

# CALENDAR CALL

GENERAL PRACTICE AND TRIAL SECTION STATE BAR OF GEORGIA  
Summer 2025



## *Traditions of Excellence* *Awards*



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# CALENDAR CALL

GENERAL PRACTICE AND TRIAL SECTION STATE BAR OF GEORGIA  
Summer 2025



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Calendar Call is the official publication of the General Practice and Trial Section of the State Bar of Georgia. Statements and opinions expressed in the editorials and articles are not necessarily those of the Section of the Bar. Calendar Call welcomes the submission of articles on topics of interest to the Section. Submissions should be double spaced, typewritten on letter-size paper, with the article on disk or sent via e-mail together with a bio and picture of the author and forwarded to Gregory C. “Greg” Sowell, One Press Place 200, Athens, GA 30601 or by email to [gsowell@jamesbatesllp.com](mailto:gsowell@jamesbatesllp.com)

# Editor's Column

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Devin Hartness Smith



As lawyers, we are often reminded of the nobility of our profession—that we are doing our part to defend the rule of law and ensure fairness for all parties involved. Noble as it may be, the practice of law can also be overwhelming, and I think this particularly applies to one type of practitioner. I am talking to you, my fellow “hard-working generalist.” I cannot take credit for the term, it came from our editor Greg Sowell, who suggested it might define my practice. Glancing at the files scattered on my desk, I see he was right: estate litigation discovery, a shareholder derivative complaint, a half-finished LLC operating agreement, transcripts in an employment discrimination case, a juvenile traffic notice, a partition action, and a couple of felonies.

It can be tough to keep up. For the generalist, it is not true that you can be a jack of all trades and a master of none; more likely, you need to be master of two different subjects on a given day, then take those hats off and be the master of another while trying to remember what you learned from the time you were the master of still another subject five years ago.

Whether you are a generalist because you are a sole practitioner, or one of only a couple of lawyers in your town, or because you are in a bigger firm and became the person all the other lawyers sent the “*I don't know this area but the client is important*” matters to, it is hard to stay current and remain better than largely

passable. Our aim here at Calendar Call not only is to give you guidance and practice pointers, but also to encourage you to keep on and look ahead. To that end, we offer the following:

- Anna Bolden gives us an excellent primer on making the best use of Georgia's statutes protecting citizens from the long-term repercussions of a criminal history record. Gone are the days of expungement, and Anna explains the important distinctions between record restriction, sealing, and First Offender treatment. I can attest that clients call more and more often with concerns about these issues as they face ever-more-specific questions on education and job applications, so Anna's guidance comes at a perfect time.
- I believe publishers now are required to mention the term artificial intelligence at least once every 500 words (certainly seems so). Calendar Call is no exception, so we asked Jack Summer for discussion of A.I. and the modern practice of law. Jack reminds us that while A.I. tools may reshape the way we practice, general practitioners taking advantage of A.I.'s convenience must also keep their duties of transparency, accountability, and confidentiality in mind. At this point we have all heard horror stories of A.I.-prepared briefs that did not pass muster in court, but Jack raises other concerns about evidence and admissibility that require us to prepare and plan for when, not if, we encounter them.
- Judge Kathy Palmer, a past Traditions of Excellence recipient, and Judge Wade Padgett, currently of the Georgia Court of Appeals, share their journeys from general practitioners to the bench and offer tips for generalists appearing in their courts and others. Like our Traditions of Excellence winners, whose acceptance speeches are included in this issue, Judge Palmer emphasizes the critical role mentoring plays in a lawyer's life, while Judge Padgett explains other avenues for serving the public

and the profession—in his case, teaching and podcasting. Read on for their encouragement and reminders of why we do what we do.

We remain grateful to the State Bar for its assistance and dedication in publishing the Calendar Call and getting it in your hands, especially Sections Coordinator Challie Smith and Abbey Patterson, Executive Director of the General Practice and Trial Section.

As always, we would love to hear from more of our hard-working generalists, whether you would like to submit an article on a topic of interest that would benefit the group or have a matter that you would like us to tackle in the next issue—help us help you! You can reach me at [devinhsmith@cooktolley.com](mailto:devinhsmith@cooktolley.com) or our editor Gregory C. Sowell at [gsowell@jamesbatesllp.com](mailto:gsowell@jamesbatesllp.com).

## Message from the Chair

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*Rhonda Kreuziger*



It is hard to believe we have already completed the first quarter of the year for 2025! I am happy to report that the General Practice & Trial Law Section had another successful annual CLE under the direction of our Immediate Past Chair, Adam L. Hebbard. We were in beautiful Savannah, Georgia, and Adam did an outstanding job of coordinating a group of stellar speakers and presentations.

We learned about a wide array of topics that have daily application to the practice of law. Western Judicial Circuit Chief Judge Lisa Lott shared her perspective about issues that constitute emergencies in our courts and matters concerning courthouse security. We learned how artificial intelligence consistently permeates the practice of law and affects litigation. We were informed

about the recent developments in Title IX cases and were taught the fundamentals of estate planning and probate law. Information was provided about how to defend DUI and drug-related cases, and we had a host of other important legal matters presented by some of the most knowledgeable attorneys in the State of Georgia.

I am confident the attendees would agree the subject matter was resourceful, highly informative, and will continue to serve our general practitioners and trial lawyers for years to come. On behalf of our Section, I would like to extend a heartfelt thanks to our speakers for sharing their time and expertise.

We also ask you to please join us this year on June 6, 2025, for the Traditions of Excellence Awards and reception at the Sawgrass Marriott Golf Resort & Spa in Ponte Vedra Beach, Florida. As in years past, our award recipients are a remarkable group, and we look forward to honoring and highlighting their extraordinary accomplishments.

As I wind down this season of service as your Chair, I am grateful beyond measure to have the opportunity to serve alongside some of the most impressive members of the State Bar of Georgia. Please continue to operate in excellence, and I look forward to seeing you soon!

