  
Pender & Coward  
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Kerry Stolz is a firm shareholder focusing her practice on workers' compensation, insurance defense, and civil litigation. Kerry routinely advises businesses and municipalities by assessing the merits of workers' compensation and injury cases and the risks of defense of those cases. She received her law degree from Vermont Law School in 2014 and graduated from James Madison University in 2010 and 2011, earning first a Bachelor of Science and then a Master of Arts in Teaching. She has been selected as a top lawyer by Best Lawyers in America, Coastal Virginia's Top Lawyer, Virginia Super Lawyers Rising Star, and Virginia Legal Elite. She is currently the President-Elect of the Norfolk Portsmouth Bar Association.

**Session Description:** Why do cities and counties have different immunity protections in Virginia? Why does a highly urbanized county like Arlington have different immunities from liabilities than a rural City such as the City of Chesapeake? What motivated the State legislators to establish different protections from liability? Attorneys Bob Samuel and Kerry Stolz will discuss the differences and their reasons in this session.

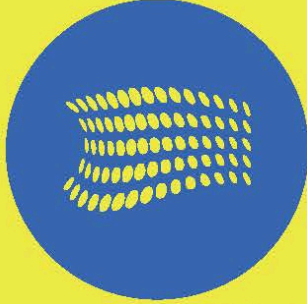
## **Thursday Closing Remarks/Reminders**

Bill Miller, President

Virginia PRIMA

4:00 PM - 4:15 PM

**Exhibitor Island Passports Due at Registration Table - 4:15PM!**



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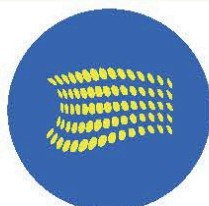
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# MRC

**IT'S ABOUT THE RESULTS**



# *Course Setters - Thursday, May 14*

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## *Virginia PRIMA Signature Event*

Seaside Events Terrace & Conference Exhibition Hall  
8:00 p.m. - 11:00 p.m.

Join us for an unforgettable evening at the Virginia PRIMA Signature Event! Back by popular demand, grab the mic and sing along to your favorite yacht rock hits or songs you know by heart during a lively karaoke night — **tropical attire encouraged for the full island vibe!**

Enjoy cocktails, hors d'oeuvres, and networking with fellow risk professionals in a vibrant, music-filled atmosphere. Warm up those vocal cords and get ready to take us to Risk-A-Rita-Ville with your go-to karaoke song. Whether you're here to mix, mingle, or belt out a few tunes, this event promises a chart-topping night you won't want to miss.

Courtesy of our Signature Event Sponsor:



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## *Raffle/Door Prize Drawings & Best Booth Award Presentation*

### *9:00 PM*



# Solution Lines that Enable Our Clients to Make Better Decisions

At Aon, we provide our clients with advice and solutions that give them the clarity and confidence to make better decisions to protect and grow their businesses. Our integrated capabilities are aligned around two primary categories of client need: Risk Capital and Human Capital.

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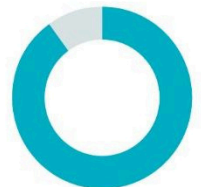
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# Course Setters - Friday, May 15

## Registration & Breakfast

Salon E  
7:30 AM - 9:00 AM

## Friday Opening Remarks - Bill Miller

Salon D  
8:55 - 9:00 AM

## *Seaside Spotlight - 9:00 AM - 10:15 AM*



**Melissa Steger**

Partner/Executive VP  
Business Development,  
WorkCompCollege.com

Melissa is Executive Vice President of Business Development and a partner at WorkCompCollege.com, where she works to build strong partnerships and create practical education for the workers' compensation and risk management community. With more than 30 years of experience across public, private, and regulatory environments, she brings a real-world, systems-level perspective to leadership, claims, and workforce development. Melissa is a past National President of PRIMA, was named Risk Professional of the Year in 2016, and currently served on the Kids' Chance of Texas board. Melissa also owns a consulting practice that blends horsemanship principles into leadership and claims education—offering a fresh perspective on trust, communication, and accountability.

### *Establishing a Worker Recovery Mindset in Workers' Compensation*

**Session Description:** The workers' compensation industry faces a critical people challenge—too few professionals are trained in a true recovery-focused model or understand the system's interconnectedness. Coupled with a reputation as cost-driven and impersonal, this limits the ability to attract purpose-driven talent. Shifting to a whole-person recovery mindset not only reframes the industry's impact but also improves outcomes for injured workers and employers. This session explores how to embed that mindset to reduce friction and drive better results.

## *State of the Insurance Market*

*10:15 AM - 10:45 AM*



**Carleen Patterson**

Senior Vice President  
Practice Leader  
PE & Higher Education,  
Alliant

Carleen is a Senior Vice President and the national Public Entity and Higher Education Practice Leader for Alliant Insurance Services. She has been in the insurance industry since 1988 and has risk management, claims, and insurance brokerage experience. She has spent the last 25 years specializing in self-insurance and insurance brokerage and consulting for large public entity clients and has been recognized as a Risk & Insurance Power Broker. Carleen earned her BS in Education from the University of South Dakota and is licensed as a property/casualty & life/health insurance agent/producer in all 50 states and holds the certifications of ARM, ARM - P, CIC, & CRM

**Session Description:** The State of Insurance presentation will include an overview of current trends in the insurance marketplace for the year 2026 and their relevance to the public sector. It will also examine specific lines of coverage for pricing expectations and potential changes in terms & conditions. This session will also include the look at the future for insurance premiums and strategies where the market is projected to harden.

# Course Setters - Friday, May 15

## Island Intermission - Check Out Time

10:45 AM - 11:15 AM



**Steve LePock, II**  
Risk Manager,  
Virginia Beach  
Public Schools

Steve LePock brings more than 40 years of experience in risk management and occupational safety. He has spent over 27 years with Virginia Beach City Public Schools, where he currently serves as Risk Manager for Virginia's third-largest school division. Steve oversees risk management and loss prevention programs, covering everything from workers' compensation and vehicle incidents to facility rentals, liability, and insurance. Steve currently serves as President of PRIMA for the 2025-2026 term and is a past president of both the Virginia PRIMA and the Greater Tidewater Chapter of ASSP. His leadership reflects a long-standing commitment to advancing the profession, supporting his peers, and occasionally reminding everyone to read the fine print.

### *PRIMA's Expanding Future for Membership*      *11:15 AM - 11:30 AM*

**Session Description:** Steve highlights the current and future educational programs that empower PRIMA members, reinforcing PRIMA as the premier source for risk management education for public entities. He will explore the many benefits of attending PRIMA conferences—from gaining cutting-edge insights to building meaningful professional connections. Steve will also discuss opportunities for deeper engagement through PRIMA Talk, volunteering, mentoring, and the invaluable exchange of ideas both professionally and socially. Steve will address PRIMA's vision for the future, including expanding pathways for leadership development and new opportunities for members to grow and lead within the risk management profession.



