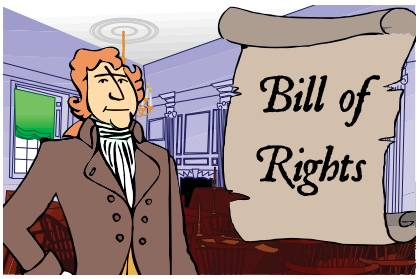
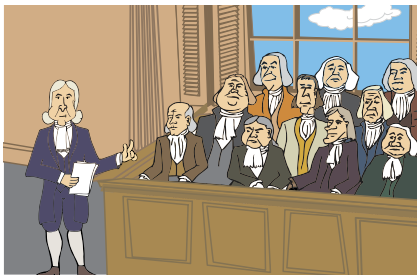
Georgia Bar Journal
August 2014 Volume 20 Number 1

Patrise M. Perkins-Hooker
52nd State Bar President

Trial By Jury: What's the Big Deal?





"Trial By Jury: What's the Big Deal?" is an animated presentation for high school civics classes in Georgia to increase court literacy among young people. This presentation was created to be used by high school civics teachers as a tool in fulfilling four specific requirements of the Social Studies Civics and Government performance standards.

This animated presentation reviews the history and importance of trial by jury through a discussion of the Magna Carta, the Star Chamber, the trial of William Penn, the Constitutional Convention in 1787, the Constitution and the Bill of Rights. Also covered in the presentation are how citizens are selected for jury duty, the role of a juror, and the importance of an impartial and diverse jury.

The State Bar of Georgia's Law-Related Education Program offers several other opportunities for students and teachers to explore the law. Students can participate in Journey Through Justice, a free class tour program at the Bar Center, during which they learn a law lesson and then participate in a mock trial. Teachers can attend free workshops correlated to the Georgia Performance Standards on such topics as the juvenile and criminal justice systems, federal and state courts, and the Bill of Rights. The LRE program also produces the textbook *An Introduction to Law in Georgia* for use in middle and high school classrooms.

You may view "Trial By Jury: What's the Big Deal?" at www.gabar.org/forthepublic/forteachersstudents/lre/teacherresources. For a free DVD copy, email stephaniew@gabar.org or call 404-527-8792. For more information on the LRE Program, contact Deborah Craytor at deborahcc@gabar.org or 404-527-8785.

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The *Georgia Bar Journal* welcomes the submission of news about local and circuit bar association happenings, Bar members, law firms and topics of interest to attorneys in Georgia. Please send news releases and other information to: Sarah I. Coole, Director of Communications, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303; phone: 404-527-8791; sarahc@gabar.org.

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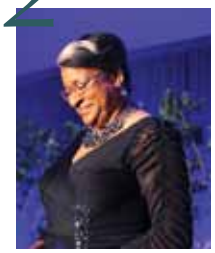

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Pictured on the cover is 2014-15 President Patrise M. Perkins-Hooker with her husband, Douglas Hooker. Cover photo by Attaboy Photography.

by Patrise M. Perkins-Hooker

Our Time to Make a Difference

On June 7, I had the honor of standing before the justices of the Supreme Court of Georgia, the judges of the Court of Appeals of Georgia, fellow State Bar leaders and members and a host of family members and friends as I took the oath of office from Justice Robert Benham to serve as the 52nd president of the State Bar of Georgia.

For me, it was an incredibly wonderful moment—but one that was also humbling and, to some extent, unbelievable.

As I said in my remarks that evening, my ancestors were no doubt smiling down on the occasion. You see, I am the fifth generation descendant of people who were involuntarily brought to the Camp Plantation in Lawrenceville, Ga. My great-grandfather, Henry Kemp Sr., was freed when he was 10 years old. He became a minister and moved to downtown Decatur, where he lived to be 103.

His daughter, my grandmother, Minnie Newman, walked six miles one way, each day, from Decatur to David T. Howard High School in Atlanta's Old Fourth Ward, because there was no high school in Decatur for colored youth. She became an entrepreneur and a nurse.

My mother, Barbara Newman, attended Spelman College where she met my father, Albert Perkins, a Morehouse College student from Kentucky. My father's family had been college educated, beginning with my great-grandfather, Samuel Lorenzo Barker, who taught himself to read and then graduated from Kentucky State College. He was the principal of the Western High School for Colored Children in Owensboro, Ky., for 42 years.

One of his nine daughters, my grandmother Florence Perkins, is one of the primary reasons that I am a lawyer today. She was the librarian at the local elementary school, and each year she would box up hundreds of old books that were to be decommissioned and destroyed. She would send them to me, my brother and my sister. I was under the impression that I was supposed to read all of the books that she sent before the next delivery—and so began my love of reading voraciously and rapidly. Every lawyer and law student will appreciate the value of these skills!

> "As we set forth to work for the benefit of all Georgia lawyers, together, we will elevate the State Bar of Georgia and continue to advance the cause of justice."

When I was a young child, I did not know any lawyers. No one told me that I could be a lawyer, until I became the captain of the debate team and the regional winner of the Bicentennial Youth Debates in 1976, while attending Frederick Douglass High School in Atlanta.

Also during high school, I was focused on working in my Junior Achievement company. In my senior year, I was the president. We set all records for profitability and sales for that year at the Buckhead Junior Achievement Center. By virtue of being selected as the Outstanding Young Executive of the year, for all Atlanta Junior Achievement Centers, I received a full scholarship to Georgia Tech from an anonymous donor. How different my life might have been if I had not been encouraged to participate on the debate team and in Junior Achievement!

After I graduated from Georgia Tech, I set my sights on getting a Master's degree in business administration. I thought an M.B.A. would help me become a better business consultant, and that as a granddaughter of educators and entrepreneurs, I would help the minority businesses in Atlanta grow.

Just before I started the M.B.A. program at Emory University, I met a young law student, Kevin Ross, who informed me that minority businesses really needed skilled business lawyers; and he encouraged me to think beyond an M.B.A., and go to law school simultaneously—yet another intervention.

After I received my J.D./M.B.A. from Emory, a highly accomplished, community-minded and talented lawyer came in to meet me as I interviewed with his partners for a law clerk position. I will never forget this moment. He asked me one simple question: "Can you write?" I told him yes, and he offered me the job on the spot!

That lawyer—my first employer in the legal profession—was none other than Marvin Arrington Sr., who taught me how to be an excellent lawyer, a master at client service and a truly committed public servant leader. Thirty years later, he remains my mentor and friend. I am extremely grateful for what he taught me by example. He taught me that service was the rent that we pay for the space we occupy on earth; and he taught me to seek to become a leader in my community and in my profession, as a way of giving back.

I was so honored that Judge Arrington, along with his daughter Michelle, attended my inaugural gala during the Annual Meeting and was able to witness the return on his investment in me decades ago. I appreciate everything that he taught me.

I have been blessed by an incredible village! But lest you believe that my village was limited to a village of color, let me set the record straight. I am part of that generation where the gates of the villages in the South opened up and one village began to talk to another. Once again, I was blessed.

As my village expanded, Linda Klein saw something in me in 1996. Linda was the first woman president of the State Bar, and she is truly a phenomenal strategic and visionary leader. Her efforts literally changed the

I can sum up our company's use of SoftPro in two words: "Central Hub." We have grown with SoftPro, and utilize them for HUD-1 and title commitment prep, closing/disbursing, IRS 1099 reporting, scheduling, CPL's and policy jackets, e-recording, ordering tax certifications, tracking mortgage releases, bank account reconciliation and order tracking. Every role in our company uses SoftPro 360 integrations! SoftPro's support center is also top notch in their responsiveness, friendliness and thoroughness.

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face of the State Bar of Georgia. Recognizing a need for more diversity in the Bar's programs, committees and activities, she promoted the active outreach to and recruitment of lawyers of color. Linda appointed me to the Finance Committee during the 1995-96 Bar year. The following year, I successfully ran for election to the Board of Governors.

While I accept the honor and the responsibilities of this position, I cannot help but consider all the shoulders I stand upon. I stand on the shoulders of numerous African-American lawyers who revolved through the Board of Governors, two or three at a time, until fairly recently. These include the two African-American lawyers who were elected to the Bar's Executive Committee before me: William Jenkins and Aasia Mustakeem.

In fact, if circumstances and timing in his life had been different, I truly believe that William Jenkins might have been the first person of color to have been elected an officer of the State Bar of Georgia. He was a well-respected and dedicated leader on the Board of Governors, one to whom I looked up as a new member of the Board. He encouraged me to continue my journey with the Bar.

Then there is Bryan Cavan, another great president of the State Bar whose challenge to me to run for the Executive Committee (detailed in the presidential profile article on page 36) kick-started my ascent up the leadership ladder. Bryan's challenge reminded me that the lack of diversity in Bar leadership would not be solved by complaining from the sidelines.

These are the people who made a difference in my life, and because of them, 2014-15 heralds a new era in the State Bar's history: 60 years after *Brown v. Board of Education*, 51 years after the March on Washington and 50 years after the passage of the Civil Rights Act of 1964. More than a half-century after the voluntary Georgia Bar Association gave way to the unified State Bar of Georgia, this is the era in which the seed that Linda Klein planted has started to bear fruit. Today, I am witness to the fact that the highest positions of leadership of our State Bar are open to *all* lawyers licensed to practice in Georgia.

I shared this story during my inaugural remarks to emphasize, especially to the younger lawyers in the audience, that we must always remember our history. We must recognize that we are never on the journey alone. There are always those who open doors, teach us invaluable lessons, set examples to follow and give us our wings. It is quite clear that we did not get here on our own. Many before us worked hard so that we might have this opportunity, this access and this moment in time.

But it is equally clear that opportunity means absolutely nothing if you are not willing to take advantage of it and work hard. It has taken me 17 years—and I wouldn't trade them for anything. I have learned the internal workings of the Bar and have worked with many of its staff for more than a decade. I am prepared for Bar leadership. For my part, I demonstrated my readiness for leadership and proved my worth. I was an active and engaged member of the Georgia Association of Black Women Attorneys since 1985. I served as a leader of the Gate City Bar Association in 1996, before my election to the Board of Governors. I accepted leadership of the Real Property Law Section of the State Bar in 2011. I actively participated on each and every committee to which I was assigned. I showed up at meetings and fulfilled my responsibilities as an active member of the committee. The network that I created with the members of these organizations and a few others allowed me to win a statewide election. It did not happen automatically. I am here because of the faith that people have had in me and because of what I demonstrated to them when given a chance.

I hope you will join our phenomenal leadership team of officers, Executive Committee members, Board members and committee chairs as we work together to set the stage for the next 50 years of leadership in the State Bar.

We will be reaching out to those in our community who are underserved through a combination of programs designed to increase the access to legal services by people in need. These people need to see and believe that our legal system is of value to them personally, and that we as lawyers care about ensuring that everyone has access to legal services.

Also, the State Bar in conjunction with the Young Lawyers Division will be providing lawyer volunteers in a pilot program with some of our school systems to introduce the iCivics program in Georgia. The iCivics program is designed to reinforce the understanding of middle and high school students about their obligations as citizens of our country and hopefully, they too will have an opportunity to become lawyers in the future.

We will also be reaching out to lawyers throughout the state to encourage *all* members of our profession to take an interest in and get involved with our State Bar. Along the way, I hope to use some of my business skills to work with the new executive director to improve and enhance the technology and customer service functions of our Bar.

We have a full year of exciting work ahead of us! I will need your help and your prayers. As we set forth to work for the benefit of all Georgia lawyers, together, we will elevate the State Bar of Georgia and continue to advance the cause of justice.

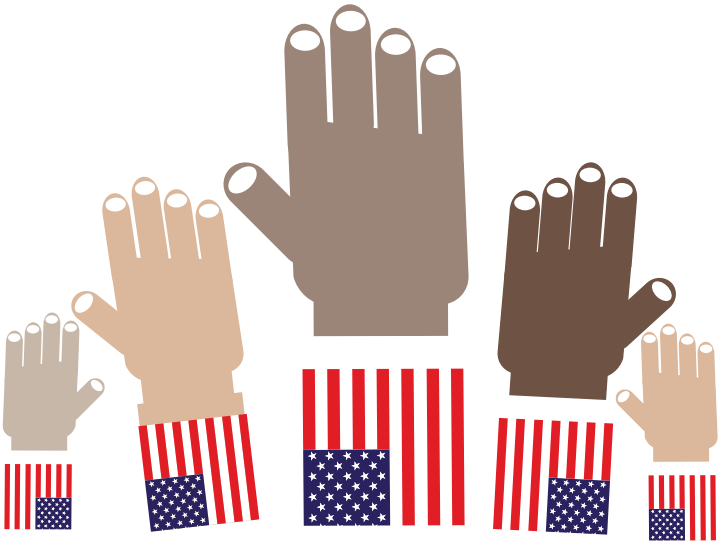
As I stand before you today on the shoulders of so many, I ask you to join me and get involved. There is plenty of room at the table to serve. I thank you for being a part of history. GBJ

Patrise M. Perkins-Hooker is the president of the State Bar of Georgia and can be reached at president@gabar.org.

AMERICAN DEMOCRACY AND THE RULE OF LAW

WHY EVERY VOTE MATTERS

LAW DAY 2014



Lawyers Need to Help Get Citizens Registered to Vote

The ABA's Law Day theme was *American Democracy and the Rule of Law: Why Every Vote Matters*.

The right to vote is one of our most important and highly coveted rights granted under the Constitution of the United States. We as lawyers pledge to uphold the Constitution and the rights granted therein.

