



U.S. VIRGIN ISLANDS

# 2019 Judicial Conference

"Advancing Justice Through Collaboration and Judicial Education"

June 20 — 21, 2019 • St. Croix, USVI





U.S. VIRGIN ISLANDS JUDICIAL CONFERENCE "Advancing Justice through Collaboration and Judicial Education"

# Program

DAY 1	Thursday, June 20, 2019
8:30 AM - 9:30 AM	Breakfast
9:30 AM - 9:45 AM	<b>Welcome</b> National Anthem and V.I. March by J'Vonte Smith – Superior Court Rising Stars Youth Steel Orchestra Remarks: Hon. Rhys S. Hodge, Chief Justice of the Virgin Islands
9:45 AM – 11:15 AM	Judicial Ethics:
	Brendon Levesque, Esq., Partner, Horton Dowd, Barschi & Levesque Scott Garosshen, Horton, Dowd, Barschi & Levesque Tanisha Bailey-Roka, Esq., Chief Disciplinary Counsel
	This presentation will provide an overview of the Virgin Islands Code of Judicial Conduct and other authorities that govern the conduct of judicial officers in the Virgin Islands, with a focus on current hot topics in the field of judicial ethics, including issues arising in the area of pretrial release and detention, social media, political activity, sexual harassment, <i>ex parte</i> communications, disqualification, independent investigation, and conflicts of interest.
11:15 AM – 12:00 PM	Recent Developments in Virgin Islands Law
	Professor Kent Sinclair, Reporter of Decisions
	This presentation will provide an overview of important developments in Virgin Islands law over the past 12 months, with a focus on decisions of the Supreme Court of the Virgin Islands and other courts.
12:00 PM – 1:00 PM	Lunch
1:00 PM – 2:15 PM	Judicial Writing: Technique, Publication & Preservation
	Hon. Harold W.L. Willocks, Administrative Judge Professor Kent Sinclair, Reporter of Decisions Joseph T. Gasper, Esq
	This panel presentation will examine several issues related to judicial writing, including the techniques used by first-rate judicial writers, the standards for designation an opinion as for-publication or not-for-publication, and the preservation and disposition of draft opinions, bench memos, and other documents created through the writing process.

2:15 PM – 5:15 PM	Pretrial Release & Detention
	Hon. Charles Daniels, Chief Justice of New Mexico (Ret.) Tara Blair, Executive Director, Dep't of Pretrial Services, Kentucky Courts Hon. Douglas A. Brady, Superior Court Judge Hon. Robert A. Molloy, Superior Court Judge Gary Raney, Sheriff, Ada County, Idaho (Ret.)
	The issue of pretrial detention, particularly of those charged with non- violent offenses, has received significant attention both nationally and locally. This panel discussion will provide an overview of recent trends in the area of pretrial release/detention and bail, and consider alternatives to pretrial incarceration that have been considered by other jurisdictions.
7:00 PM	Conference Dinner and Award Recognition
DAY 2	Friday, June 21, 2019
8:00 AM - 9:00 AM	Breakfast
9:00 AM - 9:45 AM	New E-Filing System
	Eric Berkowitz, Project Manager, Thomson Reuters James Hunt, Government Services, Thomson Reuters
	Representatives from Thomson Reuters will provide an overview of the new Superior Court case management and electronic filing system.
9:45 AM - 10:45 AM	Behavioral Health and the Courts
	Hon. Harold W.L. Willocks, Administrative Judge Dr. Olaf Hendricks, MD Dyma Williams, CPHRM, RN, MJ,BSN, Acting CEO, JFL Hospital Joseph Ponteen, Deputy Attorney General Yolan C. Brow-Ross, Assistant Public Defender
	Challenges facing the Territory. The state of treatment and service capacity when dealing with behavioral health issues in the judicial system. "Where we are? and Where do we go from here?"
10:45 AM - 12:30 PM	Substance Cases
	Hon. Peggy Hora, Judge, Superior Court of California (Ret.)
	MARIJUANA "LEGALIZATION" AND ITS EFFECTS ON THE COURTS As more jurisdictions decriminalize marijuana, more issues are raised for the courts. What do we know from states that have already legalized? What exactly is medical about marijuana? Can you prohibit someone from using marijuana while on probation? What about drugged driving? What's

