

**28TH ANNUAL
FAMILY LAW INSTITUTE**



Program Materials 2010

CO-SPONSORS:

Family Law Section, State Bar of Georgia
Institute of Continuing Legal Education in Georgia

Copyright © 2010 by the Institute of Continuing Legal Education in Georgia. All rights reserved. Printed in the United States of America. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form by any means, electronic, mechanical photocopying, recording, or otherwise, without the prior written permission of ICLE.

The Institute of Continuing Legal Education in Georgia's publications are intended to provide current and accurate information on designated subject matter. They are offered as an aid to maintaining professional competence with the understanding that the publisher is not rendering legal, accounting or other professional advice. Attorneys using ICLE publications should also research original and current sources of authority.

ICLE gratefully acknowledges the efforts of the faculty in the preparation of this publication and the presentation of information on their designated subjects at the seminar. The opinions expressed by the faculty in their papers and presentations are their own and do not necessarily reflect the opinions of the Institute of Continuing Legal Education in Georgia, its officers or employees.



The Institute of Continuing Legal Education in Georgia (ICLE) is the not-for-profit educational service of the State Bar of Georgia and is a consortium of the Bar and the Law Schools of the Universities of Georgia, Emory, Mercer, Georgia State and John Marshall. It is fully self-supporting and receives all of its income from tuition charges and sale of publications. ICLE exists solely to serve the educational needs of practicing lawyers with any surplus revenues being devoted entirely to the improvement of CLE products and services.

Printed by
Institute of Continuing Legal Education in Georgia • P.O. Box 1885 • Athens, Georgia 30603-1885

Publication No.
107337

FOREWORD

The Institute is especially grateful to our outstanding Seminar Chairperson, K. Paul Johnson, for providing the necessary leadership, organization and supervision that has brought this program into a reality. Indeed a debt of gratitude is particularly due our articulate and knowledgeable faculty without whose untiring efforts and dedication in the preparation of papers and in appearing on the program as speakers, this program would not have been possible. Their names are listed on the program at page iv of this book and their contributions to the success of this seminar are immeasurable.

I would be remiss if I did not extend a special thanks to each of you who are attending this seminar and for whom the program was planned. All of us hope your attendance will be most beneficial as well as enjoyable. Your comments and suggestions are always welcome.

May, 2010

Lawrence F. Jones
Executive Director
Institute of Continuing Legal
Education in Georgia

PROGRAM

Presiding: *K. Paul Johnson*, Program Chair;
McCorkle & Johnson, LLP, Savannah

THURSDAY, MAY 27, 2010

- 7:15 **REGISTRATION** (All attendees must check in upon arrival. A removable sweater or jacket is recommended.)
- 8:25 **OPENING REMARKS**
Tina S. Roddenbery, Chair, Family Law Section, State Bar of Georgia; Holland Schaeffer Roddenbery Blich LLP, Atlanta
- 8:30 **THE INITIAL CLIENT INTERVIEW**
Edward J. Coleman, III, Surrent & Coleman, P.A., Augusta
Jonathan J. Tuggle, Boyd Collar Nolen & Tuggle, LLC, Atlanta
- 9:30 **BREAK**
- 9:45 **PLANNING YOUR CASE STRATEGY (SURVEILLANCE, DOCUMENTS, ETC.)**
Thomas P. Hawkins, Jr., Hawk Private Investigations, Inc., Atlanta
Richard M. Nolen, Boyd Collar Nolen & Tuggle, LLC, Atlanta
- 10:45 **DISCOVERY/EVIDENCE**
Hon. Adele P. Grubbs, Judge, Superior Court, Cobb Judicial Circuit, Marietta
James C. Metts, III, James. C. Metts, III, P.C., Savannah
Tyler J. Browning, Browning & Smith LLC, Marietta
Stephen C. Steele, Moore Ingram Johnson & Steele, LLP, Marietta
- 11:45 **BREAK**
- 12:00 **TEMPORARY HEARING (WHEN TIME IS SHORT)**
Hon. J. Stephen Schuster, Judge, Superior Court, Cobb Judicial Circuit, Marietta
Randall M. Kessler, Kessler, Schwarz & Solomiany, P.C., Atlanta
- 1:00 **RECESS**
- 2:30 **TENNIS TOURNAMENT**
- 6:30 **WELCOME RECEPTION**