I urge you to commit yourself to encourage everyone that you come into contact with to register and vote in the Nov. 4 elections. Let's start with our own offices, colleagues, family, friends and neighbors. The deadline for registration is Oct. 6, 2014, for this November's election, but once a citizen has registered to vote, they do not have to register again as long as they exercise this right on a frequent basis.

It is easy for you to help ensure that all citizens have access to the right to vote. You can start by:

- Having voter registration forms displayed and available in your office for use by the public. These forms can be obtained from your local elections office.
- Confirming that all members of your family and staff have registered to vote.
- Providing time for your staff to vote and encouraging them to do so.
- Holding voter registration drives in your local communities through your local bar association, churches or other nonprofit organizations.
- Encouraging all young people who will be 18 years old by Nov. 4 to register now even though they may not be 18 as of the date that they complete the voter registration form.

We as lawyers need to be actively involved in making sure that all people statewide who are eligible to vote have access to information on how to vote. Please make an effort to reach out and get engaged.

Send me an email at president@gabar.org to let me know how your voter registration efforts are going! I look forward to hearing how we as lawyers are working to protect the constitutional right to vote.

Patrise M. Perkins-Hooker
President, State Bar of Georgia

by Sharri Edenfield

New Opportunities for Service, Leadership and Education in the YLD

June 6, 2014, is a day that will always be significant to me for two reasons: first, I had the extraordinary honor of being sworn in as the 68th president of the YLD while being surrounded by my family and friends. Second, the date marked the 70th anniversary of D-Day, when 156,000 Allied troops stormed the beaches of Normandy, France, launching the successful invasion of German-occupied Western Europe, ultimately bringing about the end of World War II.

Like many of you, I have family members who were (and are) members of the "Greatest Generation." My uncle Waldo Waters was a 19-year-old soldier in the U.S. Army when, after landing at Normandy, he marched to Germany, where he fought in the Battle of the Bulge, the largest and bloodiest battle the United States fought in during the war. My uncle, Jack Lammey, was a B-24 Bomber pilot in the U.S. Army Air Force and flew 29 missions in the South Pacific. Finally, my second cousin, George Carter, was 19 years old when he gave his life for his country at Normandy.

I did some research and learned that the average age of a soldier during World War II was approximately 26 years old, which happens to be exactly how old I was when I graduated from law school. The significance of being sworn in as president of approximately 10,000 Georgia young lawyers on the 70th anniversary of the date that another group of young people changed the course of the history of the world for the better inspired me to think about what a tremendous opportunity Georgia young lawyers have to, in our own way, effect dramatic change for good. That is why I will be focusing my year as YLD president on projects that promote *service, leadership* and *education*. The following is a brief outline of a few projects.

> "These are just a few of the opportunities that YLD members have through YLD involvement to make a difference in their own life and the lives of others. I am so excited about what we can accomplish together and cannot wait to see what this year has in store for us."

Clearly, members of the military and their families are very important to me. In fact, my brother-in-law, Ed Piasta, spent more than five years in the U.S. Army JAG Corps before he left active duty to become a full-time Georgia young lawyer who also serves as a JAG in the Georgia National Guard. Ed's wife and my sister, Kristie Edenfield Piasta, is not only a military spouse but she is also a Georgia young lawyer. That is why I have asked Ed, Kristie and Quentin Marlin, a young lawyer who served in the Georgia Air National Guard, to serve as my directors of military support. Initial plans for supporting the military include a two-pronged approach. First, we will reach out to young lawyers serving in the JAG Corps on military bases around our state and invite them to get involved with the nearest YLD local affiliate as well as the Georgia YLD, regardless of whether they are members of the State Bar of Georgia. Second, we will work to provide pro bono services to military veterans around the state who don't already qualify for free legal services through the JAG Corps.

Another new opportunity for service this year will be through participation in President Patrise Perkins-Hooker's iCivics initiative that will roll out in classrooms around the state this fall. Further, Georgia YLD members will have additional opportunities to serve through the very successful First Responders' Pro Bono Wills Clinic that was begun last year by Katie Willett and Brandon Elijah. We will also strive to meet an even mightier goal this year through the Attorney General's Legal Food Frenzy.

I am also very excited about my leadership and education initiatives. I had the honor of being a member of the inaugural class of the YLD Leadership Academy in 2006 and was lucky to serve as the co-chair of the program for more than five years, where I introduced more than 250 young lawyers to the State Bar and the YLD. "Making young lawyers leaders" was a tag line I added to the very first Leadership Academy brochure and it is an idea that I take seriously. That is one reason why I appointed Will Davis as director of the High School Mock Trial Program (HSMT) so that he can help coordinate the YLD's efforts in supporting HSMT as well as expanding and improving the HSMT "Law Academy" program, which serves as a bootcamp of sorts for the best and brightest students involved in HSMT.

Additionally, I have appointed Kelly Campanella as my director of programming and created an "Alumni Leadership Council," comprised of former YLD officers and non-elected leaders, to help me with creating professional development and educational workshops for *all* YLD members that will serve as a sort of "Advanced Placement" Leadership Academy experience. Preliminary subjects that will be covered include general topics like media training, governmental affairs orientation, protocol training, service on nonprofit boards, as well as YLD-centric education, including how to be a leader in the YLD without being an officer, what type of commitment elected YLD leadership requires, staying involved in the Bar after the YLD and how to take a good idea and turn it into a successful YLD program.

Sir Winston Churchill once said that, "We make a living by what we get, but we make a life by what we give." These are just a few of the opportunities that YLD members have through YLD involvement to make a difference in their own life and the lives of others. I am so excited about what we can accomplish together and cannot wait to see what this year has in store for us. GBJ

Sharri Edenfield is the president of the Young Lawyers Division of the State Bar of Georgia and can be reached at sharri@ecbcpc.com.

A Primer on Predispute Employment Arbitration Agreements

by Carlos A. González

As a fundamental institution in American society, the workplace is regulated by a great many laws governing the relationship between employees and employers. These laws can give rise to expensive and vexing litigation. For fiscal year 2013, the Equal Employment Opportunity Commission (EEOC) reported that more than 90,000 private sector workplace discrimination charges were filed. In 2012, the number of discrimination charges was almost 100,000. In addition to the tens of thousands of cases alleging violation of the nation's civil rights laws, thousands of other employment related cases are filed annually. These other employment matters include cases under the Fair Labor Standards Act, Family and Medical Leave Act, Employment Retirement Income Security Act and employment contract disputes.

In an effort to shorten the time for resolution and curb the rising cost of employment-related litigation, employers and employees are turning in increasing numbers to alternative dispute resolution methods, and in particular to binding arbitration.[1] While the widespread use of binding arbitration is somewhat new to the non-unionized workforce, arbitration has been a staple in collective bargaining agreements for decades. Pursuant to these agreements, issues of discrimination, discipline, failure to promote and demotion have been submitted to arbitrators for final resolution.

Employment Dispute Arbitration is Favored

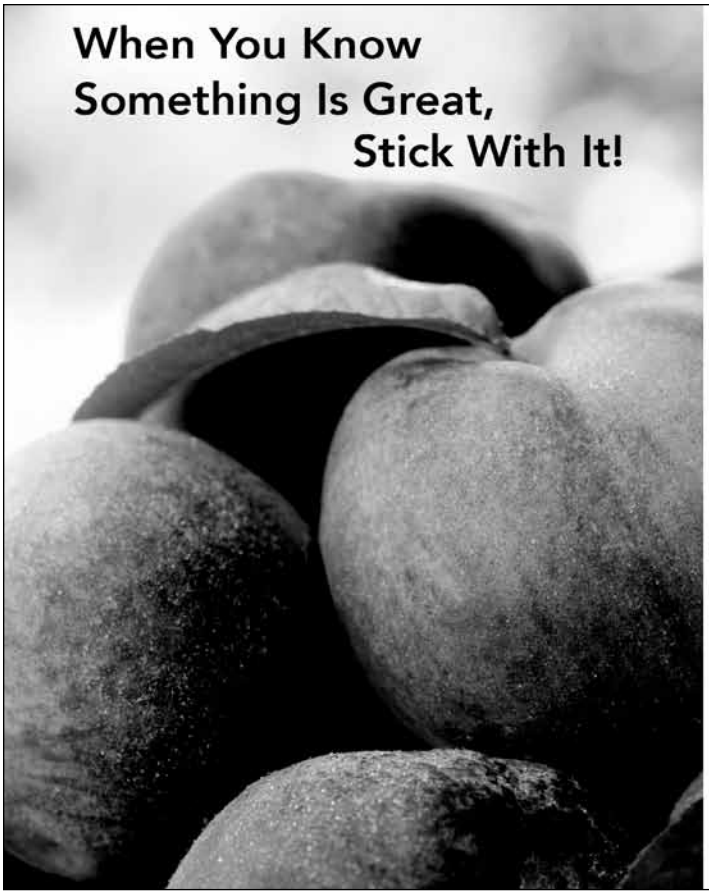
The U.S. Congress and the General Assembly of Georgia have long endorsed arbitration as a means of resolving disputes. Both federal and state courts have held that the right to engage in arbitration is a matter of strong public policy.[2] Consequently, the federal and state courts of Georgia have not hesitated to enforce predispute employment arbitration agreements,[3] including agreements that require the arbitration of federal and state statutory claims.[4]

Many employers are insisting upon acceptance of predispute mandatory arbitration provisions in employment contracts and as a condition of at-will employment. The practice is not without controversy. An effort is underway in Congress to amend the Federal Arbitration Act (FAA) through the adoption of the Arbitration Fairness Act of 2013.[5] If enacted, the Arbitration Fairness Act of 2013 would restrict the ability of federal courts to enforce predispute arbitration agreements if such agreements require the arbitration of employment disputes.[6] Until such time as Congress acts,[7] however, state and federal courts will continue to enforce predispute employment arbitration provisions unless such provisions are otherwise unenforceable under federal[8] or state[9] law.

Limitations on the Arbitration of Employment Disputes

While arbitration of employment disputes is becoming more common, crafting binding arbitration agreements between employers and employees is not without challenges. Courts have not hesitated to invalidate arbitration agreements when courts find that the agreements are one-sided and unfair. Biased selection procedures for choosing arbitrators and inconvenient arbitration forums have been grounds for invalidating arbitration provisions.[10] Courts have also invalidated arbitration schemes that defeat a statute's remedial purpose, such as limiting the scope of the relief that would be otherwise available under a statute in court.[11]

Arbitration programs that are essentially unaffordable to employ-



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ees have also been subject to judicial criticism. In *American Express Co. v. Italian Colors Restaurant*, the U.S. Supreme Court acknowledged its earlier dicta that a successful challenge to an arbitration agreement might be made if the "filing and administrative fees attached to arbitration . . . are so high as to make access to the forum impracticable."[12] The Court places the burden to show the likelihood of incurring excessive fees on the party seeking to invalidate the agreement.[13]

Employment Arbitration Agreements Must be Properly Structured

Since arbitration agreements are contracts, it is essential that the elements of valid contract formation exist if employer and employee are to be bound to the arbitral forum. Consequently, there must be offer, acceptance and consideration evident in the agreement to arbitrate. Binding contract formation is simple in the context of individually negotiated employment agreements. The requirement becomes more complicated when dealing with employees who work without the existence of an employment contract.

Georgia strictly adheres to the at-will employment doctrine, and it is well settled that the "at-will" arrangement does not create a contractual right to continued employment. Employers whose workforce consists of at-will employees are wary of efforts that might create a legally enforceable interest in continued employment. The law has evolved, however, so that employers and employees can contractually agree to an alternative dispute resolution plan without creating a contract for continued employment.

The terms of such a plan can be set forth in an employee handbook, manual or by other separate documents. The law recognizes that doing so creates binding obligations within the scope of the at-will doctrine since the arbitration plan represents an offer by the employer to be mutually bound with the employee to the terms of the plan.[14]

In whatever manner presented, the employer should condition continued employment or an offer of employment on acceptance of the arbitration provision.[15] The mutual promise to submit employment disputes to arbitration is sufficient consideration to support contract formation.[16] The District Court in *Caley v. Gulfstream Aerospace Corp.*, found the following employer-drafted language constituted a binding agreement to submit employment claims to arbitration.

> The submission of an application, acceptance of employment or the continuation of employment by an individual shall be deemed acceptance of the DRP [Dispute Resolution Policy] . . . . The mutual obligations set forth in this DRP shall constitute a contract between the Employee and the Company but shall not change an Employee's at-will relationship. . . .[17]

Once the elements of contract formation are in place, federal and state laws support the right to arbitrate. The FAA[18] pre-empts state laws that undermine the enforcement of private arbitration agreements.[19] In drafting predispute agreements to arbitrate, attorneys should be careful to recite that the agreement is to be governed by the FAA and, where appropriate, by state law. These recitations may avoid or blunt potential challenges based on unique features in a particular state's arbitration code. In Georgia, for example, the Georgia Arbitration Code contains a provision requiring an employer and an employee to initial any provision in an arbitration agreement that relates to the terms and conditions of employment.[20] If such provisions are not initialed, those provisions are unenforceable under the Georgia Arbitration Code.[21] The FAA would almost certainly pre-empt an effort to invalidate an arbitration agreement solely on a failure to initial, provided that the agreement was otherwise covered by the FAA.[22]

A predispute employment arbitration agreement must also include provisions ensuring that the cost of arbitrating is affordable to the employee. A good measure is that the cost of arbitrating—including the arbitrator's fees and administrative assessments—should not exceed the amount the employee would have to pay to file a suit in court. For example, the American Arbitration Association's (AAA) rules help to ensure accessibility by limiting the amount to be paid by an employee filing a demand for arbitration pursuant to an employer-sponsored arbitration plan. In cases before a single arbitrator, an employee's costs are capped at a nonrefundable filing fee of $200 unless the arbitration plan provides that the employee pays less.[23] The same $200 cap applies in cases in which three or more arbitrators are required. Another restraint on costs is that under the AAA rules all expenses of the arbitrator and any AAA administrative expenses are borne by the employer.

