



REAL PROPERTY LAW SECTION

A publication of the Real Property Law Section of the State Bar of Georgia – Winter 2025 Newsletter



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Letter from the Chair

By: *Tenise Chung, RPLS Chair 2025-2026*



The end of 2025 flew by and as hard as it is to believe, I am already halfway through my time as Chair of the Section. I recently read that scientists have uncovered the reason why time seems to speed up as we age-the routine of our daily lives fails to provide the brain with any remarkable

memories and as a result, time starts blending together. This seems even truer now that many of us work from home multiple days a week. One way to combat this phenomenon is getting out of our usual schedules and trying new things, so why not attend some new seminars this year? The Executive Committee has been busy planning a fantastic slate of events where we can make unforgettable memories together!

In February, we are offering two 3-hour Title Standards seminars at the State Bar headquarters. If you haven't had a chance to attend this seminar in the past, it offers a deep dive into some of the more commonly encountered title issues. There are also networking opportunities in both sessions!

You can also start making plans to attend our annual Real Property Institute May 7-9. This year we are

returning to Ponte Vedra Beach after an almost 20-year hiatus. The seminar will be held at the Sawgrass Marriott Golf Resort and Spa- the grounds are simply stunning, and the Hotel is situated right next door to the famous TPC Sawgrass Golf Club. With the new location comes a new format- this year's Institute will offer 9 hours of CLE credits to line up with the new Bar requirements for education. We are also adding a new Pickleball tournament- bring your paddles and relish the memories (pun intended)!

I hope to see many familiar and new faces at our events this year! Registration information for our events should be sent to all section members shortly and remember to follow our social media pages for the most up-to-date information on events, news, and more.

About the Section

The 2025-26 Committee is led by Chair: *Tenise Chung*, Chair-Elect: *Beth Jones*, and Secretary/Treasurer: *Thua Barlay*, who will be assisted by Immediate Past Chair: *Stuart Gordan*.

In turn, the officers are supported by several subcommittees. While Committee officers and subcommittee chairpersons are limited, any member of the section can volunteer to work with a subcommittee. Each of the subcommittees serves a different purpose and agenda for the year, and each welcomes the participation of the Section membership. Below are the current subcommittees, along with a description of their main purpose and current leadership. Serving on a sub-committee is a great way to keep apprised of issues facing the State Bar. Subcommittee membership is open to all RPLS members, the time commitment varies by subcommittee but never is burdensome, and it would be great to have more involvement from the Section membership.

For your reference, below is a list of each subcommittee and its respective chair(s). If you are interested in volunteering to serve on one of the subcommittees, please reach out to the identified chairperson.

Standing Committees:

Legislative: Matthew Totten

This Committee is charged with monitoring pending state legislation that might affect the practice of real estate law. They work closely with the State Bar's

legislative counsel, Christine Butcher Hayes, to identify pending legislation that the State Bar may need to take a position on and participate, when permitted under the Keller rule, in the State Bar's lobbying efforts. Current efforts are following the Remote Online Notary Bill and a bill modifying the Lis Pendens statute but may include additional items that arise during the legislative session.

Real Property Law Seminar- Chair: Beth Jones

Assist in co-planning the Real Property Institute held in May, including planning the location, topics, social events and obtaining speakers.

Title Standards- Co-Chairs: Aimee Latourette and Susan McNamara

This Committee has two main functions: putting on the annual Title Standards CLE and updated/maintaining the written Title Standards.

Special Committees:

Commercial Real Estate: Co-Chairs: Kyle Levstek and Paula Rothenberger

This Committee focuses primarily on issues involving commercial practitioners and is tasked with planning the annual Commercial Real Estate Seminar currently scheduled for November 12, 2026.

Communications- Chair: Kelsea Laun

This Committee gathers content and produces communications to the section membership regarding both the Executive Committee's activities and issues that affect the practice of real estate. Additionally, this committee updates the section website and maintains the listserv.

Ethics and Professionalism- Chair: Katherine Oates

This Committee has a broad focus on ethics and professionalism issues affecting real estate practitioners. They also monitor potential issues involving the unauthorized practice of law and work with the State Bar to obtain Formal Advisory Opinions from the Supreme Court when appropriate.

Litigation- Chair: Larry Evans

This Committee follows and reports on pending and final litigation decisions of interest to our Section.

Pro Bono- Co-Chairs: Jennifer Rentenbach and Ellen Smith

This Committee coordinates responses to requests for assistance on real estate matters in the local community and plans pro-bono activities and opportunities for the Section.

Recognition: Crystal Baker

This Committee promotes the growth of section membership and recognition of outstanding current and future members. In addition to collecting nominees for the annual Pindar Award, this Committee solicits applicants and awards scholarships to deserving law students in our local law schools who show an aptitude and commitment to practicing real estate in Georgia upon graduation.