	admissible and what's not in a DWI-Drug case? How do you assure a fair jury in a marijuana case? What is marijuana's effect on adolescents? On parenting? Can you restrict a parent's use when they have custody of the children in a divorce? These and other questions will be explored in this session.
12:30 PM - 1:30 PM	Lunch
1:30 PM – 2:30 PM	Virgin Islands Arbitration Law
	Professor Kent Sinclair, Reporter of Decisions
	Parties are increasingly including binding arbitration clauses in agreements. This presentation will examine the relationship between arbitration and court proceedings, including what parties have to do to get out of court, how the courts need to deal with motions to compel arbitration, how courts must construe arbitration clauses in contracts when the parties dispute what is covered, the difference between broad-form and narrow arbitration language, what kinds of waivers of arbitration rights are recognized in the Virgin Islands, how confirmation of the arbitral award is intended to work, what sort of review courts must (or could) give to an award, res judicata, and other issues. In addition, the presentation will consider whether local arbitration legislation is appropriate for the Virgin Islands. Educational Program Adjourned
2:30 PM - 3:00 PM	Superior Court Rising Stars Youth Steel Orchestra – Courtyard
3:00 PM - 5:00 PM	Joint Meeting of the Justices, Judges and Magistrate Judges of the Judicial Branch



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> PANELISTS AND PRESENTERS (In alphabetical order)

### TANISHA BAILEY-ROKA



Tanisha Bailey-Roka was born and raised on St. Croix, Virgin Islands. She attended St. Joseph's High School. Upon graduation, she attended the American University in Washington, D.C. as a Frederick Douglas Scholar. In 1996 she joined Teach For America, an AmeriCorps program that recruits outstanding college graduates across the nation to teach in underserved schools for a period of two years. Attorney Bailey-Roka later attended the University of Maryland School of Law, where she graduated with three university awards, and was the Editor-In-Chief for Margins Law Journal. Upon graduation, Attorney Bailey-Roka clerked for the presiding Judge Maria M. Cabret. She also worked for the Department of Licensing and Consumer Affairs, and the Public Services Commission before taking on the role of Chief Disciplinary Counsel in the Supreme Court of the Virgin Islands' Office of Disciplinary Counsel. The Office of Disciplinary Counsel is also tasked with education and outreach on Judicial and Attorney Ethics, the grievance process and matters involving the overall health and stability of the local legal profession.

#### ERIC BERKOWITZ Eric Berkowitz, Engagement Manager

As an Engagement Manager for the Thomson Reuters CMS Trial Court practice, Eric is responsible for allocating team resources to project tasks and ensuring a smooth and timely delivery of the software and related deliverables. Eric has over 8 years of experience in CMS project management and prides himself on taking an active role in business process re-engineering through configuration and organizational change management principles vital to the successful completion of complex software projects.



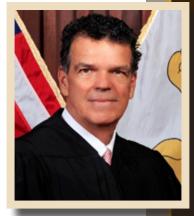
### TARA BOH BLAIR



Tara Boh Blair is the Executive Officer for the Kentucky Court of Justice, Administrative Office of the Courts, Department of Pretrial Services. She authored the policies and procedures for her agency and developed the training module for new and existing staff as well as inter-disciplinary training with the Department of Public Advocacy and the Circuit and District Judicial Colleges. She also led the design and implementation of the pretrial case management system, Pretrial Release Information Management (PRIM), designed the pretrial monthly reports, program quality assurance protocols and developed performance and outcome measures. Ms. Blair holds a BA in Sociology and a BS in Police Administration from Eastern Kentucky University. In addition to her duties with the Commonwealth of Kentucky, Ms. Blair has worked part time since 2008 as a Criminal Justice consultant providing program assessments, training and technical assistance. She has been a member of the National Association of Pretrial Services Agencies (NAPSA) since 1996 and a member of the National Institute of Corrections (NIC) Pretrial Network Group. She was awarded the NAPSA Member of the Year award in 2009 and the Kentucky Department of Public Advocacy Public Advocate award in 2012. Ms. Blair has presented, co-presented and served as a facilitator at numerous state and national conferences.