Adam Hebbard



Held in downtown Savannah, Georgia in mid-March (just prior to St. Patrick's Day), this year's General Practice & Trial Section CLE Institute was another great success. Held from March 13-15 at the Hotel Indigo, the Institute provided a dynamic slate of presentations from experienced legal professionals and judges from across Georgia and from a wide variety of practice areas. While all of the presentations were great, a few highlights include:

- Kimberly C. Butler and Judge Ethelyn Simpson (ret.) lead a thought-provoking session focused on legal ethics, offering practical insights and ethical considerations relevant to trial work, provoking discussion centered around real-world dilemmas and the importance of courtroom integrity.
- John Manly's presentation, entitled "Who Watches the Watchmen: Assessing the Assessors," explored oversight in the legal system, particularly focusing on the evaluation of assessors. His talk challenged lawyers to critically analyze the reliability and accountability of those tasked with assessment roles in litigation, sharing real world successes

from his practice.

- Judge Lisa Lott addressed the often subjective concept of "emergency" in legal contexts. This session blended professionalism with trial practice guidance, encouraging attorneys to thoughtfully evaluate urgency while maintaining ethical standards and decorum under pressure.
- Closing out the conference, Sarah Howard Lamar presented proactive strategies for lawyers counseling clients in the employment sector. Her session equipped attendees with tools to help businesses and individuals mitigate legal risks before disputes arise.

And that is only 4 of the 12 speakers who presented over the weekend! In all, our Section was able to provide all of the required CLE hours, including specialty hours, for attendees to meet their annual requirements. We are truly thankful for the effort that our presenters put in to preparing their presentations and for traveling down to Savannah to speak with us.

This annual Institute provides a comprehensive and practical legal education experience, blending ethics, professionalism, trial practice, and specialized legal topics tailored for today's practicing attorneys, not to mention some top-notch networking and socializing. If you made it this year, thank you, and if not, let us know if there is something we can offer to tempt you down to the next one; the only thing that could make next year's Institute better would be seeing you there!

# “Meet the Judges”

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*John Manly*



The Section was pleased once again to host the “Meet the Judges” luncheon in conjunction with the State Bar’s mid-year meeting in Savannah. As with other years, we invited three judges to participate in a Q & A session with attendees and enjoy an opportunity to socialize with lawyers and judges from across the state. Chief Judge R. Stan Baker (United States District Court for the Southern District of Georgia), Judge Elizabeth Gobeil (Georgia Court of Appeals), and Judge Ben Karpf (Superior Court for the Eastern Judicial Circuit) were this year’s participants.

Each graciously offered words of wisdom and war stories from their perspective on the bench. Topics of discussion included the use of artificial intelligence in brief writing and the ethical concerns associated with its use; tips for oral argument; and war stories on lawyers behaving badly. This event has become one of the more popular events that the Section presents and is a great way for Section members to get face time with judges that they might otherwise not be able to meet. Please join us for our next “Meet the Judges” luncheon at the State Bar’s 2026 mid-year meeting in Atlanta.

# TRADITIONS OF EXCELLENCE AWARD

## Hall F. McKinley III DEFENSE

### Acceptance Speech



I am honored to receive this Tradition of Excellence Award. I want to thank the General Practice and Trial Law Section of the State Bar for its consideration and selection of me for this honor. I also want to congratulate my three co-award winners. Converse Bright and Mike Terry are well-known and respected lawyers who greatly deserve this award. Judge Lawton Stephens was my classmate at the University of Georgia School of Law in the great class of 1981, and we have been friends since our first weeks in law school in 1978. So, it is particularly gratifying to receive this award with such a great judge and close friend!

When I graduated from law school in 1981, I had the good fortune to begin work under the mentorship of Wray Eckl, and in 1983 I helped him start the law firm of Drew Eckl & Farnham, where I continue to practice after 41 years. In those early years, Mr. Eckl taught me to work hard and learn the law. He also taught me the importance of dealing with other lawyers with respect and courtesy, and the type of professionalism that should be expected of lawyers. In my 43 years of practice, his example has served me well. When you treat others with courtesy and respect, it is returned in kind, with very few exceptions. Practicing law can be difficult, requiring significant time and effort to handle

a large caseload or to try a lengthy, high-risk lawsuit. However, when lawyers work together cooperatively, with courtesy and respect, we are a much better profession. These type efforts can make every lawyer's life just a little bit easier!

My path over the last 41 years led me into bar service. I have been very active in the American Bar Association's Tort Trial and Insurance Practice Section (ABA/TIPS) and the Georgia Defense Lawyers Association (GDLA) since the 1980's. With ABA/TIPS, I initially chaired two general committees: the Self Insurers and Risk Managers Committee and the Commercial Transportation Litigation Committee. Through this service, I was able to speak at numerous national CLE programs, which gave me the opportunity to develop the lawyer and industry contacts that shaped much of my legal career. In 1993, ABA/TIPS asked me to chair and establish the first national trucking law program offered by any legal or industry group. This became the Transportation Megaconference held every two years in New Orleans. Thirty years later, in 2023, I still chaired the sixteenth edition of this national CLE program. An added benefit was that my co-chair of that program for the entire 30 years, Roy Cohen of New Jersey, became one of my closest friends in the legal community. Again, bar service shaping an entire legal career!

In recent years, I have served in leadership roles for ABA/TIPS on its governing Council (2012-2015) and chaired the CLE Board (2016-2018), coordinating the 26 regional and national programs sponsored by ABA/TIPS each year. The leadership and CLE Board activities were time-consuming and service-based, but they were incredibly rewarding. Over the many years with ABA/TIPS, I developed friendships with lawyers all over the country that will carry on long after I leave the practice of law.

My GDLA involvement began in the 1980's with my attendance at its Trial Academy for young lawyers and culminated with my year as President in 2018-2019. The last 20 years included service on its Board and in several officer positions before becoming President. As recently as 2023 I served on its Executive Committee. These leadership positions provided an opportunity for service to the Georgia civil defense bar and also allowed me to develop relationships with lawyers around the entire State of Georgia. These contacts were certainly important for handling cases across Georgia during my long legal career.