**Courtney Malveaux**  
Partner,  
McGuire Woods, PC

Courtney M. Malveaux is a former Virginia labor commissioner who guides employers in complying with safety and health standards while responding to workplace incidents and managing risk. Courtney represents employers in investigations and citations by the Occupational Safety and Health Administration (OSHA) and other regulatory agencies. As Virginia's labor commissioner, Courtney enforced occupational safety and health and other state and federal labor laws while serving as president of the National Association of Government Labor Officials and later on the Virginia Safety and Health Codes Board.

### *The Do's & Don'ts of an OSHA Inspection*      *11:30 AM - 12:30 PM*

**Session Description:** When OSHA knocks, managers who don't have a plan lock up, try to appease the compliance officer, or start providing documents, answers, and interviews in hopes of getting the inspection over quickly. Reactions aren't strategies, and they quickly dig employers into deeper legal holes, often in the first few minutes of an inspection. Knowing your rights and having a plan are a must, and OSHA will not help with either. Join Courtney Malveaux, an OSHA defense attorney who once enforced OSHA citations as Virginia's Labor Commissioner, in an interactive discussion of specific and practical steps you need to take before, during and after an OSHA inspection to reduce your liability.

# Conference Links

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The Virginia PRIMA Board wishes to extend a very heartfelt thank you to all attendees, speakers, and sponsors for making the 2026 Virginia PRIMA Annual Conference another memorable and impactful event. Your engagement, expertise, and support continue to elevate and strengthen our profession.

Though we depart from Risk-A-Rita-Ville today, we look forward to seeing you again next year!

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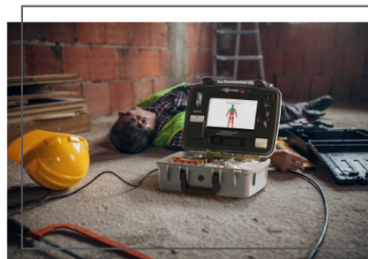
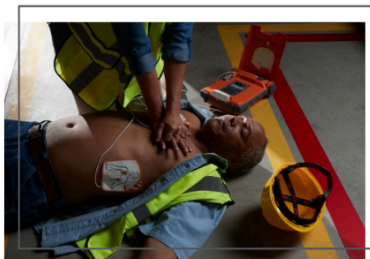
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The background is a dense, vibrant pattern of tropical foliage. It features several large, five-petaled hibiscus flowers in shades of pink, orange, and light red. Interspersed among the flowers are various types of green leaves, including palm fronds with long, narrow leaflets and large, heart-shaped monstera leaves with characteristic holes. The overall color palette is a mix of bright greens, warm oranges, and soft pinks, creating a lush and tropical atmosphere.

# *Session Handouts*

## Navigating Safety Poisons: One-Page Takeaway

Safety culture is shaped less by rules and more by beliefs. The following common ‘poisons’ often appear reasonable on the surface, but quietly undermine safety performance. Each poison has a practical antidote that leaders at every level can apply immediately.

### The 8 Safety Culture Poisons & Antidotes

1. “We’re OSHA compliant.”

Antidote: Continuous Improvement

Compliance is the floor, not the ceiling. Continuously reassess risks as work, people, and environments change.

2. “We’ve always done it this way.”

Antidote: Embrace Change

Familiarity breeds complacency. Question outdated practices and encourage safer, better ways of working.

3. “Why train for hazards we’re not exposed to?”

Antidote: Proactive Learning

Train before the moment of need. Skills learned today can save lives tomorrow—on or off the job.

4. “We’re losing production because of safety.”

Antidote: Safety as a Productivity Enabler

Injuries, rework, and downtime cost far more than doing the job safely the first time.

5. “Safety is common sense and the safety manager’s job.”

Antidote: Shared Responsibility

Safety is everyone’s responsibility. What seems obvious to one person may not be obvious to another.

6. “We don’t have the budget to fix it.”

Antidote: Risk Assessment & Prioritization

Budgets reflect priorities. Use risk-based decision-making to address the most serious hazards first.

7. “This is a hazardous job—incidents are unavoidable.”

Antidote: Prevention Mindset

Risk may be inherent, but injuries are not. Believing incidents are inevitable guarantees them.

8. “That will mean we accept liability.”

Antidote: Understanding Accountability

Ignoring hazards does not reduce liability. Proactive action demonstrates responsibility and reduces risk.

### Three Questions to Take Back to Your Organization

- Which of these beliefs shows up most often in our organization?
- Which poison are we unintentionally reinforcing?
- What is one belief we need to challenge first?

### One Action to Start Monday

Identify one routine task or decision where a safety assumption goes unchallenged. Start a conversation that asks, “Is this still the safest way to do this—and why?”



## Newport News Sch. Bd. v. Z.M.

Supreme Court of Virginia

May 8, 2025, Decided

Record No. 240833

### Reporter

304 Va. 276 \*; 915 S.E.2d 56 \*\*; 2025 Va. LEXIS 26 \*\*\*; 2025 LX 43948

NEWPORT NEWS **SCHOOL BOARD** v. Z.M., A  
MINOR BY AND THROUGH HIS NEXT FRIEND  
MATHEW HARVEY

leave the school bus without clothes on the lower part of his body by employees of the Newport News Public Schools while being transported on a school bus.

**Disposition:** Reversed and remanded.

- The previous day, school employees allegedly insulted Z.M., saying he was acting like an "animal" and a "monkey."

### Core Terms

sovereign **immunity**, **school board**, waive, gross negligence, waiver of sovereign **immunity**, bus, school bus, insurance coverage, circuit court, prerequisite

- Z.M. filed a lawsuit alleging negligence and gross negligence by the **School Board** and gross negligence by certain named employees, seeking \$15 million in damages.

### Case Summary

#### Controlling Law

#### Overview

#### Key Legal Holdings

- [Va. Code Ann. § 22.1-194](#) (Virginia statute waiving sovereign **immunity** for **school boards** when a vehicle is "involved in an accident").

- [Va. Code Ann. § 22.1-194](#), which waives sovereign **immunity** when "a vehicle [is] involved in an accident," does not waive sovereign **immunity** for the alleged degrading acts perpetrated on an autistic child while on a school bus, as those acts did not implicate the operation of the bus as a means of transportation.
- The **school board** itself benefits from **immunity** from suit, whether the claims involve simple negligence, gross negligence, or even intentional torts, unless there is an express statutory or constitutional provision waiving sovereign **immunity**.

#### Court Rationale

The plain language of [Code § 22.1-194](#) contains two prerequisites for a waiver of sovereign **immunity**: 1) a vehicle owned/operated by a **school board** must be "involved in an accident," and 2) there must be insurance coverage. The alleged acts did not involve the school bus itself being in an "accident" but merely being the location of the alleged torts. Although government employees are not immune from claims of gross negligence, the **school board** itself benefits from sovereign **immunity** whether the claims involve simple negligence, gross negligence, or intentional torts, unless **immunity** is expressly waived by statute or constitution.