FRIDAY, MAY 28, 2010

- 8:30 **MAKING MEDIATION SUCCESSFUL**
Carl S. Pedigo, Jr., Attorney at Law, Savannah
Wendy W. Williamson, The Mediation Center, Savannah
Leigh F. Cummings, Warner, Mayoue, Bates & McGough, Atlanta
- 9:30 **ETHICAL AND CRIMINAL ISSUES**
Hon. David L. Dickinson, Judge, Superior Court, Bell-Forsyth Judicial Circuit, Cumming
Hon. Mark Anthony Scott, Judge, Superior Court, Stone Mountain Judicial Circuit, Decatur
Kurt A. Kegel, Davis, Matthews & Quigley, P.C., Atlanta
Barry B. McGough, Warner, Mayoue, Bates & McGough, P.C., Atlanta
- 10:45 **BREAK**
- 11:00 **UNUSUAL CUSTODY ISSUES: RELIGIOUS DIFFERENCES, SEXUAL ORIENTATION, ETC.**
Hon. Jeffrey S. Bagley, Judge, Superior Court, Bell-Forsyth Judicial Circuit, Cumming
Hon. Gail S. Tusan, Judge, Superior Court, Atlanta Judicial Circuit, Atlanta
Charles E. Bailey, Warner, Mayoue, Bates & McGough, Atlanta
Sarah C. Brogdon, LCSW, Peachtree Psychological Associates, Atlanta
Rebecca L. Crumrine, Davis, Matthews & Quigley, P.C., Atlanta
- 12:00 **EQUITABLE DIVISION (VALUING ASSETS, NONMARITAL PROPERTY ISSUES)**
Kelly A. Miles, Smith Gilliam Williams & Miles, P.A., Gainesville
R. Scot Kraeuter, Savage Turner Pinson & Karsman, Savannah
Martin S. Varon, Alternative Resolution Methods, Inc., Smyrna
- 1:00 **RECESS**
- 1:30 **GOLF TOURNAMENT**
- 6:30 **SECTION RECEPTION**

SATURDAY, MAY 29, 2010

- 8:30 **TAKING THE CASE TO TRIAL**
Hon. Lawton E. Stephens, Judge, Superior Court, Western Judicial Circuit, Athens
Regina M. Quick, Regina M. Quick, P.C., Athens
Katheleen B. Connell, Boyd Collar, LLC, Atlanta
- 9:30 **BREAK**
- 9:45 **DRAFTING THE FINAL JUDGMENT AND DECREE/SETTLEMENT AGREEMENT**
Hon. Bill Reinhardt, Chief Judge, Superior Court, Tifton Judicial Circuit, Tifton
Kelley O'Neill Boswell, Watson Spence LLP, Albany
- 10:45 **PROTECTING YOUR CLIENT AFTER THE ENTRY OF THE FINAL JUDGMENT AND DECREE**
Hon. Cynthia Wright, Judge, Superior Court, Atlanta Judicial Circuit, Atlanta
Gwenn D. Holland, Holland, Schaeffer Roddenbery Blich, LLP, Atlanta
Kice H. Stone, Stone & Driggers LLC, Macon
- 11:45 **BREAK**
- 12:00 **CASE LAW UPDATE AND RECENT DEVELOPMENTS**
Jonathan V. Dunn, McCorkle & Johnson, LLP, Savannah
Sarah McCormack, Kessler, Schwarz & Solomiany, Atlanta
- 1:00 **ADJOURN**

Table of Contents

	Page	Chapter
Foreword	iii	
Program Schedule	v	
The Initial Client Interview..... <i>Edward J. Coleman, III, Jonathan J. Tuggle, and Amy K. Sullivan</i>	1-93	01
Planning Your Case Strategy: “Spousebusters”	1-22	02
<i>Richard M. Nolen and Thomas P. Hawkins, Jr.</i>		
Discovery and Evidence..... <i>Tyler J. Browning, Adele P. Grubbs, James C. Metts, III, and Stephen C. Steele</i>	1-26	03
Temporary Hearing (When Time is Short)..... <i>J. Stephen Schuster and Randall M. Kessler</i>	1-7	04
Making Mediation Successful	1-20	05
<i>Carl S. Pedigo, Jr.</i>		
Technological Advancements: Potential Pitfalls for the Unwary Family Law Attorney	1-31	06
<i>Kurt A. Kegel, Mina A. Elmankabady, and Barry B. McGough</i>		
Unusual Custody Issues: Parental Alienation – A Perspective from the Bench	1-5	07
<i>Jeffrey S. Bagley</i>		
Review of Georgia Case Law Regarding Parental Sexual Orientation and Child Custody	1-16	7A
<i>Charles E. Bailey</i>		
Statutory Provisions for Determining Custody Issues in Georgia	1-24	7B
<i>Rebecca L. Crumrine</i>		
Equitable Division (Valuing Assets, Non-Marital Property Issues)	1-84	08
<i>Kelly Ann Miles, R. Scot Kraeuter, and Martin S. Varon</i>		
Taking the Case To Trial	1-90	09
<i>Lawton E. Stephens, Regina M. Quick, and Kathleen B. Connell</i>		
Drafting the Final Judgment and Decree/Settlement Agreement..... <i>William D. Reinhardt, II, Kelley O’Neill-Boswell, and Sarah Finney Kjellin</i>	1-32	10

Table of Contents

(continued)

	Page	Chapter
Protecting Your Client After Verdict and the Entry of the Final Judgment and Decree	1-43	11
<i>Cynthia Wright, Gwenn D. Holland, and Kice H. Stone</i>		
Restaurant Nous Non Plus: A Tasting Menu of the Latest Georgia Family Law Cases	1-30	12
<i>Sarah McCormack and Jonathan V. Dunn</i>		
Appendix:		
The Institute of Continuing Legal Education in Georgia	1	
ICLE Information	4	
Errata Sheet	5	