My many years of service in bar organizations have provided me professional contacts around the state and country, which helped make me a better lawyer and have a better law practice. Equally important, as I approach the end of a 43 year legal career, these bar activities have enriched me with great friends around the state and country. In accepting this award, I want to thank those many professional associates and friends who have helped shape my career and put me in this position to be recognized for this award.

In addition to those members of the General Practice and Trial Law Section who were involved in the much-appreciated decision to present me with this award, I want to thank the law firm and my partners at Drew Eckl & Farnham who recognized the importance of this bar service and supported me all along the way. People ask me how I could work at one place my entire career, and I respond that either Drew Eckl & Farnham was a great place to work, or I was an extremely risk-averse person! Drew Eckl was a great place to work! Finally, I want to thank my family for their unwavering support over the years as the effort needed for a long legal career and for bar service frequently took me away from family. My three children, Allison, Hall and Caroline, are here at this award reception, and I am so proud of all of them. I appreciate the support they have provided to their Dad. Unfortunately, we lost our best part, my wife and their mom, Becky, way too early to cancer. She was the rock that kept our family in such a good place all these years.

Again thank you so much for this Tradition of Excellence Award. It means a great deal to me and thank you all for being here today.



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# TRADITIONS OF EXCELLENCE AWARD

## Michael B. Terry PLAINTIFF

### Acceptance Speech



First, I want to thank Justice Ellington for the overly-kind introduction. I know it's tough without your law clerk here to draft it. I want to thank my nominator, who I understand through the grapevine is Buck Rogers. Buck is well known for his honesty and integrity, and I want to thank him for his apparent willingness to suspend that in order to make my nomination successful. I want to thank my family, which has been supportive of my career at every step. Everyone with a successful legal career knows, our families sacrifice with us. And I have to thank everyone at Bondurant Mixson & Elmore, which has provided me with the best platform imaginable to take an idea and develop it into a practice, with encouragement and support in every way.

The Bar has given me five minutes, and I want to talk about three things: teamwork, effort, and commitment. Teamwork comes first. If you don't work with people you trust and respect, you are going nowhere. Law, like life, is a team sport. You have to not only trust and respect your team, but you have their back and trust them to have yours. And if you are fortunate as I am to have some of my best friends among your co-workers, that makes it so much better. I have the best partners, the best associates, and the best support staff that I could ask for. Several of my friends and co-workers

from Bondurant, Mixson & Elmore are here today. I see Frank Lowrey, Naveen Ramachandrappa, Ben Thorpe, and Jennifer Peterson. I want to thank them for being here, and for making me a better lawyer every day. Splitting arguments with Frank or Naveen will make you want to up your game, that is for sure.

And the teamwork concept goes far beyond the firm. If you do a lot of appeals for other folks, you find a great many lawyers who become your teammates for a case, and then for another case, and you develop close working relationships, where you each make the other better at what each of you do, in case after case. I make suggestions for how to avoid appellate issues in the future. They make suggestions as to persuasive expression. Doing an appeal for a lawyer from another firm is also a team effort, a team sport. Trying a case with a lawyer from another firm is, if anything, even more so. It builds teamwork.

I have been fortunate to build those relationships with a number of people who are now my friends and my repeat team members. People such as Jim Butler, Bill Stone, Adam Malone, Mike Neff, Laurie Speed, Bethany Schneider, Darren Penn, John Bell Manly, and more. I did a case with John Manly over the last three years. We had a trial together, then the appeal. We shared the work, shared ideas, made each other laugh, and got a great result for the clients. And even though the case was tragic and the evidence was, frankly, traumatic, we didn't have a bad day, because we were a team and we were friends. Jim Butler and I have been working on cases together since 1997. Twenty-seven years. Bill Stone and I have multiple cases together, and we talk strategy and ideas, for those cases and others, all of the time. It's the best way to practice law—as a member of a team.

Effort is pretty obvious. I'm sure somewhere there are lawyers with so much talent, or so much intellect, that they can navigate the shoals of litigation with effortless

grace. I have just never met them. I have worked with some of the smartest lawyers to be found. And the hallmark of those who are most successful is effort. You have to grind. Keep chopping wood, as Kirby Smart says. Emmet Bondurant is the smartest lawyer I have encountered. And if you ask him what makes him different from others, he will talk not about intellect but about effort. Unceasing effort. Preparation, research, read every document. Never give up; never give in. Keep chopping wood. Talent without effort is wasted.

Commitment is something different than effort. You have to find something you care deeply about in the law. It is no accident and no secret that the things that keep me excited about the law include our firm's litigation to insure free and fair elections, racial justice, women's rights, and the rights and protection of those injured through the fault of others, including victims of sexual abuse and those injured by dangerous products. Caring about things deeply, and pursuing those issues about which you care, earns you not only respect from others, but the single greatest success a lawyer can find: satisfaction that you have made things better. At the end of the day, at the end of a career, that is the question you should ask yourself: did I leave the law and society better than I found it? You should structure your career so that you aren't afraid of the answer to that question. And that is how you establish and pass along your own personal Tradition of Excellence.



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# TRADITIONS OF EXCELLENCE AWARD

## J. Converse Bright GENERAL PRACTICE

### Acceptance Speech



Thank you, Wade.

In 1962, I graduated from the University of Virginia with B.A. in History and no idea of how to support myself. Wade had graduated from Vanderbilt and Wilbur Warner from Emory. Those two attended my third birthday party. Wade, as casually as if he was inviting me out for a beer, said: “Why don’t you go with us to law school?” I said, “Why not?” So began a life in the courtroom, doing work that I loved.

Thank you, my other colleagues and my worthy opponents. You taught me so much. We did important work together and share lifelong friendships.

I have been blessed with the greatest helpers. Their names did not appear on the pleadings or the briefs, but their contributions were as great as the author’s. I tried most of my cases by myself. I could not have done it without the world’s best assistants.