#### Material Facts

#### Outcome

#### Procedural Outcome

- Z.M., a non-verbal autistic child, was allegedly struck in the face, told school employees wished they could "whip his tail," and allowed to

The Supreme Court of Virginia reversed the circuit court's denial of the **school board's** plea of sovereign **immunity** and remanded the case for further proceedings.

## LexisNexis® Headnotes

Constitutional Law > State Sovereign  
**Immunity** > Waiver > Interstate Commerce

Education Law > **Immunities** From  
Liability > Official & Qualified **Immunity**

Torts > Public Entity  
Liability > **Immunities** > Sovereign **Immunity**

Education Law > Administration &  
Operation > Student Transportation

Education Law > **Immunities** From  
Liability > Statutory **Immunity**

### **HN1** Waiver, Interstate Commerce

[Va. Code Ann. § 22.1-194](#), which waives sovereign **immunity** when a vehicle is involved in an accident, does not waive sovereign **immunity** for alleged degrading acts by school staff on an autistic child that occurred on a school bus but do not implicate the operation of the bus as a means of transportation.

Governments > State & Territorial  
Governments > Claims By & Against

Torts > Public Entity  
Liability > **Immunities** > Sovereign **Immunity**

### **HN2** State & Territorial Governments, Claims By & Against

[Va. Code Ann. §§ 8.01-626](#) and [8.01-670.2](#) allow a party to appeal from a granted or denied plea of sovereign **immunity**.

Civil Procedure > Appeals > Standards of  
Review > De Novo Review

Torts > Public Entity  
Liability > **Immunities** > Sovereign **Immunity**

Governments > State & Territorial  
Governments > Claims By & Against

Civil Procedure > ... > Defenses, Demurrers &  
Objections > Affirmative Defenses > **Immunity**

### **HN3** Standards of Review, De Novo Review

An appellate court reviews de novo a trial court's ruling on a plea of sovereign **immunity**.

Education Law > Administration &  
Operation > Elementary & Secondary **School  
Boards** > Authority of **School Boards**

Torts > Public Entity  
Liability > **Immunities** > Sovereign **Immunity**

Governments > State & Territorial  
Governments > Claims By & Against

Education Law > **Immunities** From  
Liability > School District **Immunity**

Education Law > **Immunities** From  
Liability > Official & Qualified **Immunity**

### **HN4** Elementary & Secondary **School Boards**, Authority of **School Boards**

The doctrine of sovereign **immunity** is well-established in Virginia. Absent an express statutory or constitutional provision waiving sovereign **immunity**, the Commonwealth and its agencies are immune from liability for the tortious acts or omissions of their agents and employees. **School boards** are covered by sovereign **immunity**.

Torts > Public Entity  
Liability > **Immunities** > Sovereign **Immunity**

### **HN5** **Immunities**, Sovereign **Immunity**

Sovereign **immunity** is a rule of social policy that protects the state from burdensome interference with the performance of its governmental functions and preserves its control over state funds, property, and instrumentalities. The doctrine provides for smooth operation of government and prevents citizens from improperly influencing governmental affairs through the threat or use of vexatious litigation.

Civil Procedure > ... > Federal & State

304 Va. 276, \*276; 915 S.E.2d 56, \*\*56; 2025 Va. LEXIS 26, \*\*\*26

Interrelationships > State Sovereign  
**Immunity** > Waiver of **Immunity**

Torts > Public Entity  
Liability > **Immunities** > Sovereign **Immunity**

Governments > State & Territorial  
Governments > Claims By & Against

#### **HN6** State Sovereign **Immunity**, Waiver of **Immunity**

The General Assembly has waived sovereign **immunity** in a number of circumstances. One such waiver of sovereign **immunity** is found in [Va. Code Ann. § 22.1-194](#).

Education Law > Administration &  
Operation > Elementary & Secondary **School Boards** > Authority of **School Boards**

Education Law > **Immunities** From  
Liability > Statutory **Immunity**

Education Law > Civil Liability > Negligence

Education Law > **Immunities** From  
Liability > School District **Immunity**

Education Law > **Immunities** From  
Liability > Official & Qualified **Immunity**

#### **HN7** Elementary & Secondary **School Boards**, Authority of **School Boards**

[Va. Code Ann. § 22.1-194](#) abrogates the **immunity** of a **school board** for acts of simple negligence to a limited degree and when the conditions of the statute are met.

Governments > Legislation > Interpretation

Torts > Public Entity  
Liability > **Immunities** > Sovereign **Immunity**

#### **HN8** Legislation, Interpretation

In interpreting a statute, courts seek to effectuate the intent of the legislature as expressed by the plain meaning of the words used in the statute. Courts apply the plain language unless the words are ambiguous or such application would render the law internally inconsistent or incapable of operation. Waivers of

sovereign **immunity** are strictly construed.

Constitutional Law > State Sovereign  
**Immunity** > Waiver > Interstate Commerce

Torts > ... > Liability > State Tort Claims  
Acts > Insurance Coverage

Insurance Law > Claim, Contract & Practice  
Issues > Estoppel & Waiver > Policy Coverage  
Issues

Education Law > Administration &  
Operation > Elementary & Secondary **School Boards** > Authority of **School Boards**

Education Law > **Immunities** From  
Liability > Statutory **Immunity**

#### **HN9** Waiver, Interstate Commerce

The plain language of [Va. Code Ann. § 22.1-194](#) contains two prerequisites for a waiver of sovereign **immunity**. First, a "vehicle" owned, operated, or insured by a **school board** must be "involved in an accident." The waiver does not apply across the board to any situation covered by an insurance policy; rather, it applies when the specified vehicles are "involved in an accident." second, the waiver applies if there is insurance coverage, and only to the extent of such coverage.

Transportation Law > Private Vehicles > Traffic  
Regulation > Passing

#### **HN10** Traffic Regulation, Passing

[Va. Code Ann. § 22.1-194](#) broadly provides that a vehicle must be "involved" in an accident, not that the vehicle itself must be damaged in any way or that it must collide with another vehicle or object.

Education Law > Civil Liability > Negligence

Torts > ... > Defenses > Exculpatory  
Clauses > Intentional & Reckless Acts

Governments > State & Territorial  
Governments > Claims By & Against

Education Law > Immunities From  
Liability > Official & Qualified Immunity

Education Law > Immunities From  
Liability > School District Immunity

### HN11 Civil Liability, Negligence

Although government employees are not immune from claims of gross negligence, the School Board itself benefits from immunity from suit, whether the claims involve simple negligence, gross negligence, or even intentional torts. In the absence of express statutory or constitutional provisions waiving the Commonwealth's immunity, the Commonwealth and its agencies are immune from liability for the tortious acts or omissions of their agents and employees.