#### JUDGE DOUGLAS A. BRADY

Douglas Alan Brady was appointed to serve a 6-year term on the Superior Court of the Virgin Islands by Governor, John P. deJongh Jr., 2012. Confirmed by the 29th Legislature of the Virgin Islands. Judge Brady was nominated to serve a second term by Governor Albert A. Bryan Jr in 2019 and confirmed by the 33rd Legislature of the Virgin Islands. A native of Wilmington Delaware, he has been a resident of St. Croix for over 40 years. Bachelor of Arts in Sociology, Wheaton College, Illinois, 1973. Juris Doctor, Columbus School of Law, Catholic University, Washington D.C., 1976. Engaged in private practice, 1980-2012. Certified Mediator in the Superior Court of the Virgin Islands and the District Court of the Virgin Islands. Admitted to the practice of law in the State of Maryland, the District of Columbia and the United States Virgin Islands. Longstanding member, Virgin Islands Bar Ethics and Grievance Committee. Member, American Arbitration Association.





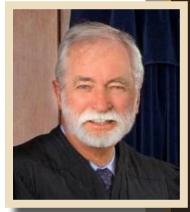
#### YOLAN BROW ROSS Yolan Ross Brow Ross, Assistant Public Defender

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Yolan Brow Ross has been practicing law in the Territory for over 20 years. Attorney Ross is a native Virgin Islander, who received her Juris Doctorate from Tulane University School ofxxx Law. Upon her return to St. Croix, she became a judicial law clerk at the Superior Court for the Honorable Judge Edgar D. Ross, and later went into private practice for several years. Attorney Ross joined the Office of the Territorial Public Defender in 2010. As a public defender, Attorney Ross is zealous in her advocacy for the indigent. She has experience in criminal defense for both felonies and misdemeanor cases. Attorney Ross finds that her most rewarding experiences, result from ensuring that her clients who suffer from mental health issues receive proper treatment and intervention assistance to ensure their future success.

### JUSTICE CHARLES DANIELS

Justice Charles Daniels served on the New Mexico Supreme Court 2007-2019, with two terms as chief justice. Beginning with his authorship of the court's comprehensive opinion in State v. Brown, 2014-NMSC-038, exploring the history and legal principles of release and detention, Justice Daniels has led efforts to reform the New Mexico pretrial justice system by successfully amending antiquated constitutional provisions to provide authority for detention of proven dangerous defendants while guaranteeing that no arrestee who is neither a significant danger nor flight risk may be detained pretrial for inability to afford a money bond, promulgating new rules to implement individual risk-based release and detention, abolishing money bail schedules, and minimizing the use of money bonds. He was named as the lead defendant in Collins v. Daniels, No. 17-2217 (10th Cir. 2019), the unsuccessful federal lawsuit by the bail industry attempting to enjoin the New Mexico release and detention reforms.



#### JOSEPH T. GASPER



Mr. Gasper began his career in the Virgin Islands in 2010, clerking for the Honorable Judge Darryl Dean Donohue, Sr., then-Presiding Judge of the Superior Court, and then the Honorable Maria M. Cabret, Associate Justice of the Supreme Court of the Virgin Islands, before returning to the Superior Court of the Virgin Islands to serve first as Appellate Law Clerk to assist the Judges with appeals from the Magistrate Division, and then as Appellate Law Clerk / Law Librarian, assuming the duties of the law librarian until the closure of the library. In addition to his duties as Appellate Law Clerk / Law Librarian, Mr. Gasper assisted the Judges with their complex litigation cases. Presently, Mr. Gasper serves as Senior Law Clerk to the newly-established Complex Litigation Division, assisting the Honorable Robert A. Molloy. Mr. Gasper earned his bachelor's degree in comparative literature in 1994 from the Pennsylvania State University, and later his law degree and master's degree in philosophy in 2006 from Howard University. After college and before law and graduate schools, Mr. Gasper served in the Peace Corps teaching English in

Poland and then studied at the Fredrich Schiller University in Germany and the University of Malta in Malta. After law and graduate schools, Mr. Gasper worked in as an associate with Clifford Chance US LLP in Manhattan and as special assistant district attorney with the Kings County district attorney's office in Brooklyn before moving to St. Croix. Mr. Gasper is admitted to practice law in New York, Washington, D.C., and Pennsylvania.