The shifting of costs to the employer addresses the concern that the expenses of arbitration might be an impediment to the resolution of disputes between employees and employers. Moreover, an arbitrator under the AAA rules may award costs and attorneys' fees in those cases in which the underlying statute provides for such an award and the employee is otherwise entitled to costs and attorneys' fees under the law.[24] Therefore, from the employee's perspective, the cost of proceeding in arbitration is equivalent to or less than the cost of initiating litigation against the employer in court. This is particularly true in cases where a prevailing

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employee is entitled to an award of attorneys' fees.

The predispute arbitration agreement should also be as specific as possible in designating the types of employment disputes subject to arbitration. Accordingly, the agreement should enumerate the state and federal statutory claims and common law actions that are subject to the arbitration clause and those that are not. The agreement should also make it clear that the arbitrator is authorized to award the full range of remedies available under the enumerated laws and statutes. Attempting to foreclose or limit the relief otherwise available to protect against unlawful employment practice has drawn the scrutiny of courts and led to arbitration clauses being invalidated.[25]

Predispute arbitration agreements should include a forum-selection provision that specifies the geographic location where the arbitration is to occur. In an employer-sponsored arbitration plan, the agreement should require the arbitration to be held within a reasonable distance of the workplace. Courts have found that requiring an employee to arbitration in a geographically distant and inconvenient location creates an undue burden on the employee. Certain courts have ruled that an inconvenient forum has the practical effect of depriving the employee of participating in the process.[26]

Conclusion

Arbitration is becoming widely recognized as a valid method for resolving employment disputes. As the use of arbitration grows, so too will the variety of agreements that authorize its use. Whatever form such agreements take, attorneys preparing such predispute employment arbitration agreements must ensure that the arbitration forum is procedurally and substantively fair. Several factors are indicative of a fair and well-drafted arbitration agreement. First, since arbitration is a matter of contract, the agreement to arbitrate must satisfy the requirements of contract formation. Second, the agreement should specify that it is to be interpreted pursuant to the FAA and where appropriate state law. Third, the cost to arbitrate for the employee must not be excessive so that the cost operates as a *de facto* impediment to arbitration. Fourth, the provision should itemize the type of the employment disputes subject to arbitration and if employment claims based on federal or state statutory provisions are to be arbitrated, then the agreement should recite that the range of remedial relief available under the statute in court is available in arbitration. And fifth, predispute arbitration clauses should include a forum-selection provision making clear that the arbitration is to occur in reasonable proximity to the place of employment. If these five conditions are satisfied, then the arbitral forum can be an efficient, fair and economical method of dispute resolution. GBJ

Carlos A. González works extensively as an arbitrator and special master. Since 1993, he has served federal courts around the country as a special master managing complex commercial and institutional reform cases. In 2006, González was appointed as a permanent arbitrator to a collective bargaining agreement. A 1989 graduate of Vanderbilt University Law School, González also holds degrees from Yale University and Florida State University. In 1993, González established the González Law Group whose primary focus is federal civil litigation.

Endnotes

1. In 2008, the National Employment Lawyers Association estimated that roughly a fifth of the nonunion workforce is covered by mandatory arbitration provisions. Stephanie Mencimer, *Have You Signed Away Your Right to Sue?*, MOTHER JONES, (last visited June 25, 2014, 10:04 AM), http://www.motherjones.com/politics/2008/03/have-you-signed-away-your-right-sue.
2. *See* CompuCredit Corp. v. Greenwood, 132 S. Ct. 665, 669 (2012) (the FAA evinces "a liberal federal policy favoring arbitration agreements"); Weeks v. Harden Mfg. Corp., 291 F.3d 1307, 1312 (11th Cir. 2002)("arbitration agreements to resolve disputes between parties have now received near universal approval"); Order Homes, LLC v. Iverson, 685 S.E.2d 304, 307 (Ga. Ct. App. 2009)("In enacting the [Georgia Arbitration Code], the General Assembly established 'a clear public policy in favor of arbitration.'").
3. *See Weeks*., 291 F.3d at 1314 (noting that "the Supreme Court in *Circuit City* [*Stores, Inc. v. Adams*, 532 U.S. 105 (2001)] held that the FAA was applicable to all contracts of employment except those contracts involving transportation workers"); Caley v. Gulfstream Aerospace Corp., 333 F. Supp. 2d 1367 (N.D. Ga. 2004) *aff'd* 428 F.3d 1359 (11th Cir. 2005) (compelling arbitration of employment claims); Wedemeyer v. Gulfstream Aerospace Corp., 749 S.E.2d 241 (Ga. Ct. App. 2013)(discussing the enforceability of an arbitration agreement in the context of the employment relationship).
4. Circuit City Stores, 532 U.S. at 123 ("arbitration agreements can be enforced . . . without contravening the policies of congressional enactments giving employees specific protection against discrimination prohibited by federal law. . . "); Gilmer v. Interstate/Johnson Lane Corp., 500 U.S. 20, 35 (1991)(ADEA claims arbitrable); Caley, 333 F. Supp. 2d at 1379 (arbitration of ADEA, FLSA, ERISA, and Title VII claims permissible); *see also* Section 118 of the Civil Rights Act of 1991, which amends Title VII and provides that "[w]here appropriate and to the extent authorized by law, the use of alternative dispute resolution, including . . . arbitration, is encouraged to resolve disputes arising under [Title VII and 42 U.S.C. §§ 1981a and 1988]" The

Civil Rights Act of 1991, Pub. L. 102–166, §118, 105 Stat. 1071 (codified as amended in scattered sections of 42 U.S.C.). *But see* E.E.O.C. v. Waffle House, Inc., 534 U.S. 279 (2002) (holding that an agreement to arbitrate employment disputes does not bar the E.E.O.C. from suing an employer for monetary and injunctive relief on behalf of an aggrieved employee).

5. The Arbitration Fairness Act of 2013, S. 878, 113th Cong. (2013).
6. *Id.* at § 402(a). The act would also restrict the arbitrability of consumer, civil rights, and antitrust disputes. *Id.* It further requires that the validity and enforceability of an agreement to arbitrate be determined by a court, not by an arbitrator. *Id.* at § 402(b)(1).
7. In 2010, Congress banned certain predispute agreements to arbitrate sexual harassment claims under Title VII or in tort. The Department of Defense Appropriations Act, 2010 applies to contractors whose business with the Department of Defense exceeds $1 million. Pub. L. No. 111-118, § 8116(a), 123 Stat. 3409, 3454 (2009). Similarly, the Dodd-Frank Wall Street Reform and Consumer Protection Act prohibits predispute arbitration agreements from being applied to claims arising under the statute's whistleblower provisions. Pub. L. 111-203, 124 Stat. 1376, 1739 (2010) (codified at 7 U.S.C. § 26(n)(2)); *id.* at §§ 922(b), (c), 124 Stat. at 1841 (codified at 18 U.S.C. §§ 1514A(e)(1), (2)).
8. The Federal Arbitration Act provides that arbitration agreements are "enforceable, save upon such grounds as exist at law or equity for the revocation of any contract." 9 U.S.C. § 2 *see also* Caley, 428 F.3d at 1371 ("arbitration agreements under the FAA are enforceable absent fraud, duress, or some other misconduct or wrongful act recognized by the law of contracts for revocation of a contract.").
9. *See* Panhandle Fire Prot. Inc. v. Batson Cook Co., 653 S.E.2d 802, 806 (Ga. Ct. App. 2007)(arbitration agreements are a matter of contract and as such are challengeable on the basis of contract invalidity).
10. *See* Hooters of Am., Inc. v. Phillips, 173 F.3d 933, 935 (4th Cir. 1999) (invalidating Hooter's arbitration agreement because of procedural and substantive unfairness issues, finding it "utterly lacking in the rudiments of even-handedness. . ."). Among the troubling aspects of the agreement were the requirements that arbitrators be selected from a panel maintained by Hooters, that the employee alone be required to disclose his or her witnesses and the facts on which the claim was based, and that Hooter's could change the terms of the arbitration agreement at will and without notice. *Id.* at 938-40. These provisions led the Fourth Circuit to conclude that the system established by Hooters was a "sham . . . unworthy even of the name of arbitration. . .". *Id.* at 940.
11. Paladino v. Avnet Computer Techs., Inc., 134 F.3d 1054, 1062 (11th Cir. 1998) (Cox, J. and Tjoflat, J. concurring) (holding that "[w]hen an arbitration clause has provisions that defeat the remedial purpose of the statute . . . the arbitration clause is not enforceable.").
12. 133 S. Ct. 2304, 2310-11 (2013) (ellipsis added), citing Green Tree Fin. Corp.-Ala. v. Randolph, 531 U. S. 79, 90 (2000) ("It may well be that the existence of large arbitration costs could preclude a litigant . . . from effectively vindicating her federal statutory rights…"); *see also* Paladino, 134 F.3d at 1062 (the imposition of high arbitration cost on employees undermines the statutory purpose of Title VII).
13. Green Tree Fin. Corp. -Ala., 531 U.S. at 91-92.
14. Caley, 333 F.Supp.2d at 1375 (citing Dodd v. City of Gainesville, 551 S.E.2d 62, 64 (Ga. Ct. App. 2001)) ("Even an at-will employee may have certain enforceable rights pursuant to the policies of an employment handbook.").
15. *Id.* at 1375 (citing Fletcher v. Amax, Inc., 288 S.E.2d 49, 51 (Ga. Ct. App. 1981)) ("continued employment constitutes acceptance of new terms offered by employer.").
16. *Id.* at 1377 (citing Porter v. Cigna, 1997 WL 1068630, *1 (N.D. Ga. Mar. 26, 1997)) ("mutuality of obligation is established by explicit policy language stating that both employer and employee are bound to submit employment disputes to arbitration.").
17. *Id.* at 1373 (emphasis omitted) (ellipses added).
18. 9 U.S.C. §§ 1-16 (2006).
19. Volt Information Sciences, Inc. v. Bd. of Trustees, 489 U.S. 468, 477-78 (1989) (citation omitted); *see also* American Gen. Fin. Svcs. v. Jape, 291 Ga. 637, 640 732 S.E.2nd 746, 748-749 (2012) (recognizing federal preemption of state laws would undermine agreements to arbitrate); *see also* Results Oriented, Inc. v. Crawford, 538 S.E. 2d 73, 78 (Ga. Ct. App. 2000), *aff'd* 548 S.E.2d 342 (Ga. 2001) (recognizing federal preemption of state law).
20. The Georgia Arbitration Act shall not apply to "[a]ny contract relating to terms and conditions of employment unless the clause agreeing to arbitrate is initialed by all signatories at the time of the execution of the agreement[.]" O.C.G.A. § 9-9-2(c)(9) (2013).
21. Columbus Anesthesia Group, P.C. v. Kutzner, 459 S.E.2d 422, 424 (Ga. Ct. App. 1995).
22. The FAA reaches those arbitration agreements "evidencing a transaction involving commerce." 9 U.S.C. § 2. "Evidencing a transaction involving commerce" is a phrase that has been given broad meaning by the Supreme Court in the context of arbitration and covers almost all employment relationships. *See* Allied-Bruce Terminix Cos. v. Dobson, 513 U.S. 265, 273-81 (1994); *see also* Caley v. Gulfstream Aerospace Corp., 428 F.3d 1359, 1370 (11th Cir. 2005) (discussing extent of FAA's reach).
23. Employment Arbitration Rules and Mediation Procedures, AM. ARB. ASS'N, p.32 (2009), *available at* http://www.adr.org/aaa/ShowProperty?nodeId=/UCM/ADRSTG_004362&revision=latestreleased.
24. *Id.* p.29.
25. *See supra*., n.12.
26. *See* Haynsworth v. The Corporation, 121 F.3d 956, 963 (5th Cir. 1997) (forum-selection provisions in arbitration agreements that require excessive travel for arbitration are unreasonable and unenforceable).

State Bar's Annual Meeting Returns to Amelia Island

by Jennifer R. Mason

After a three-year absence, the State Bar of Georgia returned to Amelia Island for its 2014 Annual Meeting. Since the Bar's last visit to Amelia Island, the property has undergone a massive renovation, and the end result did not disappoint. What was always a popular and well-loved location has evolved into something even more amazing, and the total experience of Bar members and their families could be summed up in one word: fantastic. From start to finish, the weekend delivered in all facets of the meeting: business, pleasure and entertainment.

Opening Night

Due to the renovations at the resort, the Opening Night Festival moved from its usual location around the pool to a more open area near the conference center, and the change was well received. From the pirate-themed décor, complete with a spot-on Captain Jack look-alike, to the incredible DJ Jason and everything in between, the casual, well-attended, family-friendly event was the perfect way to kick-off the weekend. Good food, excellent music and a makeshift dance floor provided attendees with an opportunity to spend time with old friends and cultivate new friendships in a laid-back setting. Kids and kids-at-heart enjoyed all types of games with Captain Jack while others showed off their dance moves in front of the pirate ship. Everyone in attendance seemed to agree that this opening night was one of the best in recent memory.

Photos by Sarah I. Coole, Jennifer R. Mason, Derrick W. Stanley and Stephanie J. Wilson

Bar members, their families and guests enjoy the pirate-themed Opening Night Festival at the Omni Amelia Island Resort.