Residential Real Estate- Co-Chairs: Tamara Brooks and Kirsten Howard

In addition to its involvement with other Section activities and acting as a liaison with other real estate groups, this committee is charged with planning the annual Residential Real Estate Seminar.

Upcoming Events

- **Title Standards Two-Part Seminar: Part I**

When: February 12, 2026

9:00 AM – 12:00 PM

Where: State Bar of Georgia Conference Center
104 Marietta Street NW
Atlanta, GA 30303

What: The first day of the two-part seminar will involve a 3-hour in-person CLE with presenters covering Affidavits, Common Underwriting Issues, and the Groundfloor holding as it relates to the Title Standards.

- **Title Standards Two-Part Seminar: Part II**

When: February 26, 2026

1:00 PM – 4:00 PM

Where: State Bar of Georgia Conference Center
104 Marietta Street NW
Atlanta, GA 30303

What: Part II of the two-part seminar will include presentations covering Ethical Use of Artificial

Intelligence in Title, Transfer on Death Deeds, and Ethics in Title.

- **ICLE Real Property Law Institute**

When: May 7 – 9, 2026

Where: Sawgrass Marriott Golf Resort & Spa
1000 Tournament Players Club Blvd.
Ponte Vedra Beach, FL 32082

What: Save the date for the annual Real Property Law Institute! Registration, agenda, and hotel reservation information will be published as soon as possible. You won't want to miss this opportunity to connect with peers and participate in presentations focused on industry topics.

Litigation Subcommittee - February 2026 Update

- *Estate of John Lewis, Sr.*, No. A25A1921 (Ga. Ct. App. December 19, 2025)

- o *General Overview:* This case involves a dispute between the estate of John Lewis, Sr. and Montra McKenzie ("McKenzie") who operated a non-profit charity called Veterans Excelling for Life Foundation ("VELF"). This charity assisted veterans in transitional housing situations. John Lewis, Sr. ("Lewis") owned property that he rented to McKenzie and VELF. At some point after Lewis passed away in 2020, McKenzie stopped making rental payments and Lewis' estate (the "Estate") filed a dispossessory action. McKenzie answer and proffered a contract she had entered into with Lewis which purported to transfer the property to her and VELF upon his death. She also filed counterclaims for specific performance, declaratory judgment, and attorney fees.

McKenzie filed a motion to compel and for sanctions after the Estate failed to respond to discovery. The Estate failed to appear at a subsequent hearing. The trial court dismissed the dispossessory

and instructed McKenzie to brief her counterclaims. In her brief, McKenzie argued that the property transferred to her upon Lewis' death under the express terms of the contract and as a transfer on death deed under O.C.G.A. §44-17-2. She also maintained that the contract satisfied all requirements for a will. In support of her position, she submitted an affidavit from one of the witnesses to the contract attesting that she witnessed the parties sign the document. The Estate did not move to dismiss the counterclaims, respond to the brief or submit any evidence in response.

The trial court treated the brief as a motion for summary judgment and found that the contract was void because it was indefinite, contained errors and typographical mistakes, and used different font styles. The trial court also noted a dispute over the amount of the rent with the contract showing \$750 per month, but the dispossessory listing \$1500 per month. The trial court also struck the transfer on death provision in the contract for failure to adhere to the requirements of § 44-17-2. Lastly, the trial court found that McKenzie failed to make rent payments totaling \$42,750 and ordered McKenzie to vacate the property and deposit the arrearage into the Court registry if she wanted to remain in the property during the pendency of the appeal. McKenzie appealed arguing that the trial court erred in determining that the contract was void and in ordering her to vacate the property when the dispossessory action was no longer pending and the Estate submitted no evidence.

- o *Holding:* The Court of Appeals found that the trial court erred by ordering McKenzie to vacate the property and pay the alleged arrearage into the registry of the Court. The Court of Appeals also concluded that there remains a question of fact as to the validity of the contract

and remanded with direction that the trial court apply the proper rules for contract formation. As to the trial court's finding that the transfer on death provision should be stricken from the contract, the Court of Appeals noted that the statute went into effect after Lewis' death and instructed the trial court determine whether §44-17-2 applies retroactively.