**Counsel:** [\*\*\*1] For NEWPORT NEWS SCHOOL BOARD, Appellant: RICHARD H. MATTHEWS, (ESQ.), ROBERT L. SAMUEL, JR., (ESQ.), JEFFREY A. HUNN, (ESQ.), ANNE C. LAHREN, (ESQ.).

For M., Z., (A MINOR, BY AND THROUGH HIS NEXT FRIEND MATHEW HARVEY), Appellee: KENNETH B. MUROV, (ESQ.), JACOB C. MUROV, (ESQ.), PATRICK K. BADER, (ESQ.).

**Judges:** OPINION BY JUSTICE STEPHEN R. McCULLOUGH.

**Opinion by:** STEPHEN R. McCULLOUGH

## Opinion

[\*278] [\*\*57] PRESENT: Goodwyn, C.J., Kelsey, McCullough, Chafin, Russell, and Mann, JJ., and Millette, S.J.

OPINION BY JUSTICE STEPHEN R. McCULLOUGH

UPON A PETITION UNDER CODE §§ 8.01-626 AND 8.01-670.2

The Newport News School Board appeals from a decision denying its plea of sovereign immunity. At issue is whether Code § 22.1-194 waives the Commonwealth's sovereign immunity for degrading acts that school staff are alleged to have perpetrated on an autistic child - acts alleged to have happened on a school bus, but which do not implicate the operation of the bus as a means of transportation. HN1 We conclude that Code § 22.1-194, which waives [\*279] sovereign

immunity when "a vehicle [is] involved in an accident," does not waive sovereign immunity on such alleged facts. Accordingly, we reverse the judgment of the circuit court and remand the case for further proceedings.

### BACKGROUND

Z.M. is a non-verbal autistic [\*\*\*2] child. He attends the Center for Autism at Kiln Creek Elementary School, which is part of Newport News Public Schools. He filed an action through his father as next friend alleging that, while Z.M. was being transported on a school bus on the way home, employees of the Newport News Public Schools struck him in the face, apparently with Z.M.'s wet sock, twice told him that they wished they could "whip his tail" and, after Z.M. had removed his pants and diaper, allowed him to leave the bus without any clothes on the lower part of his body. The complaint also alleged that school employees insulted Z.M. the previous day, saying he was acting like an "animal" and a "monkey." The complaint alleged negligence and gross negligence by the School Board and gross negligence by certain named employees. It sought compensatory and punitive damages of \$15 million.

In response, the School Board filed a plea in bar, asserting that sovereign immunity required dismissal of the School Board as a party. The circuit court denied the plea in part and granted it in part. Relying on Code § 22.1-194, the circuit court denied the plea with respect to Z.M.'s claims of simple and gross negligence against the School Board. The [\*\*\*3] circuit court, however, granted the plea on the question of punitive damages, holding that sovereign immunity foreclosed such damages. The School Board filed an interlocutory appeal under Code §§ 8.01-626 and 8.01-670.2. HN2 These statutes allow a party to appeal from a granted or denied plea of sovereign immunity. We awarded the School Board an appeal and now reverse.

### ANALYSIS

HN3 We "review de novo a trial court's ruling on a plea of sovereign immunity." Pike v. Hagaman, 292 Va. 209, 214, 787 S.E.2d 89 (2016).

Alexander Hamilton wrote in Federalist 81 that "[i]t is inherent in the nature of sovereignty not to be amenable to the suit [\*280] of an individual without consent." HN4 The ancient doctrine of sovereign immunity, while often controversial, "is alive and well in Virginia." Messina v. Burden, 228 Va. 301, 307, 321 S.E.2d 657 (1984). "Absent an express statutory or constitutional provision waiving sovereign immunity, the Commonwealth and

304 Va. 276, \*280; 915 S.E.2d 56, \*\*57; 2025 Va. LEXIS 26, \*\*\*3

its agencies are immune from liability for the tortious acts or omissions of their agents and employees." Rector and Visitors of the University of Virginia v. Carter, 267 Va. 242, 244, 591 S.E.2d 76 (2004). School boards are covered by sovereign immunity. Kellam v. School Bd. of the City of Norfolk, 202 Va. 252, 117 S.E.2d 96 (1960).

**HN5** "Sovereign immunity is a rule of social policy, which protects the state from burdensome interference with the performance of its governmental functions and preserves its control over state funds, property, [\*58] and instrumentalities." City of Virginia Beach v. Carmichael Dev. Co., 259 Va. 493, 499, 527 S.E.2d 778 (2000). "Most importantly, [\*\*\*4] the doctrine of sovereign immunity provides for 'smooth operation of government' and prevents citizens from 'improperly influencing the conduct of governmental affairs through the threat or use of vexatious litigation.'" *Id.* (quoting Messina, 228 Va. at 308).

**HN6** The General Assembly has waived sovereign immunity in a number of circumstances. One such waiver of sovereign immunity is found in Code § 22.1-194. That statute provides:

**§ 22.1-194. Liability of locality or school board owning or operating vehicle.**

In case the locality or the school board is the owner, or operator through medium of a driver, of, or otherwise is the insured under the policy upon, a vehicle involved in an accident, the locality or school board shall be subject to action up to, but not beyond, the limits of valid and collectible insurance in force to cover the injury complained of or, in cases set forth in subsection D of § 22.1-190, up to but not beyond the amounts of insurance required under subsection A of § 22.1-190 and the defense of governmental immunity shall not be a bar to action or recovery. In case of several claims for damages arising out of a single accident involving a vehicle, the claims of pupils and school personnel, [\*281] excluding driver when not a pupil, shall be first satisfied. In no event, except [\*\*\*5] where approved self-insurance has been provided pursuant to subsection D of § 22.1-190, shall school funds be used to pay any claim or judgment or any person for any injury arising out of the operation of any such vehicle. The locality or school board may be sued alone or jointly with the driver, provided that in no case shall any member of a school board be liable personally in the capacity of school board member solely.

**HN7** "[T]his statute abrogates the immunity of a school board for acts of simple negligence 'to a limited degree' and when the conditions of the statute are met." Linhart v. Lawson, 261 Va. 30, 33, 540 S.E.2d 875 (2001) (quoting Wagoner v. Benson, 256 Va. 260, 262-64, 505 S.E.2d 188 (1998)).

The arguments of the parties center on whether the waiver of sovereign immunity found in Code § 22.1-194 contains one prerequisite or two. The School Board argues that two conditions must be satisfied for sovereign immunity to be waived under this statute: (1) a vehicle owned or operated by a school board must be "involved in an accident" and (2) insurance coverage must be available. The plaintiff responds that the statute contains only one prerequisite for sovereign immunity to be waived and that is the existence of insurance coverage. The plaintiff maintains that the statute does not require the involvement of a school board vehicle in [\*\*\*6] an accident.