I was appointed to represent a thrown away young man who had been institutionalized since age 10. He was indicted for the brutal murder of a respected citizen. There were no eyewitnesses, but the circumstantial evidence was convincing, and by background and looks, he fit the part. The jury found him guilty.

When the verdict was reported in the newspaper, a witness who was unknown to anyone at the time of the trial came forward with testimony that another person was the killer. Based on this, I filed an extraordinary motion for new trial, which was granted. On the morning of jury selection in the second trial, I was approached in the courtroom by someone I recognized as the foreman of the first jury. He said: “I was on the last jury. We did the right thing. I know your client is guilty.” I said: “I am going to prove you’re wrong.” He remained in the courtroom throughout the trial. At the end of day one’s testimony, he approached me and said: “I am now convinced he is not guilty.” For the rest of the trial, he took notes and made comments that were often helpful. I had unwittingly obtained a free jury consultant. Together, we got it right. The verdict was “not guilty.”

The jury, and supporting jurors in their job, is the reason we are there. We must believe that jurors try to do the right thing. When they are first brought into the courtroom, they may seem reluctant, bored, or impatient. But once they have been sworn in, have heard the evidence, the summations, and the Court’s charge, I believe that they go to their jury room sincerely determined to do their job. For me, this case confirmed that belief.

I said that I tried cases by myself. I was by myself at the table, but I was not alone. For the last 35 years, through every trial, someone sat in the first row behind my counsel table. This person took notes and made astute critiques as the case proceeded. She carried life savers. Her presence became so commonplace that the late great jurist and friend, Hugh Lawson, once observed from the bench, “I see that Mr. Bright has his fan club in court today.”

Thank you, my beautiful wife, Jill.

# TRADITIONS OF EXCELLENCE AWARD

## Hon. Lawton E. Stephens JUDICIAL

### Acceptance Speech



As the longest serving Superior Court Judge in the history of the Western Circuit, and the longest serving active Superior Court Judge in Georgia, I accept this award on behalf of all the silver-haired, white-haired and no-haired judges in the State. The fact that my friend Adam Hebbard, the Chairman of the General Practice and Trial Section, practices law in Athens and has approximately 47 cases pending in my Court I'm sure had nothing to do with my selection. In fact, the Judge who won it last year was from Athens. I'm sensing a pattern here. I also very much appreciate the kind introduction by my young friend John Bell Manly, a rising star who serves with me on the Board of Governors and claims to have been an intern in my office when he was in law school. I try to surround myself with young people so I can stay euthanized.

It is ironic that I have served on the bench for so many years, because I never really wanted to be a judge. I wanted to be a Congressman like my Father, and my idols Buddy Darden, John Barrow, and George Santos. Back when I was in the Legislature I asked my wife Mary what she thought about the idea of my running for Congress. She said: 'You can run for Congress. Of course you'll never see me, your children, or your dogs again, and you can mail your alimony checks to the house you used to live in.' I took that as a negative.

The fact that my father was a Congressman answers the most persistent question posed by most of my professors

at UGA, "Mr. Stephens, just how the hell did you get in law school???" My classmate Hall McKinley, my friend Mike Terry, and the legendary Converse Bright, heir to the tennis shoe company, were all admitted to UGA Law School entirely on their own merit, as far as you know.

So what is the secret to longevity on the bench? First, good mentors who show you the way. Like the late Judge Kent Lawrence, a great football player, an even better Judge, but a terrible golfer. We played a lot of golf together during the week until he retired and didn't have the time. I miss him every day.

The other Judge who I also miss even though he is still alive is the Honorable Steve C. Jones who enjoys a lifetime appointment on the Federal District Court of the Northern District of Georgia. One day in 2004 when he was on the Superior Court bench with me, which is where the real money is, Steve came to me and said he wanted to start a Felony Drug Court in our circuit. I was pretty old school back then and told him I wanted no part of it. I didn't want to be a "glorified probation officer", and I felt sure that a lengthy prison sentence could cure just about any addiction. But Steve did it, and when he ascended unto the Federal Bench in 2011 I took over the Felony Drug Court of the Western Circuit and quickly became a true believer in Accountability Courts and their mission of saving lives.

Serving as the current Chair of the Council of Accountability Courts of Georgia, and presiding over the Felony Drug Court of the Western Circuit is the best thing I do as a judge, has changed the way I approach my job and has enriched my life in countless ways. Accountability Courts work! Please do not ever forget that!

Seriously, thanks to the General Practice and Trial Section for this award. I will try to prove worthy of it as I continue to serve as an active Superior Court judge for the next four to twenty years if not shorter. Thank you all!

# Photos from the Traditions of Excellence Celebration

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# Record Restriction and Sealing in Georgia

Anna G. Bolden



So you obtained a dismissal for your client—congratulations! Your job is not over yet. Now you need to restrict and seal the records. Too many lawyers in Georgia drop the ball just before the finish line when practicing criminal defense. Many exceptional criminal defense attorneys fail to advise and assist clients with the restriction and sealing of their criminal cases, oftentimes due to a misconception that restriction and sealing happen automatically after every dismissal.

First, you must understand the distinction between the two terms. Record restriction is the sealing of an individual’s official criminal history as maintained by the Georgia Bureau of Investigation at the Georgia Crime Information Center. This was formerly known as “expungement.” Sealing is the sealing of records in the custody of the clerk of court or the arresting law enforcement agency, including online records.

## Record Restriction

Record restriction is a concept supported by prosecutors, judges, and the public at large. If a person qualifies for a record restriction, then most people in our society want that individual unburdened by charges that were eligible for record restriction so they are able to seek employment and housing. The collateral consequences of an arrest, even one that does not result in a conviction, can unfairly follow clients for years.

Today it is not only dismissals that can be restricted from your clients’ criminal histories. The old “expungement” law, now known as “record restriction,” has been revamped several times since O.C.G.A. § 35-3-37 was enacted in 2012. Each revision of the statute has expanded the types of cases that can be restricted for clients. Still, gaps remain. For instance, if a client’s case is dismissed because his or her constitutional rights were violated, and you win the motion to suppress, the charges are not eligible for record restriction or sealing (adding insult to injury).