Berryhill v. Lopez, 2026 WL 42793 (Ga. Ct. App. Jan. 7, 2026)

- o General Overview:* This case involves a dispute over title to real property in Gwinnett County and the enforceability of a first-position security deed which allegedly lacked consideration. The property was jointly owned by Chandani Patel and Roshni Patel. In August of 2014, Chandani and Roshni executed an unsecured promissory note in the amount of \$187,151 in favor of Sanderwala, LLC (the "Unsecured Loan"). On September 3, 2018, Chandani executed a promissory note for \$240,000 in favor of Sanderwala, LLC (the "First Note"). The First Note was secured by a first-position security deed on the property (the "First-Position Deed") which was recorded on October 9, 2018. On September 6, 2018, Chandani executed a second \$240,000 note in favor of Sanderi Productions, LLC (the "Second Note"), which was secured by a second-position security deed (the "Second-Position Deed"). That deed was recorded a few minutes after the First-Position Deed. In September of 2020, Appellee Michael Lopez purchased an interest in the property at a foreclosure sale after Sanderi Productions, LLC foreclosed on the Second-Position Deed. In April of 2021, Sanderwala, LLC assigned its First-Position Deed to Appellant Niveda Dave. Dave then sought to foreclose under the First-Position Deed. Lopez filed this action seeking to quiet title and enjoin the foreclosure. Lopez alleged that the First Note and First-Position

Deed were void because the underlying debt lacked consideration.

Although Lopez obtained a temporary restraining order preventing the foreclosure, Dave foreclosed anyway in July of 2021 and conveyed the property interest to Appellant Tyler Berryhill through a deed under power. The trial court granted Lopez's motion for partial summary judgment and concluded that the First Note was void for lack of consideration because no money changed hands when it was executed. Therefore, the First-Position Deed and Berryhill's deed under power were unenforceable. Dave and Berryhill appealed.

Holding: The Court of Appeals reversed. The Court held that the trial court erred in ruling as a matter of law that the First Note and First-Position Deed were void for lack of consideration. The Court emphasized that promissory notes are unconditional promises to repay and cannot be invalidated by imposing conditions not apparent on the face of the note. Both the Unsecured Loan and the First Note contained clear promises to repay and were valid debts on their face. The Court also explained that even if no new money was exchanged in 2018, the First Note could still be supported by consideration because it was issued as security for an antecedent obligation. The record included evidence that the 2014 Unsecured Loan was "converted to a secured loan" through the First Note and First-Position Deed. Under OCGA § 11-3-303(a)(3), no new consideration is required where an instrument is given in payment of, or as security for, a pre-existing debt. Because there was evidence that the First-Position Deed secured an earlier valid loan, the trial court erred when it ruled that the deed was void. The Court noted that its decision was narrow and did not address Lopez's other claims. It also declined to reach Berryhill's argument that he was a bona fide purchaser because the trial court had not ruled on that issue.

Recent Events

Commercial Real Estate Seminar

A Day of Collaboration, Learning, and Professional Growth

The Real Property Law Section of the State Bar of Georgia hosted an exceptional Commercial Real Estate Seminar on November 13, 2025, bringing together 94 legal professionals, paralegals, and young lawyers at the State Bar of Georgia headquarters in Atlanta. This full-day educational experience exemplified the power of collaboration within Georgia’s legal community, offering 6 CLE credit hours of cutting-edge insights into commercial real estate practice.

Distinguished Leadership

Co-Chairs of the Commercial Real Estate Committee, **Paula Rothenberger** (Smith Gambrell Russell) and **Kyle J. Levstek** (Calloway Title and Escrow, LLC) expertly guided attendees through a comprehensive curriculum designed to address the most pressing issues facing commercial real estate practitioners today. Their combined expertise in complex transactions and title work set the tone for a day of exceptional learning.

Expert Speaker Faculty

The seminar featured an outstanding lineup of speakers who generously shared their knowledge and real-world experience:

Katherine Silverman and **Charles Van Horn** (Berman Fink Van Horn P.C.) opened the substantive program with practical guidance on common litigation issues arising from commercial real estate transactions, drawing from their deep experience representing all sides of real estate disputes.

Wyatt Kendall (Taft | Morris Manning, LLP) provided an essential environmental law update, sharing his extensive knowledge of brownfield redevelopment, Superfund law, and emerging issues like PFAS and environmental justice.

Mark Chastain (Chastain & Associates P.C.) addressed the “5 Questions Lawyers Always Ask about Surveys,” bringing his unique perspective as both a practicing surveyor and frequent legal educator who has served on Georgia’s licensure board.



Left to right: Paula Rothenberger, Kyle Levstek, Mark Chastain



Attendees engrossed in the speaker’s presentation

Residential Real Estate Seminar

Co-chairs of the Residential Real Estate sub-committee, **Kirsten Howard** (Goggans, Stutzman, Hudson, Wilson & Mize, LLP) and **Tamara Brooks** (Essent Title), hosted another successful event. Speakers held the attention of the approximately 100 attendees with presentations on hot topics such as the 2026 GAR Contract changes, 1031 exchanges, FinCEN reporting updates, transfer on death deeds, and underwriting hot topics.