#### SCOTT T. GAROSSHEN

Scott T. Garosshen is an associate at Horton, Dowd, Bartschi & Levesque, P.C., in Hartford, Connecticut. He is admitted to practice in Connecticut state courts, the United States District Court for the District of Connecticut, and the United States Courts of Appeals for the Second and Third Circuits. Before joining the firm, Attorney Garosshen interned for Judges Alvin K. Hellerstein of the Southern District of New York, and Vanessa L. Bryant of the District of Connecticut, then served as a law clerk for Judge F. Herbert Gruendel of the Connecticut Appellate Court.

Attorney Garosshen represents attorneys in routine ethics consultations and in proceedings against them before the Statewide Grievance Committee, as well as



candidates for bar admission on their application to the Bar Examining Committee. He also represents clients in appeals before the state and federal appellate courts and has appeared before the Connecticut Supreme Court on issues of the First Amendment, disposition of frozen embryos upon divorce, and attorney readmission. Attorney Garosshen has spoken in the past at seminars and classes on ethics and technology, the rules of practice, and the appellate process. He co-authored an article on *The Development of the Right to Remain Silent in Connecticut* with Attorney Brendon P. Levesque, published in Volume IX of the Journal of the Connecticut Supreme Court Historical Society.

Attorney Garosshen is Vice President of Civics First, a nonprofit organization that, in partnership with the bench and bar, promotes and conducts law-related education programs and projects in Connecticut's public and private schools, courtrooms, and communities.



#### DR. OLAF P. HENDRICKS, MD

Dr. Olaf P. Hendricks is a well-known psychiatrist, musician and talk-show host in the Virgin Islands. Dr. Hendricks has also had a long association with Juan F. Luis Hospital, having served as president of medical staff on two occasions and as chief medical officer from 2007 to 2009. From 2007 to 2013, he served as the psychiatrist at The Village Rehabilitation Center on St. Croix, providing clinical services to the mentally ill and substance abuse patients and working with the MISAH program for the homeless. Apart from his medical practice, Hendricks is a cofounder of the Crucian Cultural Institute, the Hillsiders Assoc. and the Crucian-Rican All-Ah We Org. He was an original member of the board of governors of the Virgin Islands Cultural Heritage Institute, where he served for more than eight years.

#### HON. PEGGY FULTON HORA

Judge Peggy Fulton Hora is the President of the Justice Speakers Institute, LLC. She retired from the California Superior Court after serving 21 years. She had a criminal assignment that included presiding over the Drug Treatment Court.

She is a former dean of the B.E. Witkin Judicial College of California and has been on the faculty of the National Judicial College (NJC) for 25 years. She is the recipient of the 2017 V. Robert Payant Award for Teaching Excellence presented by the Faculty Council of the NJC.

Judge Hora was a Senior Judicial Fellow for the National Drug Court Institute and the Global Centre for Drug Treatment Courts.



Judge Hora is an international leader in the solution-focused courts movement and has

written comprehensively on justice issues. The appellate court and almost 200 journals and law reviews have cited her work. She was a 2009-2010 Thinker in Residence appointed by the Premier of South Australia to study and make recommendations on the Australian justice system. She was a visiting scholar at the University of Tasmania School of Law.

Her international work includes speaking at conferences worldwide and hands-on training on drug courts and therapeutic jurisprudence in Israel, the United Kingdom, Argentina, Chile, Bermuda, South Africa, Italy, Pakistan,

France, Japan, Russia, The Netherlands, Canada, Australia and New Zealand.

She is an Honorary President of the International Therapeutic Jurisprudence Society, a worldwide non-profit organization dedicated to advancing legal and interdisciplinary scholarship; identifying and promoting best professional practices; sponsoring conferences, workshops and seminars; and, hosting and participating in print, electronic and social media platforms. A judicial award has been named for her by the Society.

#### JAMES HUNT

James Hunt is the Head of Solutions Architecture for Thomson Reuters, and overseas the C-Track Solution Architecture team for the Virgin Islands Judiciary's Case Management Project. The C-Track Solution Architecture Team is charged with designing future proofed customer implementations by determining how best to leverage the C-Track product suite to meet customer requirements and workflows while minimizing customizations. James has 12 years of experience designing and developing for various software companies. James is a graduate of Southampton University in the U.K. with a B.Eng. focused on Electronic Engineering.