The record restriction statute is needlessly complex, filled with exceptions and requirements that require careful scrutiny and attention to detail when preparing a petition, but the most frequently used sections that authorize record restriction can be summarized as follows:

- Prior to indictment/accusation: Arrests not referred to the prosecuting attorney; offenses dismissed by the prosecutor prior to formal charges; cases no billed twice; and cases no billed once in which the statute has run. O.C.G.A. § 35-3-37(h)(1)
- After indictment/accusation: All charges dismissed, nolle prossed, or reduced to local ordinance; conditional discharge for misdemeanor marijuana or underage possession of alcohol (at sentencing or upon successful completion of probation); successful completion of accountability court in which the charges were ultimately dismissed (unless arrested for anything other than a nonserious traffic offense while in the program); acquittal at trial by a judge or jury (unless the prosecutor moves within ten days to prevent the restriction

because of specific circumstances set forth in the statute). O.C.G.A. § 35-3-37(h)(2)

- Arrest for a felony ultimately resolved as a misdemeanor (so long as the misdemeanor is not a lesser included offense of the felony charge) is eligible for restriction as well if the arrest occurred after July 1, 2013. O.C.G.A. § 35-3-37(j)(1)
- After conviction in non-capital sentences, if the conviction is vacated by the trial court or reversed by an appellate court and the case has not been tried within two years of the conviction being vacated or reversed, if the arrest occurred after July 1, 2013. O.C.G.A. § 35-3-37(j)(2)
- After a case has been dead docketed for twelve months, unless an active warrant is pending, if the arrest occurred after July 1, 2013. O.C.G.A. § 35-3-37(j)(3)
- Many misdemeanor convictions for adults as well as for youthful offenders (those who are twenty-one or younger at the time of arrest) are eligible for restriction and sealing if the arrest occurred after July 1, 2013. O.C.G.A. § 35-3-37(j)(4)(A) (with exceptions for more serious misdemeanors not eligible for restriction set forth in subsection (B); with a maximum of two lifetime restrictions for misdemeanor incidents)
- Fugitive from justice arrests are eligible for restriction, if the arrest occurred after July 1, 2013. O.C.G.A. § 35-3-37(j)(5)
- A person convicted and sentenced while the person was a victim of trafficking is now eligible to seek restriction of the conviction and the sentence, if the arrest occurred after July 1, 2013. O.C.G.A. § 35-3-37(j)(6)
- Pardoned individuals who were previously convicted of offenses that were not serious violent felonies or sexual offenses, who have not been convicted of any crime other than a nonserious traffic offense since the pardon was granted, and have no pending charged offenses, may seek restriction if the arrest occurred after July 1, 2013. O.C.G.A. § 35-3-37(j)(7)

### First Offender

Although First Offender record restrictions are not covered in O.C.G.A. § 35-3-37, I would be remiss if I did not highlight the law that now permits restriction in First Offender cases. This is not to be confused with the Retroactive First Offender law. Retroactive First Offender is not the same as record restriction/sealing, though it is an equally valuable remedy available to individuals who (1) were eligible for First Offender, but (2) were not sentenced as a First Offender, and (3) have successfully completed their sentence. *See* O.C.G.A. § 42-8-66.

The First Offender laws now permit restriction and sealing at sentencing for First Offender pleas. It is important to note that this must be requested at sentencing (unless a sentence still in progress was imposed before July 1, 2016). O.C.G.A. § 42-8-62.1(b). Given that many First Offender sentences include lengthy periods of probation, seeking restriction and sealing at the time of the sentence for First Offender cases can help your client find and/or maintain employment and housing while serving that sentence.

### Sealing

Even after a successful record restriction (which happens automatically in many dismissals in most jurisdictions in Georgia), there is a separate step that you should take to seal your client's records with both the law enforcement agencies, as well as with the clerk of court. With the rise of online records statewide, sealing your clients' records in addition to restricting their official criminal histories is more important than ever.

Sealing may be sought for any case in which a record restriction has been granted pursuant to O.C.G.A. § 35-3-37, as well as for First Offender record restrictions pursuant to O.C.G.A. 42-8-62.1. For record restrictions granted under O.C.G.A. § 35-3-37, the sealing provisions are set forth in subsection (m).

In my opinion, sealing the law enforcement agency records and the clerk of court's records for a client is more important than the record restriction of the GCIC criminal history. The record restriction limits the official criminal history, but does nothing to limit the information available on the internet. Sealing, on the other hand, often limits the information that is publicly

available on the internet. Some mugshot websites will even remove mugshots when provided with a sealing order.

### Procedural Notes and Practice Tips

Prior to seeking an order to seal your client's record, I recommend obtaining certified copies of any important documents from the clerk's file that your client may need in the future—accusation/indictment, dismissal, etc. While it is possible to unseal the record in the future with a court order, it is much easier to obtain ahead of time. You will also want a certified copy of the order sealing the record once it is signed, as the motion to restrict/seal and the order restricting/sealing are (should be) sealed along with the original case file.

For record restriction under O.C.G.A. § 35-3-37, a petition must be filed with the original case and served upon the prosecuting attorney (and in some cases, the law enforcement agency). If either side requests a hearing for a record restriction, it must be held within ninety days of the filing of the petition to restrict the criminal history.

For sealing under O.C.G.A. § 35-3-37(m), the petition must be served on the clerk of court and the prosecuting attorney. For record restriction and sealing under O.C.G.A. § 42-8-62.1 at the time of first offender sentencing, the petition must be served on the clerk of court and the prosecuting attorney.

The court applies a balancing test for both record restriction and sealing: the harm otherwise resulting to the individual versus the public's interest in the criminal history record information being publicly available. The standard for this balancing test is a preponderance of the evidence.