Pro Bono Committee - Ongoing Opportunities

Last year, the Committee raised donations for each of the organizations discussed below. The organizations would also welcome pro bono volunteer assistance from our membership. Information about volunteer opportunities can be obtained by contacting the following organizations directly:

- The **Atlanta Legal Aid Society** offers a variety of pro bono opportunities, ranging from limited, brief service to full case representation. Please contact **Kate Gaffney at kmgaffney@atlantalegalaid.org** if interested in volunteering or learning more about Legal Aid's estate planning project, property tax appeal project, homestead exemption clinic, probate and family law clinics and other opportunities. Pro bono makes a significant difference in addressing the civil justice gap and serving low-income clients in our communities.
- **Atlanta Volunteer Lawyers Foundation (AVLF):** Volunteers can find a list of opportunities, and sign-up, here: <https://golden.avlf.org/>. AVLF provides extensive assistance to all its volunteers. Ways to get involved include:

Landlord-Tenant Cases: Review summaries and accept a case as your schedule allows: app.joinpaladin.com/avlf/opportunities

Eviction Defense Cases: Attend a virtual Eviction Defense training. Then receive occasional requests as cases are available, or sign up to be "on call" for a month. Accept or decline as your schedule allows.

Housing Phone Bank: (virtual) Speak with Fulton County tenants with pending evictions or ongoing conditions issues. Many of these tenants seek only simple advice and consultations. Calls can be made from anywhere.

Housing Court Assistance Center: (in-person) HCAC is a walk-in advice clinic located in the Fulton County Courthouse for tenants whose landlords are taking them to court. With the help of an AVLF staff attorney, volunteers meet with tenants to explain their rights under Georgia law.

Saturday Lawyer Clinic: (virtual or in-person) This program assists low-income Atlanta tenants with landlord-tenant disputes.



Left to right: Kirsten Howard, Tamara Brooks



Monica Gilroy speaking at the seminar



Left to right: Tamara Brooks, Stephen Emert, Kelsea Laun, Ryan Martinez

Scholarship Opportunity

The Executive Committee of the Real Property Law Section is pleased to announce the availability of a limited number of scholarships to attend the 2026 Real Property Law Institute to be held at the Sawgrass Marriott Golf Resort and Spa, Ponte Vedra Beach, Florida, May 6-9, 2026. The following Georgia Bar members are eligible to apply for this scholarship:

1. Those who practice primarily in public service with an emphasis in real property law matters.
2. Those who are employed by a non-profit organization with an emphasis in real property law matters.

The scholarship awards will include the 2026 RPLI registration fee, three nights hotel accommodations at the Sawgrass Marriott Golf Resort, and a \$350 travel stipend. To be considered for one of the limited number of scholarships, or to nominate an eligible member of your organization, please email a resume and short statement of interest, which includes a description of the current real property law work or experience of the applicant, to Jennifer Rentenbach, co-chair RPLS Pro Bono committee at jrentenbach@atlantalegalaid.org.

The application deadline is **Monday, March 2, 2026**. Scholarship recipients will be notified by April 1, 2026.

- The **Georgia Heirs Property Law Center** (www.gaheirsproperty.org) is a not-for-profit law firm that helps low- to moderate-income heirs property owners, nonprofits, and municipalities remediate fractured title, increase equity, and transfer wealth to the next generation. The total tax-appraised value of probable heirs property in Georgia is more than \$47 billion. To learn more, contact the organization at (706) 424-7557 or info@gaheirsproperty.org.
- **Middle Georgia Justice** would appreciate the opportunity to partner with volunteer Section members who would be willing to provide pro bono legal consultations to organization staff attorneys when they encounter complex real property law issues in their cases (for example, within the broader context of probate and family law cases). More information can be found at www.mgajustice.org and by contacting **Amy Griffith Dever, Executive Director**, at amy@mgajustice.org, to discuss how to volunteer.
- **Pro Bono Partnership of Atlanta** matches nonprofit clients with experienced corporate attorneys who help get them to the next level. From contracts to corporate governance, to intellectual property and employment, PBPA attorneys assist nonprofits with their business law needs. Information about opportunities can be found here: <https://pbpatl.org/for-attorneys/>. PBPA staff attorneys prescreen every client and coordinate the kick-off of each matter. Most projects take 10-15 hours over a couple of months. PBPA provides model documents and when requested, co-counsel assistance to volunteer attorneys.

Call to Action

1. The Real Property Law Section wants to hear from you! Please submit your substantive articles or editorials for publication in the Section newsletter. Submissions may be sent to GARplscommittee@gmail.com.

2. We are always looking for new speakers or topics of interest from our members. Please reach out to any of our Executive Committee leaders or members to nominate yourself or others to speak at a future CLE or to suggest a topic relevant to our Section. We are also accepting articles or items of interest from our membership throughout the year.