Business at the Beach

The focus of the weekend was business, and over the three days members were able to take care of their professional responsibilities while enjoying the offerings of the resort and the surrounding area. As always, multiple CLEs were available covering a wide range of topics, including the U.S. Constitution, social media and the law, business development techniques, judicial diversity and the ever-popular war stories plus Georgia evidence update. There were also opportunities to earn CLE credit in conjunction with several section lunch programs.

The education component was only part of the business of the weekend. Section and committee meetings were conducted each day, providing those members a forum in which to discuss related issues and address their specific needs and agendas. All of these meetings served to strengthen the ability of the State Bar to provide quality services for its members and the public.

As each day moved into evening, business meetings gave way to social events. Early evening receptions hosted by sections, committees and other groups provided a casual yet elegant atmosphere where section members, law school alumni, Bar members and invited guests could meet, and honor and applaud the work of individuals or organizations. Attendees then had the opportunity to attend more formal events such as the YLD Dinner and Swearing-In Ceremony on Friday and the Presidential Inaugural Gala on Saturday. Other social events that were held over the weekend included the annual YLD/Pro Bono 5K Fun Run on the beach and the tennis and golf tournaments.

Board Meeting Highlights

The June 6 plenary session opened with a commemoration of the 70th anniversary of D-Day,

Board Member Amy Howell and husband, Brian, with their two children, Lauren and William, at the Opening Night Festival.

2013-14 President Charles L. Ruffin happily passes the gavel to incoming President Patrise M. Perkins-Hooker at her inauguration.

2013-14 YLD President Darrell Sutton addresses the Board of Governors and others in attendance one last time to review his year and accomplishments.

including a Color Guard, a video presentation of the D-Day landing and remarks from ret. U.S. Senior Circuit Judge James C. Hill, U.S. Court of Appeals for the 11th Circuit, who recalled his experience at that time. Prior to the presentation of awards, President Charles L. Ruffin gave a report on the executive director search process and presented Jeff Davis as the nominee for the position. The board, by unanimous voice vote, approved Davis as the Bar's executive director for the 2014-15 Bar year (see page 19). President Ruffin presented resolutions to William P. Smith III for his work on the issues of international trade in legal services and Linton S. Johnson for his work on behalf of the State Bar of Georgia and authoring the book, *From Banished to Unified: A History of the Legal Profession in Georgia*. Resolutions were also presented to Sharon Bryant, Steve Laine and Paula Frederick for their leadership following the loss of Cliff Brashier. President Ruffin presented a check to Phyllis Holmen in the amount of $522,799, representing voluntary contributions by Georgia lawyers to GLSP's 2013-14 State Bar Campaign.

Following the presentation of awards, the State of the Supreme Court address was given by Chief Justice Hugh P. Thompson, followed by the State of the Court of Appeals address by Chief Judge Herbert E. Phipps, the State of the House Judiciary Committee by Rep. Wendall Willard (chair), the State of the House Judiciary Non-Civil Committee by Rep. Rich Golik, the State of the House Juvenile Justice Committee by Rep. Tom Weldon (chair), the State of the Georgia Senate Judiciary Committee by Sen. Josh McKoon (chair), the State of the Georgia Senate Judiciary Non-Civil Committee by Sen. Jesse Stone (chair) and the State of the Georgia Senate Special Judiciary Committee by Sen. Curt Thompson (chair). Reports on the Investigative Panel were given by Maria Waters, the Review Panel by Tony Askew, and the Formal Advisory Opinion Board by John Shiptenko. The Memorials report was then presented by President Ruffin.

During the plenary session, President Charles L. Ruffin delivered his outgoing remarks as required by the bylaws of the State Bar. A copy of these remarks can be found on page 26 of the *Bar Journal*.

Patrise M. Perkins-Hooker presided over the 253rd Board of Governors meeting on Saturday, June 7.

Highlights of the meeting included:

- Attorney General Sam Olens delivered the State of the Georgia Law Department
- The Board approved the following presidential appointments:
  Formal Advisory Opinion Board
  Georgia Trial Lawyers Assoc.: David Neal Leftkowitz (2015)
  Georgia Association of Criminal Defense Lawyers: Holly Veal (2016)
  Georgia District Attorneys Association: Kenneth W. Mauldin (2016)
  Emory University: Melissa D. Carter (2016)
  Georgia State University: Nicole Gail Iannarone (2016)
  Investigative Panel Rep.: Katie Wood (2015)
  Review Panel
  Rep.: Charles B. Marsh (2015)
  At-Large: Mary Prebula (2016)
  Letitia A. McDonald (2016)
  Jeffrey Hobert Schneider (2016)
  Investigative Panel
  District 5: William H. Thomas (2016)
  District 6: Delia T. Crouch (2016)
  District 7: Christopher A. Townley (2016)
- The Board approved President Perkins-Hooker's 2014-15 appointments to Standing,

Special, Program and Board committees.

- The Board approved the reappointments of Patrick Flinn, Patricia Gorham, Wade Herring, and Tamera Woodward and the appointment of Russell Bonds to the Georgia Legal Services Board of Trustees for two-year terms.
- The Board approved the reappointment of A. James Elliott and appointment of Kyle Williams to the Chief Justice's Commission on Professionalism for three-year terms.
- The Board approved the proposevd 2014-15 election schedule.
- As required by Article V, Section 8 of the Bylaws, the Board:
  - authorized the president to secure blanket fidelity bonds for the Bar's officers and staff handling State Bar funds.
- As required by Article V, Section 6 of the Bylaws, the Board:
  - directed the State Bar and related entities to open appropriate accounts with such banks in Georgia, but excluding any bank that does not participate in the IOLTA Program, and other such depositories as may be recommended by the Finance Committee, and designated by the Executive Committee of the Board of Governors of the State Bar of Georgia, and that the persons whose titles are listed below are authorized to sign an agreement to be provided by such banks and customary signature cards, and that the said banks are hereby authorized to pay or otherwise honor any check drafts, or other orders issued from time to time for debit to said accounts when signed by two of the following: the treasurer, the secretary, the president, the immediate past president, the president-elect, the executive director, the office manager and the general counsel provided either the president, the secretary or the treasurer shall sign all checks or vouchers and that said accounts can be reconciled from time to time by said persons or their designees. The authority herein given is to remain irrevocable so as said banks are concerned until they are notified in writing of such revocation of authority and in writing, acknowledge receipt thereof.
  - designated Cherry Bekaert LLP as the independent auditing firm to audit the financial records of the State Bar for the fiscal year 2012-13.
- President Perkins-Hooker addressed the Board of Governors and presented an overview of her proposed program of activities for the 2014-15 Bar year (see page 32).
- President Perkins-Hooker presented an award to Sharon Bryant for her commitment, service and leadership as interim

Jeffrey R. Davis Elected as Executive Director of the State Bar of Georgia

The Board of Governors of the 46,000-member State Bar of Georgia officially elected Jeffrey R. Davis as executive director of the organization June 6 during its Annual Meeting.

Davis had been selected unanimously by the State Bar's Executive Committee in April after being one of three finalists recommended by a 14-member search committee charged with seeking a successor to longtime Executive Director Clifton A. Brashier, who passed away in December 2013.

Davis has served as director of the Georgia Judicial Qualifications Commission since 2010. On two occasions during the 1990s, he worked at the State Bar of Georgia as assistant general counsel (1992-94) and assistant Bar counsel (1995-97), during which time he investigated and prosecuted lawyer discipline cases and the unlicensed practice of law, in addition to advising the Bar on contracts, employment and other corporate issues.

A graduate of the University of Tennessee-Chattanooga and the Candler School of Theology at Emory University, Davis earned his J.D. degree from Georgia State University College of Law in 1991, having served as student writing editor of the *GSU Law Review*. As a law student, he worked as a law clerk in the Law Offices of Bruce S. Harvey in Atlanta. Upon graduation, he became an associate in the firm, assisting with criminal defense cases in state, federal and appellate courts, before his first stint with the State Bar.

Davis worked as real estate counsel for the then-startup Caribou Coffee Company based in Atlanta and Minneapolis in 1994-95. He joined the Chapar Firm in Atlanta and Conyers in 1998, where he practiced for two years before becoming a partner with Winkler DuBose & Davis LLC in Madison (2000-10).

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Photos *from the* Annual Meeting

1. Supreme Court of Georgia Justice Robert Benham swears in the 2014-15 officers of the State Bar, *(left to right)* President-Elect Robert J. Kauffman, Treasurer Rita A. Sheffey and Secretary Patrick T. O'Connor.
2. Albert Perkins, father of 2014-15 President Patrise M. Perkins-Hooker, performs "America the Beautiful" at her inauguration.
3. State Bar of Georgia's 2014-15 Executive Committee: *(back row, left to right)* YLD President Sharri Edenfield, Executive Committee Member Kenneth B. Hodges III, Executive Committee Member David S. Lipscomb, Executive Committee Member Brian D. Rogers, Secretary Patrick T. O'Connor, Executive Committee Member Phyllis J. Holmen, YLD President-Elect John R. B. "Jack" Long and YLD Immediate Past President Darrell L. Sutton; *(front row, left to right)* Treasurer Rita A. Sheffey, Executive Committee Member Nicki N. Vaughan, President Patrise M. Perkins-Hooker, Immediate Past President Charles L. Ruffin and President-Elect Robert J. Kauffman.
4. 2014-15 YLD President Sharri Edenfield is sworn in by her uncle, U.S. District Court Judge Avant Edenfield, while her father Gerald Edenfield (State Bar past president 2007-08) and sister Kristie Edenfield Piasta look on.
5. Board member Carl Varnedoe with wife Christina and daughter Mary Mobley at the YLD Dinner and Swearing-In Ceremony.
6. *(Left to right)* GABWA members Joy Lampley-Fortson, Kristin Hall, Jacqueline Bunn, Kimberly Wakefield Aiken, Christina Calloway and Janet Scott, at the reception honoring the Supreme Court of Georgia justices prior to the Presidential Gala.
7. Participants in the tennis tournament: *(back row, left to right)* Dee Dee Worley, Hon. R. Rucker Smith, Cassandra Kirk, Donna Schaaf, Tedra Hobson, Tim Jefferson and Amelia Island pro; *(front row, left to right)* Cindy Presto, Morgan McDonald, Caroline Brashier, Margaret Washburn and Eric Ballinger.
8. Tracee Benzo and Jacqueline Bunn accept the Award of Merit from 2013-14 State Bar President Charles L. Ruffin on behalf of the Georgia Association of Black Women Attorneys.
9. Board Member John G. Haubenreich and Elizabeth Pelypenko at the reception honoring Incoming President Patrise M. Perkins-Hooker.
10. Executive Committee Member Kenneth B. Hodges III with wife Melissa dancing the night away at the Presidential Gala.
11. Past President Lester Tate and Supreme Court of Georgia Justice David Nahmias at the Presidential Gala.
12. Everyone's favorite pirate, Captain Jack Sparrow, at the Opening Night Festival.

2013-14 President Charles L. Ruffin presents the 2014 State Bar of Georgia Employee of the Year award to Sarah I. Coole, director of communications.

leader of the State Bar during the 2013-14 Bar year.

- Executive Committee elections were held with the following results: Phyllis J. Holmen, Kenneth B. Hodges III and Nicki Noel Vaughan.
- YLD President Sharri Edenfield addressed the Board of Governors and presented an overview of her proposed program of activities for the 2014-15 Bar year. As a big supporter of the military, she plans to reach out to military lawyers on bases around Georgia to head up an effort geared toward young lawyers and to complement the efforts of the Military Legal Assistance Program. She will expand the YLD's community outreach efforts by growing existing programs such as the Legal Food Frenzy and the Wills Project. She will create a Lawyers in the Library program wherein young lawyers will offer pro bono legal services at local libraries on Saturdays. She will continue the YLD's strong emphasis on the High School Mock Trial Program. She is creating a task force, led by Josh Bosin and Brantley Rowlen, to help close the gap between people who need legal services and young lawyers who need jobs. She thanked outgoing YLD President Darrell Sutton for his accomplishments and gave him an opportunity to recap his Bar year. The Board of Governors also received a written report on the YLD committees, programs and projects for the 2013-14 Bar year.
- Dan Snipes (2013-14 ACL chair) and Thomas Worthy provided a recap of the 2014 legislative session. Thereafter, Sen. Ronald B. Ramsey Sr. (D-Decatur) presented a Senate Resolution to President Perkins-Hooker. Worthy announced the lawyer-legislators going back to the General Assembly and provided a preview of the upcoming legislative session. The Board of Governors received a written annual report on the legislative activities of the State Bar of Georgia for 2014.
- The board received reports of the activities of the Blue Ridge Circuit Bar Association from Eric Ballinger, the Tifton Bar Association from Hon. Render M. Heard and the Columbus Bar Association from Donna S. Hix.
- Treasurer Rita A. Sheffey presented a report on the Bar's finances and investments, and the Board, by unanimous voice vote, approved the proposed 2014-15 Operations and Bar Center budgets as submitted.
- Following a report by President Perkins-Hooker, the Board, by unanimous voice vote, approved the proposed amended bylaws of the Intellectual Property Law Section.
- The Board received a copy of the action taken by the Executive Committee at its meeting on Feb. 21-22.
- The Board received a memo with a link to access the online annual written report on the activities of the Office of the General Counsel.
- The Board received written reports from the Fee Arbitration Program, the Law Practice Management Program, the Military Legal Assistance Program, the Unlicensed Practice of Law Program, the Transition Into Law Practice Program, the Consumer Assistance Program, the Civil Legal Services Task Force, the Member Benefits Committee: Private Insurance Exchange, the Long Range Planning and Bar Governance Committee, the Access to Justice Committee, the 2014 Law Day Program, the Georgia Legal Services Program and the Chief Justice's Commission on Professionalism.
- The Board received written reports from the following sections: Animal Law, Antitrust Law, Child Protection & Advocacy, Eminent Domain, Family Law, Intellectual Property Law, Military/Veterans Law, Product Liability Law, School & College Law and Taxation Law.