**HN8** In interpreting a statute, we seek "to effectuate the intent of the legislature as expressed by the plain meaning of the words used in the statute." Llewellyn v. White, 297 Va. 588, 595, 831 S.E.2d 494 (2019). Accordingly, we "appl[y] the plain language unless the words are ambiguous or such application would render the law internally inconsistent or incapable of operation." *Id.* In addition, waivers of sovereign immunity are strictly construed. Carter, 267 Va. at 245 (citing cases).

**HN9** The plain language of Code § 22.1-194 contains two prerequisites for a waiver of sovereign immunity. First, a "vehicle" owned, operated, or insured by a school board must be "involved in an accident." The waiver does not apply across the board to any situation covered by an insurance policy; rather, it applies when the [\*282] specified vehicles are "involved in an accident." We are not at liberty to ignore this language. Second, the waiver applies if there is insurance coverage, and only to the extent of such coverage. Code § 22.1-194. Here, the parties do not dispute that insurance coverage is available. However, we conclude that the waiver of sovereign immunity does not apply because, in this instance, the bus was not a "vehicle involved in an accident."

The term "accident" can be defined in many ways. In common [\*\*\*7] parlance, a vehicular accident can mean a collision between two [\*59] vehicles, a collision between a vehicle and an object, or a vehicle running off the road. Linhart v. Lawson, where the plaintiff's vehicle was struck by a school bus, is one such typical case. **HN10** Code § 22.1-194 broadly provides that a vehicle

304 Va. 276, \*282; 915 S.E.2d 56, \*\*59; 2025 Va. LEXIS 26, \*\*\*7

must be "involved" in an accident, not that the vehicle itself must be damaged in any way or that it must collide with another vehicle or object. In this case, we need not establish the outer reach of what the term "accident" might mean because the allegations here - that the plaintiff was struck, insulted, and allowed to leave the bus partially unclothed - do not even plausibly establish the prerequisite of a *vehicle* "involved in an accident." The school bus itself was not involved in any accident. The plaintiff's injuries do not relate in any way to the way the bus was being operated or to the process of loading or unloading of passengers. Instead, the school bus was merely the situs of the alleged tort. In other words, the actions that are the subject of the complaint may have happened on the bus, but they did not involve the bus as a vehicle.

Our decision in *Wagoner* is not to the contrary. In that case, our opinion tracked [\*\*\*8] the parties' presupposition that there had been an accident - a child was struck while walking towards a school bus - and we proceeded to determine whether the insurance policy at issue provided coverage. *256 Va. at 262-64*. We simply did not address the contours of the requirement that there must be "a vehicle involved in an accident."

Finally, the plaintiff argues that the *School Board* is not immune when it comes to claims of gross negligence. *HN11* Although government *employees* are not immune from claims of gross negligence, *James v. Jane*, *221 Va. 43, 53, 282 S.E.2d 864 (1980)*, the *School Board* itself benefits from *immunity* from suit, whether the claims involve simple negligence, gross negligence, or even intentional torts. See [\*283] *Patten v. Commonwealth*, *262 Va. 654, 658, 553 S.E.2d 517 (2001)* ("In the absence of express statutory or constitutional provisions waiving the Commonwealth's *immunity*, the Commonwealth and its agencies are immune from liability for the tortious acts or omissions of their agents and employees."); *Niese v. City of Alexandria*, *264 Va. 230, 239-40, 564 S.E.2d 127 (2002)* (municipality was immune from an action alleging an intentional tort was committed in the performance of governmental functions). The cases Z.M. cites all involved allegations of gross negligence against an employee of the government, not the actual sovereign itself. *Burns v. Gagnon*, *283 Va. 657, 677, 727 S.E.2d 634 (2012)* (addressing liability of assistant [\*\*\*9] principal following a fight at the school); *Cromartie v. Billings*, *298 Va. 284, 297, 837 S.E.2d 247 (2020)* (addressing claims against a former police officer for, among other things, excessive force and false arrest); *James*, *221 Va. at 53* (addressing action brought

against several doctors).

Although sovereign *immunity* protects the *School Board* from suit, the same is not true for the *School Board* employees Z.M. has sued. Because the plaintiff alleges that these employees were grossly negligent, the action may proceed against the employees, who are not protected by derivative sovereign *immunity* in that circumstance.

#### CONCLUSION

The judgment of the circuit court is reversed and the case is remanded.

*Reversed and remanded.*

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Neutral

As of: April 15, 2026 6:24 PM Z

## Ellis v. Jolley

Supreme Court of Virginia

December 11, 2025, Decided

Record No. 240930

### Reporter

923 S.E.2d 304 \*; 2025 Va. LEXIS 62 \*\*; 2025 LX 534038; 2025 WL 3545900

JASON N. ELLIS, ET AL. v. TAYLOR B. JOLLEY

**Prior History:** **[\*\*1]** FROM THE COURT OF APPEALS OF VIRGINIA.

[Jolley v. Ellis, 82 Va. App. 220, 906 S.E.2d 151, 2024 Va. App. LEXIS 569, 2024 WL 4351263 \(Oct. 1, 2024\)](#)

**Disposition:** Affirmed in part, reversed in part, and remanded.

### Core Terms

sovereign **immunity**, drive, truck, **driver**, trash, governmental function, government employee, trashcan, pickup, doctrine, traffic, special risk, municipality, routine, bus, circuit court, truck **driver**, firefighter, effectuate

### Case Summary

#### Overview

#### Key Legal Holdings

- The City of Chesapeake is immune from liability for negligence in a personal injury lawsuit arising from its trash truck **driver** running a stop sign because trash collection is a governmental function.
- A city trash truck **driver** who caused a collision by running a stop sign while driving 'normally' (not actively picking up trash or maneuvering around obstacles) is not protected by sovereign **immunity** because he was engaged in ordinary driving at the time of the accident.

#### Material Facts

- Ellis drives a trash truck for the City of Chesapeake.
- While driving 'normally' (not picking up trash cans), Ellis drove through a stop sign without stopping.
- Jolley's vehicle collided with the trash truck.
- Jolley filed a complaint against Ellis and the City for personal injuries.
- The circuit court dismissed the case based on sovereign **immunity**.
- The Court of Appeals reversed, holding neither the City nor Ellis were entitled to sovereign **immunity**.

#### Controlling Law

- Sovereign **immunity** protects municipalities from tort liability arising from governmental functions but not proprietary functions.
- Trash collection is a governmental function because it promotes public health and comfort.
- For government employees, courts apply a four-factor test: nature of function, government's interest in function, degree of control by government, and whether act involved discretion and judgment.
- For **drivers**, **immunity** applies when driving requires 'judgment and discretion beyond ordinary driving situations' but not during 'ordinary driving in routine traffic.'

#### Court Rationale

The City is immune because trash collection is a governmental function that promotes public health. The City's **immunity** does not depend on whether its

923 S.E.2d 304, \*304; 2025 Va. LEXIS 62, \*\*1

employee is immune. Ellis was not immune because at the time of the accident, he was engaged in 'normal driving' through an intersection, not exercising special judgment related to trash collection. Although trash truck driving sometimes requires special judgment (when picking up cans or maneuvering around obstacles), Ellis was not performing those functions when he ran the stop sign.