Many prosecutors will not object to a petition that qualifies under the statute. If you are seeking record restriction or sealing for a client, I recommend that you have a preliminary conversation with the prosecutor prior to the filing of the petition. I also recommend that you attach an affidavit from your client setting forth the harm caused to the client by the information being publicly available so that the balancing test can be applied without a hearing if the prosecutor does not demand a hearing. If there is a hearing, be prepared to present evidence of the harm to your client if the

information about the arrest remains publicly available (such as the loss of employment opportunities, admission to college, housing, etc.).

Even upon successful restriction and sealing, the arrest and case file are available to certain persons and under certain circumstances. Be sure to advise your client as to the statutory limits of the restriction and sealing, including but not limited to access by law enforcement, prosecutors, the JQC, the courts, and access by court order.

As a final note, any successful record restriction and sealing should end with notice to the law enforcement agency, to the clerk of court, to the GCIC, and to the private background check companies. To clear information with private background check companies, a copy of the restriction and/or sealing order(s) can be submitted to a clearinghouse that will notify background check companies that your client's arrest has been sealed. In most circumstances, it is not too late to go back through old cases to assist former clients whose charges qualify for restriction and sealing. Advising and assisting clients with record restriction and sealing is often separate legal work outside of the initial agreement with a client, and therefore, a separate retainer is justified.

If you have any questions or would like some additional help with a record restriction or sealing issue, please feel free to reach out to me at [abolden@danielsrothman.com](mailto:abolden@danielsrothman.com). Also, you can use this link to access my written materials from my recent presentation at the 2024 Urgent Legal Matters Institute: <https://tinyurl.com/Ulm2024Bolden> This includes the form to send to the clearinghouse for private background check companies.

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*Anna is a 2005 graduate of the University of Georgia School of Law, was an Assistant District Attorney in Barrow County from 2006-2013, and has practiced law in downtown Athens at Daniels & Rothman, P.C. since 2013, practicing criminal law and family law. Anna has served on the State Bar of Georgia Investigative Panel, is the past president of the Piedmont Judicial Circuit Bar, and is the municipal court judge in Arcade and Nicholson.*

# Enhancing The Art of Advocacy: Artificial Intelligence in The Practice of Law

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Jack D. Summer



From agriculture to aeronautics, artificial intelligence (“AI”) is transforming the way we do work. The practice of law is no exception. AI-driven tools for legal research, document drafting, and discovery review can automate routine tasks, enhance case outcomes, and boost attorneys’ productivity. But while AI holds the promise of dramatically augmenting the practice of law, the full extent of AI’s impact on it remains uncertain.

Today, most are familiar with OpenAI’s ChatGPT, a large language model (“LLM”) designed to understand and generate human language. These models are trained on an extensive corpus of data and use advanced algorithms to predict and generate responses that closely mimic natural language. In their current iteration, established use cases for LLMs include document preparation and legal research.

For instance:

- **Prompt:** Draft a non-disparagement clause to incorporate into a release agreement.
- **ChatGPT:** Both parties agree that they will not, directly or indirectly, make any false, defamatory, or disparaging statements, whether orally or in writing, concerning the other party, its affiliates, subsidiaries, officers, directors, employees, agents, or representatives through any form of communication, including but not limited to social media, public statements, interviews, or private conversations, except as

required by law, regulation, or legal process, or when providing truthful information during legal proceedings or investigations. This non-disparagement obligation shall survive the termination or expiration of this Release Agreement and remain in effect indefinitely. In the event of a breach of this clause, the non-breaching party shall be entitled to seek injunctive or equitable relief, and the breaching party agrees to indemnify and hold harmless the non-breaching party from any and all claims, damages, losses, liabilities, costs, and expenses arising from such breach.

LLMs can also analyze and interpret case law, statutes, and legal doctrine:

- **Prompt:** What is respondeat superior?
- **ChatGPT:** Respondeat superior is a legal doctrine in tort law that holds an employer or principal legally responsible for the wrongful actions or omissions of their employees or agents, provided these actions occur within the scope of employment or agency. This principle is based on the idea that employers have the ability to control and direct their employees’ work, and thus should bear the responsibility for negligent or intentional misconduct that arises during the course of their duties. By applying respondeat superior, injured parties can seek compensation from the employer, ensuring that victims have a reliable party to hold accountable. This doctrine promotes accountability and encourages employers to implement proper training and supervision to prevent misconduct by their workforce.

Beyond LLMs, other AI tools are reshaping the practice. E-discovery platforms like Relativity utilize AI to sift through vast datasets, pinpoint relevant materials, and categorize information. Customer relationship management software like Salesforce employ AI to enhance law firms’ sales, service, and marketing operations. Research platforms like Westlaw and LexisNexis leverage AI to analyze extensive

repositories of case law, identifying relevant precedents with greater speed and accuracy.

Despite these promising benefits, ethical considerations loom large as the profession grapples with issues of transparency, accountability, and client confidentiality in the age of AI. LLMs, for all their prowess, are not infallible; they can produce “hallucinations”—instances where the technology generates plausible-sounding but factually incorrect information. If an LLM cites non-existent case law, it can lead to flawed legal advice, potentially resulting in legal malpractice. Who will be responsible if AI gets it wrong? Client confidentiality, too, remains a challenge, as AI systems retain user data, heightening the risk of data breaches and unauthorized access. How do attorneys, bound by their fiduciary duty to protect sensitive client information and privileged communications, prevent such unauthorized disclosures? Will AI also demand new billing criteria? Clients will inevitably question whether their invoices accurately reflect work performed by humans.

More recent innovations, such as ChatGPT’s Sora and Strawberry, raise additional questions. Sora, a generative AI model, can create highly realistic videos from simple text prompts. While Sora offers the potential to create compelling visual aids that enhance courtroom arguments, it also introduces the risk of increasingly convincing “deepfakes”—videos and images that are digitally altered or entirely fabricated.