Annual Awards

During the plenary session, outgoing President Charles L. Ruffin recognized specific Bar members and organizations for the work they have done over the past year.

Chief Justice Thomas O. Marshall Professionalism Award

The **13th annual Chief Justice Thomas O. Marshall Professionalism Award**, sponsored by the Bench and Bar Committee of the State Bar of Georgia and selected by all living past Bar presidents, honors one lawyer and one judge who have and continue to demonstrate the highest professional conduct and paramount reputation for professionalism. This year's recipients were **Hon. Carol W. Hunstein**, justice, Supreme Court of Georgia, Atlanta, and **John A. Dickerson**, McClure Ramsay Dickerson & Escoe LLP, Toccoa.

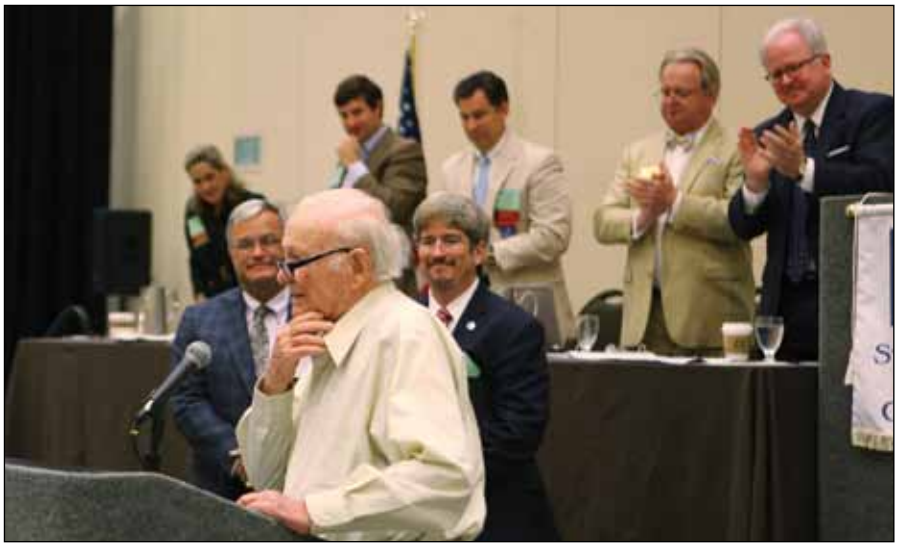
2014 Commitment to Equality Awards

The **Commitment to Equality Awards**, presented by the Committee to Promote Inclusion in the Profession, recognize the efforts of lawyers and legal employers who are committed to providing opportunities that foster a more diverse legal profession for members of underrepresented groups in the state of Georgia. These awards are presented to lawyers who not only personally excel in their own practice, but who have demonstrated a commitment to promoting diversity in the legal profession. The Randolph Thrower Lifetime Achievement Award recognizes an outstanding individual who has dedicated his or her career to these causes. The recipient of the **Randolph Thrower Lifetime Achievement Award** was **Ret. Judge Thelma Wyatt Cummings Moore,** Moore Law, LLC, Atlanta. The recipients of the **Commitment to Equality Awards** were **Marian Cover Dockery,** Marian Dockery & Associates LLC**, Atlanta** and **Suzanne Wynn Ockleberry**, AT&T, Atlanta.

Georgia Association of Criminal Defense Lawyers Awards

The Georgia Association of Criminal Defense Lawyers (GACDL) announced that the 2014

(Left to right) Recipients of the 2014 Commitment to Equality Awards Suzanne Wynn Ockleberry and Marian Cover Dockery with the recipient of the Randolph Thrower Lifetime Achievement Award, Judge Thelma Wyatt Cummings Moore.



The plenary session opened with a commemoration of the 70th anniversary of D-Day, including remarks from ret. U.S. Senior Circuit Judge James C. Hill, U.S. Court of Appeals for the 11th Circuit, who recalled his experience at that time.

2014-15 President Patrise M. Perkins-Hooker receives a standing ovation prior to her inaugural remarks as the first African-American president of the State Bar of Georgia.

G. Terry Jackson Friend of the Constitution Award was presented to **Dwight L. Thomas**.

The 2013 GACDL Indigent Defense Award was presented to **Lynne Y. Borsuk** of Atlanta.

The 2013 GACDL President's Awards were presented by President Marcia Shein to **Amanda Clark-Palmer, Jennifer Koehler Mackall, Linda Sheffield, Jason Sheffield, Colette Resnik Steel** and **Aimee Maxwell**.

The 2013 GACDL Strike Force Soldier Awards were presented to **Dorian Murray, Brian Steel** and **Fran Winn**.

Local and Voluntary Bar Activities Awards

The **Thomas R. Burnside Jr. Excellence in Bar Leadership Award**, presented annually, honors an individual for a lifetime of commitment to the legal profession and the justice system in Georgia through dedicated service to a voluntary bar, practice bar, specialty bar or area of practice section. This year's recipient was **Hon. Barbara A. Harris**, nominated by the Georgia Association of Black Women Attorneys.

The **Award of Merit** is given to local and voluntary bar associations for their dedication to improving relations among local lawyers and devoting endless hours to serving their communities. The bar associations are judged according to size.

- 101 to 250 members: **Blue Ridge Bar Association**
- 251 to 500 members: **Macon Bar Association**
- 501 members or more: **Georgia Association of Black Women Attorneys**

The **Law Day Award of Achievement** is presented to local and voluntary bar associations that best plan Law Day activities in their respective communities to commemorate this occasion. The bar associations are judged in size categories.

- 51 to 100 members: **Walton County Bar Association**
- 101 to 250 members: **Glynn County Bar Association**
- 251 to 500 members: **Gwinnett County Bar Association**
- 501 members or more: **Cobb County Bar Association**

The **Best New Entry Award** is presented to recognize the excellent efforts of those local and voluntary bar associations that have entered the Award of Merit or Law Day Award competitions for the first time in four years. This year's recipient was the **Georgia Trial Lawyers Association**.

The **Best Newsletter Award** is presented to local and voluntary bars that provide the best informational source to their membership, according to their size.

- 251 to 500 members: **DeKalb Bar Association**
- 501 members or more: **Georgia Defense Lawyers Association**

The **Best Website Award** is given to local and voluntary bar associations with websites that exemplify excellence in usefulness, ease of use, content and design in meeting the needs of the website's targeted audience. The bar associations are judged in size categories.

- 51 to 100 members: **Houston County Bar Association**
- 101 to 250 members: **Blue Ridge Bar Association**
- 251 to 500 members: **DeKalb Bar Association**
- 501 members or more: **Cobb County Bar Association**

The **President's Cup Award** is presented annually to local and voluntary bar association with the best overall program. This year's recipient was the **Georgia Association of Black Women Attorneys**.

Section Awards

Section Awards are presented to outstanding sections for their dedication and service to their areas of practice, and for devoting endless hours of volunteer effort to the profession.

- **Section of the Year**
  Intellectual Property Law—Tina W. McKeon, chair
- **Awards of Achievement**
  Child Protection & Advocacy—Nicki Vaughan, chair; **Family Law—Jonathan Tuggle**, chair; **Military/Veterans Law Section—Drew Early**, chair

Tradition of Excellence Awards

The **Tradition of Excellence Awards** are presented each year to selected Bar members in recognition of their commitment to service to the public, the Bar activities and to civic organizations. The 2014 recipients were: **Judson Graves**, Atlanta (defense); **Joe A. Weeks**, Avondale Estates (general practice); **Hon. John D. Allen**, Columbus (judicial) and **C. Neal Pope**, Columbus (plaintiff).

Young Lawyers Division Awards

The Distinguished Judicial Service Award was presented to **Hon. Julie Carnes.**

The Ross Adams Award was presented to **Bill Barwick**.

Award of Achievement for Service to the Bar: **John Jett** and **Brandon Smith**

Award of Achievement for Service to the Public: **Brandon Elijah, Jessica Nix, Jonathan Poole, Lisa Robinson** and **Katie Willett**.

Award of Achievement for Service to the Profession: **Jessica Sabbath** and **Meredith Sutton.**

Award of Achievement for Service to the YLD: **Khurram Baig, Jennifer Blackburn, Ivy Cadle, Alex Susor** and **Meredith Sutton**.

YLD Ethics & Professionalism Award was presented to **Tiffany Mallory**.

Outstanding YLD Affiliate: **Glynn County YLD**.

Patrise M. Perkins-Hooker is sworn in as the 52nd president of the State Bar of Georgia by Supreme Court of Georgia Justice Robert Benham while her husband Douglas Hooker stands with her and holds the bible. Perkins-Hooker is the first African-American and only the third woman to hold this office.

Passing of the Gavel

Saturday evening began with a reception honoring the justices of the Supreme Court of Georgia, followed by the business portion of the evening. Prior to the swearing-in ceremony, 2013-14 President Charles L. Ruffin presented two important awards. The Employee of the Year Award was presented to Sarah I. Coole, director of communications, for her dedication, service and support of the State Bar.

Ruffin also presented the Distinguished Service Award, the highest accolade bestowed on an individual lawyer by the State Bar of Georgia, to Hon. George H. Carley (see page 40). Carley was honored for his "conspicuous service to the cause of jurisprudence and to the advancement of the legal profession in the state of Georgia."

Following the awards presentation, Justice Robert Benham swore in Patrise M. Perkins-Hooker as the 52nd president of the State Bar. Perkins-Hooker placed her left hand on the Bible and repeated the following:

I, Patrise M. Perkins-Hooker, do solemnly swear that I will execute the office of president of the State Bar of Georgia, and perform all the duties incumbent upon me, faithfully, to the best of my ability and understanding, and agreeable to the policies, bylaws and rules and regulations of the State Bar of Georgia and the laws and Constitution of the United States. So help me God.

The evening concluded with dinner, drinks and dancing throughout the Conference Center, featuring the martini bar, scotch and cigar bar and the extremely popular dance club headlined by Atlanta's Party Nation for a second year. GBJ

Jennifer R. Mason is the assistant director of communications for the State Bar of Georgia and can be reached at jenniferm@gabar.org.

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Final Remarks to the Board of Governors

by Charles L. Ruffin

The bylaws of the State Bar of Georgia specify the duties of the president. One of the responsibilities is to "deliver a report at the Annual Meeting of the members of the activities of the State Bar during his or her term in office and furnish a copy of the report to the Supreme Court of Georgia." Following is the report from 2013-14 President Charles L. Ruffin on his year, delivered June 6, at the State Bar's Annual Meeting.

Good morning. As I have the opportunity to preside over a meeting of the Board of Governors one final time, I wish to once again express my appreciation for the privilege of serving as the 51st president of the State Bar of Georgia.

In fact, that will be the sole focus of my remarks this morning. To those who have worked so hard to make this past year a successful time of historical observance—as we have celebrated not only the 50th anniversary of the State Bar of Georgia, but the 225th anniversary of the ratification of the U.S. Constitution—to all who participated this year, I simply want to say "thank you." The fact of the matter is, the State Bar of Georgia is a huge team made up of many leaders who in their own geographic area and areas of practice contribute greatly to an orderly system of justice that is of incalculable benefit to our society.

50th Anniversary Celebration

First, I want to thank my wife Sally for driving me all over Georgia and being willing to spend 24/7 with me to the point she could give my standard remarks by heart. I also want to thank the attorneys and staff with whom I am privileged to work with for carrying on our practice so I could serve in this capacity: they are Ivy Cadle, Hope Martin, Chase Ruffin, Shanique Harris and Twila Brown.

Photo by Sarah I. Coole

2013-14 President Charles L. Ruffin addresses the Board of Governors and others in attendance during the Annual Meeting.

In January, during the Midyear Meeting of the State Bar in Atlanta, we enjoyed a wonderful celebration of the 50th anniversary of the unified Bar. More than 400 Bar members and guests attended the Gala, at which we announced the presentation of the Founders Award to former Gov. Carl Sanders, whose leadership and support resulted in the passage of legislation in 1963 to create the State Bar, culminating a 40-year unification effort by leaders of the Georgia Bar Association. I say thank you to Gov. Sanders for

his beneficial work that has borne such fruit over the last 50 years.

At this time, I would like to thank Director of Meetings Michelle Garner and her Administrative Assistant Gakii Kingoriah for putting together such a wonderful event and Sarah Coole and her staff for capturing it so well in the *Bar Journal* and for creating the Sanders video.

We also thank Gov. Nathan Deal for his keynote address, as well as Chief Justice Hugh Thompson, Chief Judge Herbert Phipps and U.S. Circuit Court Judge Beverly Martin, who provided their reflections on the relationship between the State Bar and the judiciary over the past 50 years. And thank you to everyone who attended and made the event such a success.

Also during the Midyear Meeting, we unveiled *From Banished to Unified*, our coffee-table sized historical account of the history of the legal profession in Georgia, from the early days when Gen. James Oglethorpe banned lawyers from the colony through the modern era of the unified State Bar. I want to thank Director of Communications Sarah Coole, Linton Johnson, Jennifer Mason and the communications team for their efforts to produce this book and have it ready in time for the 50th Anniversary Gala. I hope we can all agree that they produced a remarkable account of our history.

Constitutional Symposium

In March, we celebrated the 225th anniversary of the ratification of the U.S. Constitution by hosting a national symposium on the Constitution—bringing to Atlanta U.S. Supreme Court Justice Antonin Scalia and other great legal minds from across the nation, along with renowned historian and author David McCullough, for a fascinating discussion of the Constitution's role in shaping our society.

