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# Virginia Beach attorney relishes unpopular causes

## VIRGINIA BEACH

As he pored over depositions and sorted through evidence last week, preparing for a federal civil rights lawsuit against the city, Kevin Martingayle said he never imagined that he would be at the center of so much conflict.

His case against Virginia Beach, scheduled for trial in November, claims that racial profiling and selective enforcement tactics by the city hurt business at Hammerheads restaurant on 21st Street.

It's the latest in a litany of cases the 41-year old lawyer has brought against local governments, school divisions and others in power.

"I would much prefer to get along," Martingayle said. "Everyone's got the idea that I am looking around for a fight... but I'm sure there are some in city government that wish I would stop bugging them."

He has argued against the rules of the state Department of Alcoholic Beverage Control and against almost every aspect of the way the city deals with "t he b lock," a stretch of bars and restaurants along the Oceanfront.

"It offends me greatly when this castle mentality prevails from time to time," Martingayle said. "Anytime I detect someone is behaving like a bully, I will take up that battle."

Business owner and former City Councilman Richard Maddox has experienced a few bouts with Martingayle. "He is a formidable attorney," Maddox said. "He is engaged. It's more than you can say about a lot of people."

In 1991, Martingayle, a native of Richmond, graduated from the University of Virginia School of Law, but delayed taking the bar exam in order to spend one last summer as a lifeguard at the beach. Martingayle said he relished the job and its opportunity to help.

"Now I generally have to make someone unhappy," Martingayle said.

That doesn't seem to deter him from taking on unpopular causes. It was Martingayle who defended one of two men who burned a cross in the yard of an interracial couple's Pungo home in 1998. The lawyer said he initially balked at the prejudice displayed, but ultimately decided it was more important to defend the principle of free speech.

The case landed before the U.S. Supreme Court, where Martingayle sat in front of Justice Antonin

Scalia while another attorney handled the arguments. The high court reaffirmed that burning a cross to intimidate is illegal and that laws written to prohibit it, such as the Virginia statute, are constitutional.

One of the victims, Susan Jubilee, wanted the cross-burners punished, but said she could not get mad at Martingayle.

"He was doing what he's hired to do," Jubilee said. "He took advantage of the way the law was written. He found a creative way to do it."

In 2006, Martingayle volunteered his services to state wrestling champion Bubba Jenkins when he was suspended and expelled from Cox High School for inappropriate sexual behavior off campus with a female student. Martingayle is a member of the school's wrestling club, and Jenkins' rights as a student in the Beach school division were eventually restored. He went on to graduate from First Colonial High School.

That year, Martingayle took criticism for defending Tammy Skinner, a Suffolk woman who shot herself in the stomach to end her pregnancy. Someone who had seen him in action recommended the woman to him. Martingayle, a married father of three, convinced a judge that the felony abortion law was not aimed at mothers who hurt themselves. Skinner was convicted of a misdemeanor for filing a false report.

He said he is willing to take on even unprofitable cases to make a difference.

In 2007, for instance, Martingayle went to bat to defend the right of ice cream trucks to play their jingles in Portsmouth.

"He has a talent for taking a case which most attorneys won't and making a winner out of it," said Moody "Sonny" Stallings Jr., his law partner at Stallings and Bischoff.

"I would not want him on the other side in any case I was involved in," Stallings said.

Martingayle said he may be a bulldog, but nothing is personal. "Sometimes a real battle is required," Martingayle said. "I shake hands before and after."

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**Source URL (retrieved on 01/12/2009 - 15:22):** <http://hamptonroads.com/2008/08/virginia-beach-attorney-relishes-unpopular-causes>