How will courts handle the introduction of video evidence when its authenticity can no longer be taken for granted? Meanwhile, Strawberry, a reasoning-focused AI tool that “thinks” before responding, is viewed by industry experts as a pivotal step toward the creation of artificial general intelligence (“AGI”)—AI with the capacity to understand, learn, and apply knowledge across a wide range of tasks at a human-like level of cognitive function. AGI will eventually surpass human capabilities in virtually every domain. Will AGI prove to render attorneys obsolete faster than we anticipated?

Setting these concerns aside, AI’s complete integration into the practice is not a matter of if, but when. According to a 2023 survey by the American Bar Association, over 20 percent of law firms are already using or are seriously considering purchasing AI tools.<sup>1</sup> Thus, to those who look askance at the technology: Pandora’s box has been opened, and a complete refrain from the use of AI tools will render you and your firm the proverbial “dinosaur.”

But fear not, Luddites, AI’s integration in the practice of law is an evolution, not a revolution. And as AI technology evolves, so too will the practice. By thoughtfully embracing the technology now, we attorneys can strategically incorporate AI to our benefit, enhancing the art of advocacy in ways heretofore unimaginable.

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<sup>1</sup> Darla Wynon Kite-Jackson, *2023 Artificial Intelligence (AI) TechReport*, Am. Bar Ass’n, Jan. 15, 2024.

## Interview of Judge J. Wade Padgett

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Judge J. Wade Padgett is a native of Atlanta but spent the majority of his professional life in the Augusta area. He earned a degree in history from the University of Georgia, followed by a law degree from Georgia State University. He assumed the Superior Court bench in the Augusta Judicial Circuit in 2009, then moved to the Columbia Judicial Circuit when that circuit was formed in 2021. During his time on the Superior Court bench, Judge Padgett served as President of the Council of Superior Court Judges. He was appointed as the 96<sup>th</sup> judge of the Court of Appeals in April of 2024. A published author, Judge Padgett is also well-known as a teacher and host of *The Good Judge-Ment Podcast*. He recently agreed to an interview with *Calendar Call*.

### **Tell us about your background and why you wanted to become a lawyer.**

My mother was a public school teacher, and my father was a law enforcement officer. They instilled a sense of service in me at a young age. As a lawyer, we “help people,” which was something I always understood to be both important and admirable. I was an athlete, and being able to try cases allowed me to continue to satisfy that performance urge once my playing days were done.

### **Tell us about your career in private practice before taking the bench.**

I began my career as a prosecutor but transitioned to private practice after a few years. I truly had a general practice where I was involved with plaintiff’s work, defense work, criminal defense, corporate formation and business litigation, probate work, and other varied issues. I know this type of broad practice probably gives other lawyers a sense of panic, but I really enjoyed the varied nature of my law practice and found that it kept me engaged and challenged.

### **What prompted you to seek the trial bench?**

While in private practice, I also served as a part-time magistrate judge. I enjoyed that work but really missed jury trials. I was fortunate initially to be appointed to the Superior Court bench and was able to serve as a trial judge for 15 years prior to my appointment to the appellate bench. I have a list somewhere of the cases that I presided over before a jury, but I can conservatively estimate that I presided over hundreds of jury trials during my time on the Superior Court bench.

**What were the things that surprised you when you transitioned from private practice to the trial bench?**

Trial judges work very hard. As a lawyer, I only observed the time that judges spent on the bench. However, there is at least as much work performed by judges in chambers as that which occurs in the courtroom. The late nights and weekend work that I had to perform to keep up with the pace of work surprised me. But that pace of work remained constant throughout my time on the trial bench.

**What is the profile of a good lawyer appearing before the trial bench?**

Preparation, preparation, preparation. Lawyers can have different styles of presentation, and all of them can be effective. However, I found that lawyers who were truly prepared for all that may arise during a trial tended to have the respect of the court and were also able to routinely achieve positive outcomes for their respective clients.

**How can lawyers best prepare for a hearing or bench trial before a Superior Court Judge?**

Be aware of the volume of work that the trial judge handles. If you have a fact-intensive case, provide the trial judge a “cheat sheet”—something like a spreadsheet—that the trial judge can take with him or her when the case is taken under advisement. Also, candor with the court is critical. Sometimes lawyers have all the facts and all the law on their side. But the next day, they may not have as strong a case. Being candid about the strengths and weaknesses of your case allows judges to both respect you and rely upon you as a source of truth. In my experience, judges understand the challenges faced by lawyers and can be helpful when the lawyer is candid. But that respect and reliance can be lost when the lawyer is routinely late for court, unprepared, or otherwise proves to lack reliability.

**What has been the biggest difference between the trial bench and the appellate bench?**

On the appellate bench, I do not have “emergencies” to the extent I had them on the trial bench. That difference has been a welcomed reality. While on the trial bench, I routinely had unexpected emergency concerns such as child custody issues, requests for search warrants by law enforcement officers, issues with alleged domestic violence, and other emergencies that could not be anticipated and which interfered with my plans for any given day. I rarely could work on any orders or research that required my full attention because of the constant flow of foot traffic in and out of my office, usually dealing with an emergency situation or some administrative task. I do not have those same issues on the appellate bench.

**How can lawyers best prepare for a case before an appellate judge?**

Again, I would stress preparation. Closely reading the Court’s rules and the statutes regarding the deadlines and procedures associated with appellate work is crucial. As to brief writing, I would urge lawyers to lead with their best arguments and avoid the temptation to present arguments chronologically. Also, understand that we read thousands of pages, so focus your briefs and present your arguments succinctly and directly.

**Tell us about your passion for teaching, especially the program known as Teenage Years 101.**

While serving as a magistrate, I repeatedly encountered young people who made terrible decisions on any given Friday night that radically altered their lives. I saw a large number of parents who had no idea what their child was doing until it was too late and came into court with their older child in total despair. I created Teenage Years 101 as an educational session for adults and teens from the perspective of someone who was a daily witness to tragic decisions made by teenagers. Essentially, I approached the sessions as a judge who would tell both groups the truth, not some nonsense that appears on social media. In a perfect world, those sessions would have empowered parents and teens to talk about issues that are potentially unpleasant before having to address the reality of those decisions in a courtroom.