The three-day symposium was a complete "sell-out," with 500+ registered participants in attendance. I want to thank the distinguished roster of more than 40 speakers, which included civil rights leader Dr. C.T. Vivian and former U.S. Solicitors General Paul Clement and Seth Waxman. Our hopes for this program to be a meaningful step toward fulfilling our duty to continue learning about and teaching others about the law and the fundamental principles on which it is based were definitely realized.

I also want to thank my symposium co-chairs—Justice David Nahmias of the Supreme Court of Georgia and Prof. David Oedel of the Walter F. George School of Law at Mercer University. Their extraordinary efforts were critical to the success of this national celebration as was the work of each chair for each segment of the program. I also want to thank Steve Harper and the staff of ICLE for their help in producing this program and for producing portions of the program for further CLE and civics education at the citizen, college, high school and middle school levels. If you want segments for local CLE or for local civic clubs or schools, please

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Robert Florence who will manage W|N's new Atlanta office.

Shareholder **Robert Florence** is a registered patent attorney who focuses on complex pharmaceutical patent litigation brought under the Hatch-Waxman Act.

EDUCATION

J.D., University of New Hampshire, 2002
B.S., University of Utah, Biology, 1998
Admitted to the Georgia State Bar

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FROM Banished TO Unified

A History of the Legal Profession in Georgia

WRITTEN BY **LINTON S. JOHNSON II** | FOREWORD & EDITED BY **CHARLES L. RUFFIN** | DESIGNED BY **SARAH I. COOLE**

On the Occasion of the 50th Anniversary of
the Establishment of the State Bar of Georgia

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call Steve at ICLE and he will be glad to help.

Also, we express appreciation to Gov. Deal and First Lady Sandra Deal for graciously hosting a reception for Justice Scalia at the Governor's Mansion as part of this event. And again, thank you to all who attended and participated in the symposium.

Civil Legal Services Task Force

Also this year, we appointed a Civil Legal Services Task Force to address the issues that have arisen from decreased funding for civil legal services.

Under the leadership of Co-Chairs Randy Evans and Rita Sheffey, the task force drafted proposed revisions to Bar Rule 1.15 and New Part XV, strengthening the requirements for IOLTA in an effort to increase available funding for civil legal services for low-income Georgians.

The task force also proposed to the Council of Superior Court Judges a modification to the *pro hac vice* rules to incorporate a $75 per matter application fee, which would go to the General Counsel's office for administration and a $200 annual renewal fee, which would go to the Georgia Bar Foundation. The task force also initiated talks with the Supreme Court and Court of Appeals about implementing a fee under the *pro hac vice* rules for all courts of record in the state. We are confident such fees will be imposed on out-of-state attorneys at each court level to generate substantial funds for legal services.

The task force also explored using excess county law library funds and encouraging trial judges statewide to consider legal services when disbursing *cy pres* awards, as well as proposing expense-side considerations for legal services.

We appreciate all of the hard work on the part of Randy, Rita and the entire task force on this important effort and also appreciate the support and encouragement of Justices Thompson, Hunstein and Nahmias, and all members of the Supreme Court.

Military Legal Assistance

Next, I want to report on our Bar's Military Legal Assistance Program or MLAP. Thanks first to Jay Elmore, who traveled to the Middle East in 2007 on a Defense Department fact-finding mission and visited with our troops. He returned and talked to his partner, Jeff Bramlett, who was about to become Bar president. Because of their vision, and Norman Zoller's perseverance, our state has established the nation's model program for military legal assistance.

So what has MLAP done? Under leadership of the Bar's MLAP committee, previously chaired by Lynn Adam and Eric Ballinger, and now Eric himself—we have maintained a roster of more than 800 lawyers who have volunteered to provide legal help to our service members and veterans. Many of those lawyers are in this room, and I give you my personal thanks for your service.

Since our legal assistance program began in late 2009, we have now connected more than 1,200 service members or veterans with a lawyer. Also, several hundred cases have involved requests for assistance with VA benefit award matters resulting from service-connected illnesses or injuries. Of interest, when the MLAP first began there were 160 lawyers accredited to practice before the VA. Through a series of CLE programs coordinated in part by our MLAP, Georgia now has 620 VA-accredited lawyers.

The program has also been actively engaged with other legal assistance programs, one coordinated by Cary King in creating memoranda of understanding and recruiting volunteer lawyers for the VA Medical Centers in Decatur and in Augusta, and also for separate VA clinics at Fort McPherson and at Carrollton. In collaboration with our Military/Veterans Law Section, and with Prof. Charles Shanor and Lane Dennard of King & Spalding, our MLAP also helped establish about a year ago a law school student clinic for veterans at Emory Law School. That program has achieved remarkable results that were reported in the February 2014 issue of the *Georgia Bar Journal*.

I cannot tell you how proud I am that this Bar created a program like our MLAP. In fact, staff at the American Bar Association in Chicago consider this to be one of the pre-eminent programs nationwide.

Legislative Program

On March 20, the Georgia General Assembly completed its 2014 legislative session. This was one of the most fast-paced sessions in history because of the earlier election cycle this year.

The State Bar worked with Gov. Deal and the General Assembly in support of what the Governor calls the "third leg" of criminal justice

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Practice Limited to Civil Matters

In his outgoing remarks to the Board of Governors, 2013-14 President Charles L. Ruffin said, "I want to thank my wife Sally for driving me all over Georgia and being willing to spend 24/7 with me to the point she could give my standard remarks by heart."

reform—the re-entry of released offenders as productive and law-abiding members of society. To this end, the House and Senate overwhelmingly approved Senate Bill 365, to enact offender re-entry reforms as recommended by the Georgia Council on Criminal Justice Reform chaired by Judge Mike Boggs. I want to thank Judge Boggs and co-chair Thomas Worthy for their tireless work on this legislation.

We are also very pleased that the annual state budget approved for fiscal year 2015 includes an increase of $386,000 dollars in funding for legal representation of domestic violence victims. The Appellate Resource Center was also funded in the new budget at the Bar's request.

It is also good to report that legislation to establish veterans' courts in Georgia was approved and signed into law, while a proposal that would have provided civil immunity to providers of legal self-help documents and services failed to pass after a hard won battle on the floor in which our Governmental Affairs operation was intimately involved.

The effectiveness of a legislative program was a prime motivating factor in the creation of the unified bar. The addition of Thomas Worthy, who came over from the governor's staff and serves as our full-time in-house director of governmental affairs, has greatly enhanced the efforts of our outstanding Advisory Committee on Legislation, chaired by Dan Snipes, and one of the strongest lobbying teams at the State Capitol, composed this past year of Rusty Sewell, Jim Collins, Meredith Weaver, Roy Robinson and Zach Johnson. I want to say thank you to Thomas and all of our legislative team for their efforts this year.

We are also grateful to our fellow Georgia lawyers who serve in the General Assembly—29 in the House of Representatives and 12 in the Senate. Their experience and expertise in the law has a positive impact on the legislative process, and we all appreciate the personal and professional sacrifices these lawyer-legislators make in order to run for office and spend a major part of each year at the Capitol. I would like to thank each of them by name for their support of the Bar's legislative efforts (see list on page 33).

I thank all of you who have participated in our legislative grassroots outreach program in which meetings were held all over the state where lawyer constituents engaged with their legislators. Headed by Zach Johnson and Lester Tate, this effort has grown substantially and works to ensure that your representatives and senators hear from you on a regular basis regarding the issues affecting the legal profession and justice system. I urge you to keep up the good work because I can tell you it works!

Last, and this is not a political statement but is just fact, I want to emphasize that Gov. Deal, and his staff, supported every effort of the State Bar this year at the Capitol and elsewhere. Gov. Deal helped the State Bar on everything he was asked to do, and the fact is we could not have had a better friend this year than Gov. Nathan Deal.

Discipline

When the Bar was established, self-discipline was a primary motivating force behind unification of the Bar. I want to thank the chair of the Investigative Panel, Maria Waters, and the Investigative Panel, and the chair of the Review Panel, Tony Askew, and the Review Panel, and the disciplinary staff of the General Counsel's office for all their important, time consuming work on discipline. It is often unrequited, but I want everyone involved in that process to know how much we appreciate your hard work.

Executive Director

The successes of the events and programs I have talked about so far—along with other ongoing Bar initiatives too numerous to mention this morning—are all the result of months of planning and preparation by multiple people on multiple levels working as a team, that 45,000 member team I mentioned earlier. There simply is no room for "I" in the word teamwork.

But as any of my predecessors will tell you, we must also be ready to deal with the unexpected. Rest assured that I, personally, did not anticipate having to complete the second half of this Bar year without Cliff Brashier whispering in my ear about what a good idea something that had been proposed was or indirectly in Cliff's inimitable way indicating how dumb it was, or that I wouldn't get to listen to Cliff's jokes all year. That was something I really looked forward to.

We all lost a close friend and mentor in Cliff, who helped create a wonderful working environment for Bar leaders, members and staff. By greater measure than most people know, Cliff Brashier led the Bar with his advice and counsel and in so doing elevated its role as an effective organization representing the best interests of the justice system and the legal profession.

In fact, we have been able to successfully complete this year only because of the dedication and perseverance of the 88 members of this amazing Bar staff, who worked under and learned from Cliff and were therefore able to carry on the State Bar's legacy of service. As I asked them all in a staff meeting following his death, just keep calm and carry on. They did so with incredible finesse. I especially want to thank Chief Operating Officer Sharon Bryant, Chief Financial Officer Steve Laine and General Counsel Paula Frederick and administrative staff Dee Dee Worley and Pauline Childress for their support and leadership during this time.

While we will never be able to replace Cliff Brashier, the 34 different people on the Search Committee, Executive Committee, Bar staff and our search firm Heidrick & Struggles worked diligently for approximately four months to find the right person to succeed Cliff as our executive director. I hope and trust that you will all agree that the candidate found by the search committee and selected by the executive committee and by you—Jeff Davis—is that person.

2013-14 Georgia Lawyer-Legislators

House of Representatives

Rep. Stacey Abrams, House Minority Leader
Rep. Stephen Allison
Rep. Alex Atwood
Rep. Johnnie Caldwell
Rep. Christian Coomer
Rep. Chuck Efstration
Rep. Stacey Evans
Rep. Barry Fleming
Rep. Rich Golick, chairman, Judiciary Non-Civil
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Rep. Ronnie Mabra
Rep. Larry O'Neal, House Majority Leader
Rep. Mary Margaret Oliver
Rep. BJ Pak
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Speaker David Ralston
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Rep. Tom Weldon, chairman, Juvenile Justice
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Bill Reilly, Clerk

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Sen. Charlie Bethel
Sen. Jason Carter
Sen. Bill Cowsert, chairman, Higher Education
Sen. John Crosby, chairman, Banking and Financial Institutions
Sen. Judson Hill, chairman, Finance
Sen. William Ligon, chairman, State and Local Governmental Operations
Sen. Josh McKoon, chairman, Judiciary
Sen. Ronald Ramsey, chairman, Urban Affairs
Sen. Jesse Stone, chairman, Judiciary Non-Civil
Sen. Curt Thompson, chairman, Special Judiciary
Sen. Lindsey Tippins, chairman, Education and Youth

Jeff brings a combination of leadership experience and work experience across our state that makes him eminently qualified to assume the position of executive director and provide superb advice and counsel to the Bar for many years to come.

Closing

As I conclude these remarks and close the book on the State Bar year for 2013-14, I want to thank each of you for your hard work as leaders of the State Bar of Georgia.

While this Bar year ends today, another one effectively starts tomorrow with the swearing-in of Patrise M. Perkins-Hooker as the 52nd president of the State Bar of Georgia. My final request to you is that you support Patrise in her efforts that benefit the Bar and work toward the goal of justice for all.

Thank you again for this tremendous privilege. But I thank you especially for your active service to the profession and for all that you do to serve your community, our state, our justice system and our fellow man. So what is the play now? I leave you with one of my favorite quotes: Micah 6:8—O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?

Sounds like a good plan to me.

May God bless you all. GBJ

Charles L. Ruffin is the immediate past president of the State Bar of Georgia and can be reached at cruffin@bakerdonelson.com.

Remarks to the Board of Governors

State Bar of Georgia Annual Meeting—June 7, 2014

by Patrise M. Perkins-Hooker

The following is excerpted from Patrise M. Perkins-Hooker's remarks during the 2014 Annual Meeting on Amelia Island.

Good morning my fellow officers, members of the Executive Committee, members of the Board of Governors, justices, judges, Georgia lawyers, staff, guests, friends and family. I am honored to have the opportunity this morning to share with you my program initiatives as I take the helm of the State Bar of Georgia. As I begin my remarks, I hope and am expecting that each of you will be listening for how you can become more involved, and how you can volunteer your time, talent, treasure and energy as we roll out our programs.

This year our Immediate Past President Charles "Buck" Ruffin focused on the celebration of major milestones in history, including commemorating the 225th Anniversary of the ratification of the Constitution of the United States of America, and celebrating the 50th anniversary of the unified Bar in Georgia. My installation as the 52nd president of the State Bar of Georgia continues the focus on historical moments. As I take office, I will become the first person of color and

Photo by Sarah I. Coole

2014-15 President Patrise M. Perkins-Hooker addresses the Board of Governors and others in attendance during the Annual Meeting.

the first African-American to have the honor to serve as president of our professional institution. I am proud that my peers believe that I am deserving of the privilege and capable of serving you and the citizens of Georgia who count on our Bar to protect them. But my remarks this morning are less about me and who I am, and more about what I want us to do together this year as a State Bar.