### Outcome

#### Procedural Outcome

The Supreme Court of Virginia affirmed in part and reversed in part the judgment of the Court of Appeals. It reversed the holding that the City does not benefit from sovereign *immunity*, but affirmed the holding that Ellis does not benefit from sovereign *immunity*. The case was remanded to the Court of Appeals with instructions to remand to the Circuit Court for the City of Chesapeake for trial.

## LexisNexis® Headnotes

Civil Procedure > Appeals > Standards of Review > De Novo Review

Torts > Public Entity  
Liability > *Immunities* > Sovereign *Immunity*

Civil Procedure > Appeals > Standards of Review > Questions of Fact & Law

### **HN1** Standards of Review, De Novo Review

Sovereign *immunity* has long been part of Virginia law, and the doctrine remains alive and well in Virginia. Sovereign *immunity* serves a multitude of purposes, including but not limited to protecting the public purse, providing for smooth operation of government, eliminating public inconvenience and danger that might spring from officials being fearful to act, assuring that citizens will be willing to take public jobs, and preventing citizens from improperly influencing the conduct of governmental affairs through vexatious litigation. The existence of sovereign *immunity* is a question of law that is reviewed de novo.

Governments > Local Governments > Claims By &

Against

Torts > Public Entity

Liability > *Immunities* > Sovereign *Immunity*

Governments > Public Improvements > Sanitation & Water

### **HN2** Local Governments, Claims By & Against

Virginia municipalities can act either in a governmental capacity or in a proprietary capacity. Sovereign *immunity* protects municipalities from tort liability arising from governmental functions but not proprietary functions. When exercising its governmental powers, a municipal corporation is held to be exempt from liability for its failure to exercise them, and for the exercise of them in a negligent or improper manner. The removal of trash is a governmental function because it promotes public health and comfort. Consequently, a city is immune from liability for negligence in performing or in failing to perform this function.

Governments > State & Territorial  
Governments > Employees & Officials

Torts > Public Entity  
Liability > *Immunities* > Sovereign *Immunity*

### **HN3** State & Territorial Governments, Employees & Officials

A governmental employee can share in the *immunity* enjoyed by his employer. To effectuate the purposes of the doctrine, sovereign *immunity* cannot be limited solely to the sovereign. Unless the protection of the doctrine extends to some of the people who help run the government, the majority of the purposes for the doctrine will remain unaddressed. For example, limiting protection to the State itself does nothing to insure that officials will act without fear. If every government employee is subject to suit, the State could become as hamstrung in its operations as if it were subject to direct suit. The reason for this is plain: the State can act only through individuals. The threshold factor in determining whether a governmental employee shares in sovereign *immunity* is whether the entity the employee works for is immune for the activity involved.

Governments > State & Territorial  
Governments > Employees & Officials

923 S.E.2d 304, \*304; 2025 Va. LEXIS 62, \*\*1

Torts > Public Entity  
 Liability > [Immunities](#) > Sovereign [Immunity](#)

#### [HN4](#) State & Territorial Governments, Employees & Officials

Courts employ a four-factor test to determine whether a governmental employee shares in the [immunity](#) enjoyed by the sovereign. Courts look to (1) the nature of the function the employee performs; (2) the extent of the government's interest and involvement in the function; (3) the degree of control and direction exercised over the employee by the government; and (4) whether the act in question involved the exercise of discretion and judgment.

Governments > Local Governments > Employees & Officials

Torts > Public Entity  
 Liability > [Immunities](#) > Sovereign [Immunity](#)

Governments > Local Governments > Fire Departments

#### [HN5](#) Local Governments, Employees & Officials

In situations involving the exercise of judgment and discretion by government employees while driving, courts look to whether the means of effectuating the applicable government function involves ordinary driving in routine traffic versus driving that requires a degree of judgment and discretion beyond ordinary driving situations in routine traffic. Sovereign [immunity](#) attaches in the latter situation, but not in the former. In addition, the fact that a governmental employee has received specialized training to operate a special or heavy duty vehicle is not a controlling factor. Applying this standard, the Virginia Supreme Court has held that an officer engaged in vehicular pursuit or a firefighter responding to a car fire is protected by sovereign [immunity](#).

Governments > Local Governments > Employees & Officials

Torts > Public Entity  
 Liability > [Immunities](#) > Sovereign [Immunity](#)

#### [HN6](#) Local Governments, Employees & Officials

While every person driving a car must make myriad decisions, in ordinary driving situations the duty of due care is a ministerial obligation. The defense of sovereign [immunity](#) applies only to acts of judgment and discretion which are necessary to the performance of the governmental function itself. In some instances, the operation of an automobile may fall into this category, such as the discretionary judgment involved in vehicular pursuit by a law enforcement officer.

Governments > Local Governments > Employees & Officials

Torts > Public Entity  
 Liability > [Immunities](#) > Sovereign [Immunity](#)

#### [HN7](#) Local Governments, Employees & Officials

Just as police officers or firefighters may at times be engaged in ordinary driving, and later be called upon to drive in situations that involve special risks arising from the governmental activities they are tasked with performing, or must make use of split-second judgment and discretion in determining how to carry out their employer's governmental purpose, trash truck [drivers](#) also must at times engage in driving that is protected by sovereign [immunity](#). Slowing down to pick up a trash can, maneuvering around obstacles to reach the can or using the joystick to pick up a trash can, are a few examples of conduct that would involve special risks or the use of judgment or discretion.

**Counsel:** For JASON N. ELLIS, WASTE MANAGEMENT CITY OF CHESAPEAKE, Appellants: CATHERINE H. LINDLEY, (ESQ.), ELLEN F. BERGREN, (ESQ.), STEPHEN A. GRIM, (ESQ.).

For TAYLOR B. JOLLEY, Appellee: RICHARD J. DAVIS, III, (ESQ.), MICHAEL H. BRADY, (ESQ.), THOMAS DISTANISLAO, (ESQ.).

**Judges:** PRESENT: All the Justices. OPINION BY JUSTICE STEPHEN R. McCULLOUGH.

**Opinion by:** STEPHEN R. McCULLOUGH

### [Opinion](#)

[\*306] OPINION BY JUSTICE STEPHEN R. McCULLOUGH

We have on a number of occasions addressed whether

923 S.E.2d 304, \*306; 2025 Va. LEXIS 62, \*\*1

a governmental employee benefits from sovereign *immunity* while driving a vehicle. In this case, a city employee was driving a trash truck. While driving "normally," the trash truck *driver* proceeded through a stop sign without stopping, causing a collision with another vehicle. The circuit court concluded that both the City and the *driver* were protected by sovereign *immunity*. The Court of Appeals reversed, holding that sovereign *immunity* did not bar the action, for either the City or the employee. For the following reasons, we affirm the judgment of the Court of Appeals with respect to whether sovereign *immunity* applies to the City's employee, but we reverse the **[\*\*2]** Court of Appeals' determination that the City itself can be liable.