#### **BRENDON P. LEVESQUE**

Brendon P. Levesque is the managing partner at Horton, Dowd, Bartschi & Levesque, P.C. in Hartford, Connecticut. He is admitted to practice in Connecticut state courts as well as in the United States District Court for the District of Connecticut, the United States Courts of Appeals for the Second, Third, and Federal Circuits. In addition, he is admitted to practice before the United States Patent & Trade Office. Attorney Levesque joined Horton, Dowd, Bartschi & Levesque in August 2004 after serving as a law clerk for now Chief Judge DiPentima of the Connecticut Appellate Court. Attorney Levesque was made a principal of the firm on January 1, 2009.

Attorney Levesque represents clients in civil, family and criminal appeals before the Connecticut appellate courts and the Second Circuit Court of Appeals. He also represents attorneys before grievance panels, in public hearings before the Statewide Grievance Committee and in presentments and appeals and candidates for bar admission before the Bar Examining Committee. Attorney Levesque presents

seminars on risk management and ethics to law firms.

Attorney Levesque co-authors the CONNECTICUT PRACTICE BOOK ANNOTATED providing authors comments to the chapters on the Code of Judicial Conduct, the Rules of Professional Conduct, motions, and pleadings. He co-authors CONNECTICUT JUVENILE LAW published by Thomson/West with Attorney Dana Hrelic. He also co-authored *Connecticut Insurance Law*, a publication of the Connecticut Law Tribune with Attorney Karen Dowd and Attorney Michael Taylor. Since 2009, he has co-authored the annual *Professional Responsibility Review* in the Bar Journal with the Honorable Kimberly A. Knox.

#### ROBERT A MOLLOY

Robert A. Molloy was nominated to the bench in 2013 and has issued hundreds of decisions, opinions (published and unpublished), and orders on a range of legal issues in both civil and criminal cases. During his tenure he has been designated by the Chief Justice of the Supreme Court of the Virgin Islands to serve as a Designated Supreme Court Justice to sit and hear appeals from the Superior Court of the Virgin Islands and has also been designated as an appellate judge for the District Court of the Virgin Islands Appellate Division. Judge Molloy currently serves as the Chairperson on the Virgin Islands Judiciary's Advisory Committee on Rules and is a member on the Judicial Management Advisory Council (JMAC). He is a member of the Virginia State Bar, the District of Columbia Bar, and the Virgin Islands Bar Association where he has served on various committees as well as volunteering as an attorney advisor for the St. Croix Educational Complex High School during several Moot Court Competitions. More recently, on October 1, 2018, Judge Molloy was assigned to sit in the newly established Complex Litigation Division of the Superior Court of the Virgin Islands presiding over complex civil litigation including environmental, toxic, and mass tort claims.



Judge Molloy has presented on panels for the Virgin Islands Bar Association, and the Stetson Law Review's 2016 Symposium entitled *Effective Advocacy in a Developing Jurisdiction: The Repudiation of the Restatements in the Virgin Islands and Emerging Issues of Political Status in the Territorial and Insular Jurisdictions of the United States.* In addition to conducting formal presentations, Judge Molloy regularly speaks to young people for various local community organizations.



# JOSEPH PONTEEN, ESQ

Joseph Ponteen was born on the island of Montserrat. At the age of 12 he moved to St. Croix to join his parents. A graduate of the St. Dunstan's Episcopal High School on St. Croix, he earned a Bachelor's Degree in Business from Boston University's School of Business, and later obtained a Masters' Degree in Business from the University of Miami. Ponteen attended the University of Georgia School of Law where he earned a Juris Doctor in 1981. He returned to St. Croix and began his extensive legal career with the Office of the Territorial Public Defender. Attorney Ponteen later joined the Department of Justice as an Assistant Attorney General where he has been a champion for justice since 1992. He is currently the Chief Deputy Attorney General for the Virgin Islands Department of Justice.

#### GARY RANEY

Sheriff Gary Raney (ret.) has 35 years of law enforcement experience and rose through the ranks from being a jail deputy and patrol officer to becoming the sheriff of one of the most respected law enforcement agencies in the nation. In his current role, he consults on liability and litigation related matters involving jail or police actions, particularly those involving the use of force. Gary also regularly assists criminal justice organizations to prevent litigation, providing them knowledgeable and experienced advice on use of force, supervision, pursuit driving, jail administrative segregation, training practices and other concerns. As an experienced expert witness and analyst, Gary has been very successful at helping bring clarity and a successful resolution to civil actions involving law enforcement agencies. Sheriff Gary Raney (ret.) became nationally recognized for his management practices and insightful leadership in criminal justice issues. He remains active in many best practice reform issues and often presents at national conferences.