I do not take the responsibility of being your president lightly. In fact, for several months now I have been hard at work developing my plans for the 2014-15 Bar year with a team of dedicated lawyers and friends who have helped me shape my programs for next year and who have committed to assist me with the implementation of the same. Team members, you know who you are, I thank you for all of the time and energy that you have provided toward this effort.

Luke 12:48 says, "From everyone who has been given much, much will be demanded, and from the one who has been entrusted with much, much more will be asked." The practice of law is not a right. It is a privilege in our state which is granted to you once you pass the Bar exam and pay your dues. Along with this privilege, comes a moral obligation to ensure that all the citizens of this great state have reasonable access to legal services. Those of us honored with the privilege have a duty and a responsibility to make sure that everyone has access to a lawyer when coming into court. No one should lack access to valuable legal services during the time that they are most vulnerable. Could you imagine someone in your family needing to get out of a violent relationship, needing to probate a will, needing to obtain a guardianship for an older family member, needing a divorce or needing to collect child support to meet the day to day needs of a child, without anyone to turn to for the legal assistance required to meet their need?

Many citizens experience great difficulty just trying to navigate the legal system without a lawyer. Often they walk away from the experience with a negative attitude toward the legal profession as a whole and a lack of confidence in our system of justice. As lawyers, we must strive to reduce *any* sources of negative public perception, and the harm to the public that our profession was created to prevent, by ensuring that all citizens regardless of economic status or where they live have access to a lawyer. We can do better. We as leaders of the Bar need to fully support Georgia Legal Services, Atlanta Legal Aid and other legal service agencies who are out there trying to fill the needs of the underserved. What have you done to support these existing programs? Did you realize that it was your responsibility?

In addition to making a financial contribution and agreeing to take on pro bono cases for these agencies, there are several options that we as a group can initiate to address the problem of civil legal services for indigent and marginally employed Georgians. There are a lot more people in our state who are working, but they cannot afford a lawyer because the jobs that they are employed in are marginal or minimum wage jobs and they have large families. They simply do not have enough money to pay for the services of a lawyer. This increases the stress on the legal system because they are backlogging the court system. These underserved citizens are also complaining to their legislators about the problems that they perceive with the lack of fairness in our legal system because they did not have a lawyer. We have an Access to Justice Committee and a Civil Legal Services Task Force working in this area and developing solutions to this problem. This year, I plan to do the following:

- Encourage you as leaders of the profession in the areas where you practice and the judicial circuit that you represent, to donate and raise funds for the organizations that are helping meet the needs of indigent citizens and encourage others to do so as well. Our State Bar was formed 50 years ago and our first purpose was to take care of and protect the public. There is no reason for us to come to a Board of Governors meeting without everyone in this room having given something to Georgia Legal Services and displaying our ribbons indicating our donor status with pride. By giving something, you as a leader have committed to protect other people's ability to have access to justice. It starts with us, not the Legislature. We have the privilege; we have the monopoly and the responsibility.
- Encourage you as leaders, to lead by example, in the provision of hours of pro bono legal services personally and through your firms.
- Implement a plan to ensure that there is a lawyer in every county in Georgia through a program similar to the placement of doctors in underserved areas. There are six counties in Georgia without a lawyer. Shame on us! Can you imagine what life is like for poor people in those counties who do not have access to a lawyer? They do not have the resources to have a car or public transportation so that they can leave their county to get a lawyer, and they do not have access to a legal services office in their county. Shame on us for allowing this number to be reported over and over again without one county being deleted from the list. This year we are going to do something about it. We are going to place lawyers in every county. Lawyers agreeing to such a placement would receive some level of relief from the debt incurred in their study of law at our state law schools. Lawyers so placed would be supported by the local economic development authority, if there is one, in addition to a network of

senior lawyers who are moving into retirement, but still want to utilize their skills and experience to assist with legal matters. In this way, young lawyers would have the opportunity to discuss matters with more seasoned lawyers throughout the state using computer technology. I am not going to stand here next year to report that we have six counties in Georgia without lawyers. I have also spoken to Chief Justice Thompson about this initiative and he agrees that the lack of access to legal representation by indigent citizens is a critical problem. The Court is interested in working with us on this issue because it is the right thing to do and in the absence of state funding, it is our responsibility to make sure that everyone has access to justice as a part of the privilege given to us to practice law.

- Encourage adoption of the applicable recommendations of the Civil Legal Services Task Force by the Board of Governors.
- Continue to work with the Supreme Court to make sure that our suggested courses of action are acceptable and that the court feels that we are taking an aggressive position to address this critical issue.

We are all very intelligent and creative people, and I am so optimistic about our ability to solve this problem this year.

In addition to working on ways to improve access to justice by indigent and marginally employed citizens in Georgia, I also plan to reach out to young people to enhance their education on the importance of their rights as citizens. Civics instruction in our schools has been severely cut, and in some cases eliminated. We can do better. My plan is to use an interactive computer-based civics instruction program called iCivics. iCivics was created by Justice Sandra Day O'Connor to help social studies teachers throughout the country address the void created by the elimination of civics instruction in high schools. I believe this is a very important investment in our future. It is in high school that we learn about civic responsibility, the roles and duties of each of the three branches of government, our rights under the constitution, how a bill is passed in the legislature, etc.—all important issues in shaping responsible citizens and beginning to plant the seeds in some young people to become responsible lawyers.

This will be a pilot program to be undertaken in five school systems this year. Hopefully, the program gains momentum and more school systems will sign on. I am pleased to say that the YLD is working in collaboration with us on this program. Our plan is to place a resource lawyer in every middle school or high school classroom where the teacher is using the iCivics course curriculum. The resource lawyers will serve as a support to the teacher, and reinforce the concepts presented through the computer-based iCivics curriculum. The resource lawyer will be expected to visit the classes at least twice a month to help add real world examples by sharing relevant cases, joining field trips and facilitating classroom dialogue to reinforce the subject matter being taught by the teacher.

The iCivics program was introduced to me by Judge Dorothy Beasley, but Justice Carol Hunstein is the state chair for the iCivics program in Georgia and Evelyn Davis and Ashley Herd are the two attorneys who have served as co-coordinators of this program for our state. With your help, we can get this program rolled out to our schools using funds from Cornerstones of Freedom to pay for the teachers to be trained and costs of this program. You will hear more about this program throughout the year. We will be starting off with training the social studies teachers in the Atlanta Public School System on July 29. I hope that each of you will consider volunteering to assist with a classroom, if we are working in a school system in your area. We will build a stronger citizenry and we will be a stronger Bar as a result of our outreach.

Finally, I hope you will join me in working to increase the awareness of and relevance of the State Bar to all of our members. Some of you may remember that we conducted a survey in January to help collect information from our members on a wide variety of topics. It would be an understatement to say that I was surprised by some of the revelations the survey showed regarding 1) members' lack of knowledge about what our State Bar does, and 2) why it is relevant to them. I have traveled throughout the state visiting various bar associations and I can personally confirm the observations from the survey. Our members do not know what their Bar does and they are not aware of the amount of the dues that they pay each year. We can do better. We can do so much better.

I hope to reverse this dynamic by reaching out to members of the Bar to communicate with them more effectively about the operations of our State Bar, services offered by the Bar and how they can get engaged in its programs and committees. I have already started this work as I made my committee appointments. As I considered appointments, I intentionally worked to diversify the membership of these committees geographically, racially, ethnically, by gender and sexual orientation. I reached out to lawyers who have not been as engaged in the State Bar. It is our Bar and everyone I have asked agreed to serve. I have also changed the leadership of numerous committees to foster new and fresh ideas.

It is important that all of our committees and sections not only do their work, but promote the work they are doing! Nobody but us knows what we are doing. To communicate my focus in this area, I have scheduled a meeting with all of the committee chairs and sec-

tion leaders of the State Bar to be held on July 22. In that meeting, we will discuss how, as the mandatory bar, we create a customer service mindset that helps us to be more relevant to our members.

In addition to these new efforts, I plan to continue and build upon several programs created by my predecessors. I plan to continue SOLACE and the Suicide Prevention programs. I will be adding these programs to our Lawyer Assistance group so that all of the assistance services that we offer to our members as a Bar, are housed under one umbrella and are easy to find and access. We will need to hire someone to assist with communicating the existence of these programs to our members and coordinating delivery of these services.

I plan to continue to work with our Supreme Court to address their needs, including salary increases for judges and full staffing of the judiciary.

I plan to continue our legislative program—and in a way that our Bar is not tagged as the "fourth branch of government." Our Bar has a long and accomplished history of securing passage of our Bar sponsored bills (legislation recommended by the Advisory Committee on Legislation and approved by this Board). I will work with our legislative team and our director of Governmental Affairs to continue our rich legacy in this area.

I plan to work in an open and cooperative spirit and manner with my fellow officers and the members of the Executive Committee. I also want to work to strengthen the administrative functions of the Bar as we transition in a new executive director. I want to make sure that the State Bar communicates more effectively with our satellite offices and that relationships with lawyers across the state are enhanced. This likely will require significant improvements in our computer and communications technology, because we are way behind the eight ball on this issue. We have the funds already in place to make these adjustments and upgrades without any additional increase in our dues.

We also need to finish the renovations to the fifth floor of the State Bar Headquarters, so that all of the building is lease-ready and parking obtained for future tenants of this space.

It is going to be a busy year. I am convinced that if we work together we can build on an incredible foundation and legacy, and that we can do even better. I am committed to working with all of you to make the State Bar of Georgia more responsive to those in need of our services, more engaged with our next generation of citizens, and more beneficial to our members. I hope that you will support me in these efforts. I look forward to our work together. Let me know what you will do to help! Thank you. GBJ

Patrise M. Perkins-Hooker is the president of the State Bar of Georgia and can be reached at president@gabar.org.

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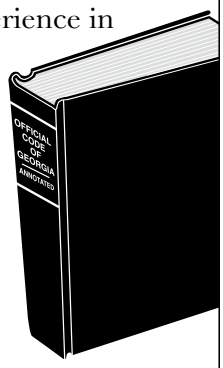

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Bienvenidos

An Appreciation for History, A Commitment to the Future

by Linton Johnson

Patrise M. Perkins-Hooker is fully aware of the historical significance of her taking office as the first African-American president of the State Bar of Georgia. Doing so in the same year that the nation observes the 60th anniversary of *Brown v. Board of Education* and the 50th anniversary of the Civil Rights Act, she says, makes the occasion even more noteworthy.

Absent those milestone events, Perkins-Hooker says, "it is highly unlikely that I would be able to be a member of the Georgia Bar."

Even so, Perkins-Hooker's route to becoming an attorney did not proceed in a straight line. She was born in Atlanta, where she spent most of her childhood, except for when her father (who played the national anthem on the piano to open her first Board of Governors meeting during the Annual Meeting in June) was directing glee clubs and choruses in the music departments of Jackson (Miss.) State College and Southern University in Baton Rouge, La.

There were no lawyers in her family, although during her youth she did meet Oliver Lee, a securities attorney and an influential member of the DeKalb County Hospital Authority, who was the cousin of a friend of hers, and during her teenage years she attended church with Isabel Gates Webster, one of Atlanta's first women lawyers. She considered them role models and was inspired by their achievements and their service to the community.

"I was surrounded by people who did phenomenal things," she recalls. Yet there was still no "a-ha!" moment of adolescent awakening that steered her toward a legal career.

After high school, Perkins-Hooker stayed in Atlanta to attend Georgia Tech, where she majored in industrial management. She had already decided to pursue an M.B.A. at Emory University when she was advised to simultaneously pursue a law degree "in order to be of better service to minority businesses."

That suggestion came from a law student named Kevin Ross, who would become one of Atlanta's leading political and public affairs consultants, as well as a governmental law practitioner. Perkins-Hooker graduated from Emory Law School and also earned her M.B.A. with a concentration in tax and accounting.

After she was admitted to the State Bar in 1984, her first full-time job was not with a law firm but with the Deloitte, Haskins & Sells accounting firm, where she worked as a certified public accountant. Two years later, she entered the practice of law in a firm headed by Marvin S. Arrington Sr., for whom she had worked while attending law school.

From Arrington, who had been one of Emory's first two full-time African-American law students and later

Photo by Attaboy Photography

Photo by Sarah I. Coole

President Patrise M. Perkins-Hooker's family after she was installed as the 52nd president of the State Bar of Georgia. *(Back row, left to right)* Douglas Hooker, Claire Walker, Darion Walker, Frances Walker, Anderson Walker, Shelby Griffith and Rev. David Hooker. *(Middle row, left to right):* Albert Perkins, Oreatha Ensley, Margaret Hooker, Denise Perkins-Griffith, President Patrise M. Perkins-Hooker, Odessa Hooker, Pearline Singletary, Beverly J. Walker, Andrea Ice and Moses Ensley. *(Front row, left to right)* Shelton Griffith, Joseph Griffith, Barbara Tucker, Thomas Perkins and Qui Perkins.

became president of the Atlanta City Council and a Fulton County Superior Court judge, Perkins-Hooker learned why it was important to become a leader in the community and in her profession, "as a way of giving back."

She later joined the firm of Hollowell, Foster & Gepp P.C., where she became a partner and had the opportunity to work and interact with Donald L. Hollowell, who rose to prominence during the civil rights movement when he represented Charlayne Hunter and Hamilton E. Holmes, the African-American students whose federal lawsuit led to the desegregation of the University of Georgia. Hollowell also defended Dr. Martin Luther King Jr. and other civil rights leaders in the 1960s and served as a regional director of the Equal Employment Opportunity Commission in the Lyndon Johnson administration.