#### BACKGROUND

Jason N. Ellis drives a trash truck for the City of Chesapeake. Driving such a truck requires a Commercial *Driver's* License, or CDL, Class B. In driving his pre-assigned route, Ellis must pick up trash cans from around 800 homes, which can amount to over 1,000 cans. Ellis explained that learning to drive the truck is not difficult, and that in many ways it is similar to operating a car. There are, however, some significant differences. Unlike an ordinary car, the *driver* is positioned on the right side of the vehicle. The truck uses air brakes, which are different from ordinary vehicle brakes. Ellis testified that he drives "normally" as he moves the truck from can to can. While driving from house to house, Ellis slows down as he approaches a can or

2 cans, and then, using a joystick, he operates an arm on the side of the truck to pick up the cans and dump them in the truck's hopper. Sometimes it is not possible to pick up a can or an obstacle is present, such as a parked car. In those instances, Ellis must exercise his judgment concerning whether to pick up a particular trash can. He also must monitor the volume **[\*\*3]** of trash in the truck. If his truck becomes too full, Ellis needs to dump the load and then return to his route.

While driving "normally" in the sense that he was not slowing the truck down to pick up a trash can, maneuvering the truck around obstacles, or using the truck's joystick to pick up a trash can, Ellis drove his truck through a stop sign without stopping. Taylor B. Jolley's vehicle collided with the trash truck.

Jolley filed a complaint against Ellis and the City of Chesapeake, seeking to recover for her personal injuries. The City filed a plea in bar, contending that the

lawsuit **[\*307]** against the City and its employee was barred by the doctrine of sovereign *immunity*. Following a hearing on the plea in bar, the circuit court sustained the plea and dismissed the case.

A panel of the Court of Appeals reversed. [Jolley v. Ellis, 82 Va. App. 220, 906 S.E.2d 151 \(2024\)](#). The Court of Appeals focused its analysis on whether the *driver* was engaged in ordinary driving or was instead exercising the judgment and discretion necessary to carry out the governmental function of picking up and disposing of the trash. [Id. at 234-35](#). The Court of Appeals concluded that the employee was engaged in normal driving at the time of the collision and, therefore, he was not **[\*\*4]** immune. [Id. at 235](#). The Court of Appeals held that "the City and Ellis are not entitled to the protection of sovereign *immunity*." *Id.* This appeal followed.

#### ANALYSIS

**HN1** Sovereign *immunity* has long been part of our law, and the doctrine remains "alive and well" in Virginia. [Messina v. Burden, 228 Va. 301, 307, 321 S.E.2d 657 \(1984\)](#). Sovereign *immunity*

serves a multitude of purposes, including but not limited to protecting the public purse, providing for smooth operation of government, eliminating public inconvenience and danger that might spring from officials being fearful to act, assuring that citizens will be willing to take public jobs, and preventing citizens from improperly influencing the conduct of governmental affairs through . . . vexatious litigation.

[Id. at 308](#). "The existence of sovereign *immunity* is a question of law that is reviewed de novo." [Lee v. City of Norfolk, 281 Va. 423, 439, 706 S.E.2d 330 \(2011\)](#) (quoting [City of Chesapeake v. Cunningham, 268 Va. 624, 633, 604 S.E.2d 420 \(2004\)](#)).

#### I. SETTLED SOVEREIGN *IMMUNITY* PRINCIPLES REQUIRE DISMISSAL OF THE CITY AS A DEFENDANT.

Although the Court of Appeals focused its analysis on whether the employee *driver* was entitled to sovereign *immunity*, it stated that "the City and Ellis are not entitled to the protection of sovereign *immunity*." [Jolley, 82 Va. App. at 235](#). The City assigns error to this holding, arguing that sovereign *immunity* bars the suit against the City. **[\*\*5]** We agree with the City.

**HN2** Virginia municipalities can act either in a governmental capacity or in a "proprietary" capacity. [Taylor v. Newport News, 214 Va. 9, 10, 197 S.E.2d 209](#)

923 S.E.2d 304, \*307; 2025 Va. LEXIS 62, \*\*5

(1973). "Sovereign **immunity** protects municipalities from tort liability arising from governmental functions but not proprietary functions." Patterson v. City of Danville, 301 Va. 181, 189, 875 S.E.2d 65 (2022). When exercising its governmental powers, "a municipal corporation is held to be exempt from liability for its failure to exercise them, and for the exercise of them in a negligent or improper manner." Niese v. City of Alexandria, 264 Va. 230, 238, 564 S.E.2d 127 (2002) (quoting Hoggard v. City of Richmond, 172 Va. 145, 147, 200 S.E. 610 (1939)). The function at issue here, the removal of trash, is a governmental function because it "promote[s] public health and comfort." Ashbury v. City of Norfolk, 152 Va. 278, 283, 147 S.E. 223 (1929). Consequently, the City of Chesapeake "is immune from liability for negligence in performing or in failing to perform" this function. Taylor, 214 Va. at 10.

The City of Chesapeake is a named defendant. The City filed a plea in bar, both for itself and for Ellis. The City argued that it is immune from liability for negligence because the removal of trash is a governmental function. In stating that the City does not benefit from sovereign **immunity**, the Court of Appeals appears to conflate the sovereign **immunity** of the government employee and that of the City. The City's **immunity** does not hinge on whether its employee **[\*\*6]** derivatively benefits from sovereign **immunity**. The City is immune because trash collection is a governmental function. Therefore, we reverse the holding of the Court of Appeals that the City is not entitled to sovereign **immunity**.

II. BECAUSE THE EMPLOYEE WAS ENGAGED IN ORDINARY DRIVING WHEN HE COLLIDED WITH JOLLEY'S VEHICLE, HE IS NOT PROTECTED BY SOVEREIGN **IMMUNITY**.

**HN3** A governmental employee can share in the **immunity** enjoyed by his employer. **[\*308]** To effectuate the purposes of the doctrine, it

cannot be limited solely to the sovereign. Unless the protection of the doctrine extends to some of the people who help run the government, the majority of the purposes for the doctrine will remain unaddressed. For example, limiting protection to the State itself does nothing to insure that officials will act without fear. If every government employee is subject to suit, the State could become as hamstrung in its operations as if it were subject to direct suit. The reason for this is plain: the State can act only through individuals.

Messina, 228 Va. at 308.

The "threshold factor" is "whether the entity the employee works for is immune for the activity involved." Kent Sinclair, Sinclair on Virginia Remedies § 2-4[C][1], at 2-30 (5th ed. 2016). As noted above, the City is entitled to **[\*\*7]** sovereign **immunity** because the function at issue here, the collection of waste, is a governmental function.