# PROFESSOR KENT SINCLAIR



Sinclair is Professor Emeritus at University of Virginia Law School where he has been a member of the faculty since 1983. Prior to that, he served seven years as U.S. magistrate judge for the Southern District of New York. In 2018, He retired after a career teaching civil procedure, Virginia procedure, evidence, pretrial litigation, motions practice and appellate practice.

Sinclair directed the trial advocacy and clinical programs at the Law School and was the founding director of the Virginia Judicial Institute, an educational program for state trial judges. Since 1984, he has been the reporter of decisions for the Virginia Supreme Court and, from 1986-94, a consultant to the Virginia attorney general on ethics, evidence and trial skills.

Sinclair has been president of the National Council of U.S. Magistrates, chair of the Federal Rules of Civil Procedure Revision Project for the Administrative Office of the U.S.

Courts, and president of the National Conference of Special Jurisdiction Judges. He is a member of the American Law Institute and, from 1986 to 1992, was a member of the Virginia State Bar/Virginia Bar Association task force on alternative dispute resolution. He serves on the Board of Governors of the Boyd-Graves Conference on Virginia Procedure and on the Supreme Court of Virginia's advisory committee on rules of practice and procedure. He has been a member of the Board of Governors of the Virginia Bar Association and a reporter for the VBA's Appellate Court Structure Project since 1993.

Professor Kent Sinclair has been the Reporter of Decisions for the Virgin Islands Supreme Court since 2011. In 2016, this role expanded to include Academic Consulting for the preparation and revision of local Court Rules.

### DYMA B. WILLIAMS

Ms. Dyma B. Williams, RN, BSN, MJ, CPHRM is the Acting Chief Executive Officer of the Governor Juan F. Luis Hospital & Medical Center. A native daughter of the soil and proud graduate of the University of the Virgin Islands Bachelors of Science in Nursing Program, Ms. Williams is a Registered Nurse with over 18 years of experience. She has worked on the mainland as a pediatric nurse at Children's National Center in Washington DC in the heart and kidney transplant unit and their surgical burn center. She has also worked at other mainland hospitals including Holy Cross Hospital maternal and pediatric units in Maryland and Hospital for Sick Children, a rehab center for pediatric patients in Maryland.

Ms. Williams returned to the Virgin Islands in 2004 and served as a pediatric nurse and soon thereafter a NICU nurse in the Neonatology Unit at JFL. In 2011, she was offered an opportunity to work in Healthcare Corporate Compliance Department at JFL. Thereafter, she had an opportunity to serve in several capacities including:



Director Risk Management & Patient Safety; Supervisor of Hospital Safety; and lastly as Vice President of Risk Management Compliance and Safety & Security. Further, Ms. Williams obtained a certification as a Professional in Healthcare Risk Management considered one of the top 5 certification in healthcare leadership. Ms. Williams graduated with a Master's of Jurisprudence in Health Law from Loyola University in Chicago

# HAROLD W. L. WILLOCKS



Harold W. L. Willocks' experiences and service stretch over thirty years. An educator for periods of time between 1978 and 1985, he taught the Elena Christian and Arthur Richards Junior High Schools, and at his alma mater, St. Croix Central High School. In 1987, he became a local prosecutor. In in 1988 he transitioned to the territorial public defender's office and became the Chief Public Defender in 1992 where he served until his elevation to the bench in 2009. He was confirmed to serve 6-year term by the 28th Legislature of the Virgin Islands. Designated Administrative Judge of the Superior Court by the Presiding Judge, the Honorable Michael C. Dunston in 2012. Judge Willocks was appointed to a second 6-year term by the Honorable Kenneth E. Mapp in 2016. Born on the island of St. Croix. He is a graduate of the St. Croix Central High School. He holds a Bachelor of Arts from Morgan State University, and Juris Doctor, from Antioch School of Law, in Washington, D.C.. Judge Willlocks is an accomplished author and Virgin Islands historian. He has published over twelve books, the most well-known of which, The *Umbilical Cord, from Pre-Columbian to the Present*, is currently used as a textbook in

many public and private schools throughout the territory.





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CONFERNCE NOTES





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