I also remain heavily involved with teaching judges from all classes of court. I have made guest appearances in several law school classrooms as well. I have learned multiple lessons the “hard way” and want to share my experiences with judges, law students, and others in the hope my education through trial and error can help them avoid the pain I have already endured.

**Tell us about the podcast series that you created and co-host with Judge Tain Kell.**

*The Good Judge-Ment Podcast* was an idea proposed by the then-director of the Institute of Continuing Judicial Education. Tain and I led new judge training for the Superior Courts for many years, and the initial idea behind the podcast was to provide continuing education for judges (and lawyers, law students, the public, and others) in a new, widely accessible format. We have always attempted to break down procedures or topics into relatively brief segments and make them available on all podcast platforms for easy reference. The podcast has been very successful despite the weak attempts at humor from the hosts. Tain and I have been friends for years and, given his experience on the Superior Court bench in Cobb County and my experiences in the Augusta/Columbia circuits, we are able to address different issues from different perspectives. As we have grown, we have added episodes that are targeted to lawyers and judges of other classes of court. I believe we have published approximately 180 episodes as of today—and with the kind assistance of the Council of Superior Court Judges, we plan to continue.

**Tell us about the book you published on the history of the Augusta Judicial Circuit. What prompted you to write it? How did you find a publisher? How long did it take to research and write the book?**

I wrote my book because I am a glutton for punishment. I was a history major in undergrad and have always been fascinated with history. Once I was appointed as a judge of the Augusta Judicial Circuit, I was given a document that listed all of the Superior Court judges who had served before me. I knew those who I had practiced before but did not know their backstory. I did not know their predecessors except by reputation. So I began researching, and a little research typically leads to more research. Finally, it became a book—but with a very limited potential audience. Then-Chief Judge Carlisle Overstreet supported me and was able to help me secure financing to self-publish the book through Mercer University Press. The research and writing spanned eight years and grew into something far more comprehensive than I ever planned.

**Any final thoughts?**

I have been blessed to serve as a prosecutor, private lawyer, magistrate, trial judge and, now, as an appellate judge. Others may say that they are blessed or honored to serve, but I am sincerely grateful that I have been able to have such a varied career.

## Traditions of Excellence Interview of Judge Kathy Palmer

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This article continues our series of conversations with past recipients of the Traditions of Excellence Award, recognized annually by our Section in the areas of Plaintiff, Defense, General Practice, and Judicial.

Our featured guest is Kathy Palmer of Swainsboro, Georgia, who was recognized with the Traditions of Excellence Award in the category of Judicial.

### **Tell us about your background and what prompted you to become a lawyer.**

I grew up in the country on a farm near Adrian, Georgia, and farming and 4-H is what I knew. I became a Master 4-H-er (and I remain very involved in 4-H and the Ag School). I was one of five children to parents who emphasized education, so I attended the University of Georgia, which was the only college my parents approved of! I worked my way through college—I was even a UGA police officer for a time—and graduated with a home economics degree, thinking I would become a county extension agent. I never met a lawyer until I was in college. My police work exposed me to some law, and I decided to apply to law school at UGA. To my knowledge, I was the first home economics major that law school accepted.

### **Tell us about your law practice and transition to the bench.**

I started in the DeKalb County Solicitor's Office, where I prosecuted a lot of DUI cases. Then my husband wanted to move closer to home, so we relocated to Swainsboro. I got a job handling general civil practice with a sole practitioner who focused on criminal defense. I got down there and quickly learned that a new female attorney was not very welcome. My first week on the job, I covered a calendar call for my vacationing partner. I took his 23 files to the courthouse Monday morning, only to be told that I'd have to try one of his cases (defending the town drunk) on Wednesday. It was an effort to run me out of town, but little did the prosecutor know he had picked one subject that I knew all about—DUI! We picked a jury, I tried the case, and the man was acquitted. I felt like I went from "That Girl" to "Winning Trial Lawyer" in eight days.

Eventually I opened my own firm, where I did general practice, family law, and criminal law. I was very successful in domestic and child custody cases, but I took on anything that came in the door. In the year 2000, I ran for the seat of a retiring superior court judge. My opponent was the sitting district attorney, and he told me no one wanted a woman judge and that I would not even secure 30 percent of the vote. So I ran on my family law and juvenile law experience, because everyone's life is impacted by a family law issue at some point! I won the election by a substantial amount, and I was elected five times to serve the Middle Judicial Circuit before I took senior status in 2020.

I loved trial practice as a lawyer, and I love a trial as a judge. When you are a lawyer, you have to practice the law, respect the law, and uphold the law—which means you have to live and love it.

**Tell us about some struggles you had in the law and how you overcame them.**

It was tough being the only woman lawyer in my area. I did not have anyone like me to turn to; if I wanted to talk to another female attorney, I had to dial long-distance. When I was elected to the bench, I had only ever appeared before one female judge, because there were so few of us. I was lonely at times, but I forged ahead. Even when you do not know what you are doing, you have got to exude confidence, ability, and competence. Power through, get the job done, and remember that whining won't get you anywhere.

**Advice for young lawyers.**

The most valuable thing you can do for your career is to find a very positive mentor. Keep your eyes open; if the first mentor you choose is not what you thought, then change horses and get a new one.

**Advice for mid-career lawyers.**

You ARE the mentors. Your professionalism and your ethics are the most important characteristics you can teach. Be cognizant of that.

**Advice for older lawyers.**

Have that hard conversation with yourself, and step back before you tarnish your reputation as a really good lawyer. I have seen so many lawyers who just do not know when to step back. Find people who will tell you when you are not up to the job anymore.



# Ethics dilemma?

Lawyers who would like to discuss an ethics dilemma with a member of the Office of the General Counsel staff should contact the Ethics Helpline at 404-527-8741 or toll free at 800-682-9806, or log in to [www.gabar.org](http://www.gabar.org) and submit your question by email.



**State Bar  
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# CALENDAR CALL



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