**HN4** We then employ a four-factor test to determine whether a governmental employee shares in the **immunity** enjoyed by the sovereign. We look to "(1) the nature of the function the employee performs; (2) the extent of the government's interest and involvement in the function; (3) the degree of control and direction exercised over the employee by the government; and (4) whether the act in question involved the exercise of discretion and judgment." Colby v. Boyden, 241 Va. 125, 129, 400 S.E.2d 184, 7 Va. Law Rep. 1368 (1991) (citing Messina, 228 Va. at 313). The first three factors are not in contention here. Therefore, as is often the case, the fourth factor is decisive.

This is not the first case in which we have been called upon to determine whether sovereign **immunity** applies to a driver. **HN5** "In situations involving the exercise of judgment and discretion by government employees while driving, we look to whether the means of effectuating the applicable government function involves 'ordinary driving in routine traffic' versus driving that requires a 'degree of judgment and discretion beyond ordinary driving situations in routine traffic.'" McBride v. Bennett, 288 Va. 450, 455, 764 S.E.2d 44 (2014) (quoting Friday-Spivey v. Collier, 268 Va. 384, 390-91, 601 S.E.2d 591 (2004)). "Sovereign **immunity** attaches in **[\*\*8]** the latter situation, but not in the former." *Id.* In addition, the fact that a governmental employee has received "specialized training" to operate "a special or heavy duty vehicle" is not "a controlling factor." Friday-Spivey, 268 Va. at 390-91 (citing examples).

"Applying this standard," we held that "an officer engaged in vehicular pursuit or a firefighter responding to a car fire" is protected by sovereign **immunity**. McBride, 288 Va. at 456 (citations omitted). On the other hand, we held that a deputy who had completed serving process and was driving under ordinary conditions was not entitled to sovereign **immunity**. Heider v. Clemons, 241 Va. 143, 144-45, 400 S.E.2d 190, 7 Va. Law Rep. 1392 (1991). We observed that,

**HN6** [w]hile every person driving a car must make myriad decisions, in ordinary driving situations the duty of due care is a ministerial obligation. The

923 S.E.2d 304, \*308; 2025 Va. LEXIS 62, \*\*8

defense of sovereign *immunity* applies only to acts of judgment and discretion which are necessary to the performance of the governmental function itself. In some instances, the operation of an automobile may fall into this category, such as the discretionary judgment involved in vehicular pursuit by a law enforcement officer. However, under the circumstances of this case, the simple operation of an automobile did not involve special risks arising from the governmental **[\*\*9]** activity, or the exercise of judgment or discretion about the proper means of effectuating the governmental purpose of the *driver's* employer.

*Id.* at 145 (citations omitted). Likewise, a firefighter who was engaged in "ordinary driving in routine traffic" while responding to a nonemergency "public service call" was not protected by sovereign *immunity*. *Friday-Spivey*, 268 Va. at 390-91.

Two cases involving school buses further illustrate where we have drawn the line. In *Wynn v. Gandy*, 170 Va. 590, 197 S.E. 527 (1938), we held that a school bus *driver* could **[\*309]** be held liable when he was engaged in the simple operation of the bus, approaching the place where he would embark the children. *Id.* at 595. In contrast, in *Linhart v. Lawson*, 261 Va. 30, 36, 540 S.E.2d 875 (2001), the Court held that the school bus *driver* was entitled to sovereign *immunity* because the act of "transporting school children, involved discretion and judgment." *Id.* at 36. The record in that case established that there were children on the bus, and that these were special needs students. *Linhart*, Record No. 000291 (Appx. at 19, 25). Although we did not elaborate on this point in the opinion, it stands to reason that once school children are on the bus, particularly special needs students, the *driver* must continuously monitor the children on the bus and pay attention to the traffic on **[\*\*10]** the road.

**HN7** Just as police officers or firefighters may at times be engaged in ordinary driving, and later be called upon to drive in situations that involve special risks arising from the governmental activities they are tasked with performing, or must make use of split-second judgment and discretion in determining how to carry out their employer's governmental purpose, trash truck *drivers* also must at times engage in driving that is protected by sovereign *immunity*. Slowing down to pick up a trash can, maneuvering around obstacles to reach the can or using the joystick to pick up a trash can, are a few examples of conduct that would involve special risks or the use of judgment or discretion. Here, however, Ellis

testified to driving "normally" at the time of the accident when he proceeded through a stop sign without stopping, causing this accident. At the time of the collision, the truck was not going from house to house picking up trash cans. It was entering an intersection. There was no trash can in the intersection, and no evidence even suggests that the manner in which Ellis entered the intersection was affected by his garbage collection responsibilities. Consistent with our precedent, **[\*\*11]** we conclude that sovereign *immunity* does not cover the actions of the trash truck *driver* at that time.

The City invokes the standard of review and argues that we should defer to the factual findings of the circuit court. Although the circuit court held a hearing on the plea in bar, the facts here are not in dispute. The testimony established that the *driver* of the trash truck could encounter special risks and, further, that at times he was required to exercise judgment and discretion beyond ordinary driving. However, here, the evidence also established that when the *driver* ran through the stop sign, he was not doing any of those things; rather, he was engaged in normal driving.

The City also cites *Stanfield v. Peregoy*, 245 Va. 339, 429 S.E.2d 11, 9 Va. Law Rep. 1167 (1993) to argue that the *driver* should be immune from liability throughout his route. In that case, however, we held that a snow-plow *driver* was immune from claims arising from an accident that occurred while he was actively spreading salt on a road. *Id.* at 344-45. The outcome did not depend on whether the *driver* was on his assigned route. Instead, we emphasized that the combination of "driving and spreading salt" formed "an integral part of the governmental function" at issue. *Id.* at 344. The snow-plow *driver* was therefore **[\*\*12]** not engaged in "the simple operation" of the truck "in routine traffic." *Id.*

## CONCLUSION

For the reasons stated, we will reverse the portion of the Court of Appeals' judgment holding that the City does not benefit from sovereign *immunity*, but we will affirm the portion of the Court of Appeals' judgment holding that the trash truck *driver* who caused a collision while engaged in ordinary driving does not benefit from sovereign *immunity*. The case is remanded to the Court of Appeals with instructions to remand the case

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<sup>7</sup> The City also assigns error to the Court of Appeals' use of deposition testimony in its opinion. We do not rely on the deposition testimony in reaching our holding. Accordingly, we need not address the issue further.

923 S.E.2d 304, \*309; 2025 Va. LEXIS 62, \*\*12

for trial in the Circuit Court for the City of Chesapeake.

**[\*310]** *Affirmed in part, reversed in part, and remanded.*



Summer Star Meeting:  
July 30, 2026  
Roanoke, VA



Hot Topic Meeting:  
October 1, 2026  
Henrico, VA



Cold Topic Meeting:  
January 28, 2027  
Charlottesville, VA

'27 Virginia PRIMA Conference  
May 12 - 14, 2027 -  
Virginia Beach, VA