"He was down the hall on the same floor," Perkins-Hooker recalled of her time with Hollowell. "He would call me 'Attorney Perkins-Hooker' in the deepest baritone known to man. He taught me the value of long-term, sustainable attorney/client relationships. He lived to be 87 years old, and he had a number of clients for 50 to 55 years. I'm glad I had the chance to know him for several years before he passed."

At the Hollowell firm, Perkins-Hooker was in charge of the commercial real estate group. In this capacity, she assisted businesses with the formation of their entities, with contract negotiations, with resolution of construction disputes, and with various aspects of commercial real estate developments, acquisitions and land use matters.

Perkins-Hooker says her most satisfying professional achievements include having worked on the consolidation of Atlanta University and Clark Atlanta University; serving as an attorney for the 1996 Olympic Games in Atlanta, when she negotiated franchise licensing agreements for $50 million dollar level sponsorships; and being involved with revitalization projects in the Reynoldstown, Vine City, Historic District, Mechanicsville and other areas, which she says "have reshaped the way that Atlanta looks and created affordable housing options for numerous citizens."

She has continued to work on reshaping her hometown as vice president and general counsel of Atlanta BeltLine Inc., which she joined in 2009. The Atlanta BeltLine initiative is described as Atlanta's most comprehensive transportation and economic development effort—utilizing a historic 22-mile railroad corridor circling the downtown area to connect neighborhoods and create a network of public parks, multi-use trails and transit.

"Working with the Atlanta BeltLine has been a wonderful experience due to the transformative nature of this project on the

45 neighborhoods in Atlanta," Perkins-Hooker said. "I have been involved with some outstanding endeavors, including acquisition of control of most of our corridor and the property for several key parks."

Perkins-Hooker became involved in Bar leadership in 1996, when she was president of the Gate City Bar Association and was appointed to the State Bar's Finance Committee by Linda A. Klein, who was serving as the first female president of the State Bar. Perkins-Hooker is the third, following Robin Frazer Clark (2012-13) by two years. She recognizes Klein for seeing the need for more diversity across the Bar's programs, committees and activities and taking action to recruit minority lawyers for leadership positions.

"The very next year, Richard Sinkfield decided not to seek reelection, and I was asked to run for his seat on the Board of Governors," Perkins-Hooker recalled. Years later, she was disappointed by the unsuccessful candidacy of a female attorney for a seat on the Executive Committee, and she made a speech to the Board expressing that disappointment.

Shortly thereafter, she received a handwritten note from 2009-10 State Bar President Bryan M. Cavan, commending her for her remarks but also pointing out the "real problem," which was the need for more women to run for the Executive Committee.

"He issued me a challenge, which I took as a dare, to run for the Executive Committee," Perkins-Hooker said during her inaugural address in June. "That note propelled me not to sit on the sidelines complaining about the lack of participation of women and people of color in elected Bar leadership positions. It propelled me to action. I got into the race for membership on the Executive Committee in 2010 and I won. And the light bulb went off. I had been prepared for this opportunity. I had ideas to share and a legacy to uphold. I began seeking higher levels of leadership responsibility . . . And now, I am proud to stand before you as your new Bar president."

While appreciating the historical magnitude of her term as State Bar president, Perkins-Hooker is beginning the year with a commitment to the future of the justice system. One of her major initiatives is reaching out to young Georgians through an interactive, computer-based civics program known as iCivics, which is intended to help social studies teachers address the void created by the erosion of civics instruction in many school systems.

Photo by Sarah I. Coole

President Patrise M. Perkins-Hooker and Supreme Court of Georgia Justice Carol Hunstein at the reception honoring President Perkins-Hooker as the incoming president of the State Bar.

Her year will also be focused on improving civil legal services for indigent and marginally employed Georgians; increasing awareness and relevance of the State Bar to a greater number of members; streamlining the delivery of lawyer assistance programs, including SOLACE and suicide prevention; and working with the judiciary to address state budget needs, including salary increases for judges. (See details on page 32).

Away from the office, Perkins-Hooker can often be found among her family (husband Douglas R. Hooker and their two children and eight grandchildren), extended family and friends. "I enjoy cooking. I fancy myself as a gourmet chef because I love to prepare and eat cuisine from around the world," she said. "I also have a large family, and I am known to be the cook for most of our family gatherings."

She is also actively engaged in numerous community and church activities, including past service as parliamentarian of the Atlanta Planning and Advisory Board, the founding chair of Neighborhood Planning Unit-Q and immediate past chair of Hosea Feed the Hungry's Board of Directors.

Reflecting on her ascension to the State Bar's highest position of leadership, Perkins-Hooker says, "Personally, it is an outstanding honor. I am delighted that my fellow lawyers feel that I am capable and able to lead our State Bar. I have worked hard and been committed to the Bar, so I am prepared to assume this responsibility."

"From a historical perspective," she adds, "my election as the 52nd president means that the leadership of the Bar has become diversified and more representative of the diversity in membership. We still have a long way to go before the leaders in the Bar fully reflect the demographics of our membership, but my election is a start." GBJ

Linton Johnson is a media consultant for the State Bar of Georgia. He can be reached at linton.johnson@wordexpress.info or 404-285-2453.

Former Chief Justice of the Supreme Court of Georgia Receives Distinguished Service Award

by Derrick W. Stanley

The Distinguished Service Award is the highest honor bestowed by the State Bar of Georgia for conspicuous service to the cause of jurisprudence and to the advancement of the legal profession in the state of Georgia.

During the Presidential Inaugural Gala at the State Bar's Annual Meeting on Amelia Island, Fla., Justice George H. Carley was presented with this prestigious award by 2013-14 President Charles L. Ruffin.

Justice Carley has served the legal profession, the justice system and the state of Georgia with exemplary commitment, integrity and leadership since his admission to the State Bar of Georgia more than 50 years ago. He has provided exceptional service as a lawyer, judge and public servant.

He was born in Jackson, Miss., and moved with his family to Decatur at the age of 10. He studied at the prestigious Woodstock School in Mussoorie, India, returned to Georgia and graduated from Decatur High School, the University of Georgia and the University of Georgia School of Law.

Justice Carley served his country in the U.S. Army Reserves and his community and state in the Georgia House of Representatives. Afterwards, he ascended to partner in charge of litigation with the law firm of McCurdy & Candler in Decatur. He also acted as attorney for the Housing Authority of the city of Decatur and served as special assistant attorney general for Georgia, handling eminent domain cases for the Department of Transportation.

Photos by Sarah I. Coole

Justice George H. Carley addresses the audience after receiving the 2014 Distinguished Service Award from 2013-14 State Bar of Georgia President Charles L. Ruffin.

Gov. George Busbee appointed Justice Carley to the Court of Appeals of Georgia in 1979, where he served for 14 years, including terms as chief judge and presiding judge. In 1993, Gov. Zell Miller appointed Carley

(Left to right) 2013-14 State Bar President Charles L. Ruffin and Justice George H. Carley.

to the Supreme Court of Georgia. After 19 years of service, including three years as presiding justice and two months as chief justice, he retired in 2012.

Justice Carley has been a great friend to the legal profession in Georgia through his active service to the State Bar, the American Bar Association, the Lawyers Club of Atlanta, the Old Warhorse Lawyers Club and the Joseph Henry Lumpkin Inn of Court, the latter two of which he served as president. He has helped bring great young minds into the legal profession through his service as a member and president of the University of Georgia Law School Alumni Association Council and the Law School's Board of Visitors. He also served as chairman of the Georgia Law-Related Education Consortium and as a member of the Board of Directors of the National High School Mock Trial Championship, along with his long-standing involvement with the Georgia High School Mock Trial Competition. In 2003, he earned the National High School Mock Trial Championship's Golden Gavel Award.

Justice Carley has faithfully attended State Bar meetings, rendering much-needed support to each annually elected State Bar president, providing special guidance to leaders and members of the Young Lawyers Division and contributing countless hours as liaison to the Office of Bar Admissions. He also has served the legal profession as a trustee of the Georgia Legal History Foundation and the Georgia Judicial Council and previously served on the Georgia Commission on Dispute Resolution.

In 2012, he was a deserving recipient of the State Bar of Georgia Bench and Bar Committee's Chief Justice Thomas O. Marshall Professionalism Award in 2012; an award honoring a lawyer and a judge who have demonstrated the highest professional conduct and paramount reputation for professionalism.

In addition to his commitment and service to the legal community, Justice Carley has served as the exalted ruler of the Decatur Elks Lodge and is actively involved in the Masonic Lodge and Decatur Rotary Club.

The legal community and the citizens of Georgia owe a great deal of thanks to Justice George H. Carley for his impeccable record of distinguished service to the public, the profession, the justice system and the state of Georgia.

The State Bar of Georgia does express its gratitude and appreciation to Justice Carley for his many years of devotion and significant career accomplishments while working to fulfill the constitutional promise of justice for all. GBJ

Derrick W. Stanley is the section liaison of the State Bar of Georgia and can be reached at derricks@gabar.org.

Post-Disaster Law Practice:

The ABA Model Court Rule

by Robert L. "Rob" Rhodes Jr.

In the aftermath of Hurricane Katrina, large numbers of Gulf Coast residents fled to a number of neighboring states, including Georgia. A great many of these evacuees were indigent and in need of pro bono legal services. The storm also resulted in the displacement of lawyers whose offices were made inaccessible for extended periods of time by wind damage or flooding.

In 2007, the House of Delegates of the American Bar Association adopted the *Model Court Rule on Provision of Legal Services Following Determination of Major Disaster* (Model Rule) (Appendix A). The Model Rule would authorize lawyers who are not admitted to practice in a state to provide legal services there under certain narrowly defined circumstances following a major disaster. Major disasters could include not only a natural phenomenon such as Katrina, but also the results of a terrorist act, pandemic or some other widespread emergency condition.

Pro Bono Services

The Model Rule would authorize lawyers who are not admitted in a particular state to provide pro bono services there under the supervision of a local legal aid service provider or another nonprofit entity.

Displaced Lawyers

In addition, the Model Rule would allow out-of-state lawyers to continue their practice temporarily in offices located in another state. The matters that they undertake must arise out of and be reasonably related to the lawyer's practice of law in her/his home state.

Both categories of practice by out-of-state lawyers would be subject to several limitations:

- A state's highest court must have made a determination of the existence of a major disaster that affects the judicial system either in that state or in another jurisdiction.[1] With regard to pro bono services, that court will also determine whether the demand for such services from former residents of the disaster area outstrips the availability of these services from local lawyers.
- Any authorization to practice would be time limited. Pro bono representation authorization would cease when the court determines that the disaster is over except that lawyers would be allowed to complete the representation of existing clients. The authorization to practice for displaced lawyers would terminate following a time certain (suggested to be 60 days) following the court's determination that the disaster is over.
- Out-of-state lawyers seeking this limited authorization to practice would be required to verify that they are authorized to practice law in another state and are not subject to any disciplinary restriction. They would be subject to the receiving state's high-

est court's disciplinary authority and to that state's rules of professional conduct.

The passage of time since the Katrina disaster may dim the memories of those of us who were not directly in her path. One thing that is predictable about disasters, however, is that they are unpredictable. We believe that the Supreme Court of Georgia should consider adopting a court rule based on the Model Rule so that our judicial system is prepared to respond to a future disaster that we all hope never comes.[2] GBJ

Robert L. "Rob" Rhodes Jr. is the director of projects for the Georgia Appleseed Center for Law & Justice with offices in Atlanta and Columbus. Prior to joining Georgia Appleseed in 2009, Rhodes practiced law for 32 years in the Lakeland and Tallahassee, Fla., Washington, D.C., and Atlanta offices of Holland & Knight LLP. He is admitted to the bar in Georgia, Florida and the District of Columbia.

Endnotes

1. If the triggering event is in another state, that state's highest court must have previously made a determination that a major disaster has occurred.
2. At least seventeen states have now adopted court rules based on the Model Rule: Arizona (AZ ST S CT RULE 39); Colorado (CO ST RCP Rule 224); Delaware (DE R S CT Rule 58); Illinois (IL ST S. Ct. Rule 718); Iowa (IA R 31.17); Louisiana (LA ST S CT Rule 41); Minnesota (52 M.S.A., MN ST MAJOR DISASTER Major Disaster); Missouri (MO R BAR Rule 4-5.5); New Hampshire (NH R S CT Rule 60); New Jersey (NJ R GENAPPLICATION R. 1:21-10); New York (NY R A CT §520.11(d)); North Dakota (ND R ADMIS Rule 3.2); Oregon (Ore. S CT Rule 146); South Carolina (Rule 426, SCACR); Tennessee (TN R S CT Rule 47); Washington (WA R ADMIS APR 27); and Wisconsin (WI ST REG UNAUTH PRAC LAW SCR 23.03).

APPENDIX A
Model Court Rule on Provision of Legal Services Following Determination of Major Disaster (February 2007)
Rule ___. Provision of Legal Services Following Determination of Major Disaster

(a) Determination of existence of major disaster. Solely for purposes of this Rule, this Court shall determine when an emergency affecting the justice system, as a result of a natural or other major disaster, has occurred in:

(1) this jurisdiction and whether the emergency caused by the major disaster affects the entirety or only a part of this jurisdiction, or

(2) another jurisdiction but only after such a determination and its geographical scope have been made by the highest court of that jurisdiction. The authority to engage in the temporary practice of law in this jurisdiction pursuant to paragraph (c) shall extend only to lawyers who principally practice in the area of such other jurisdiction determined to have suffered a major disaster causing an emergency affecting the justice system and the provision of legal services.

(b) Temporary practice in this jurisdiction following major disaster. Following the determination of an emergency affecting the justice system in this jurisdiction pursuant to paragraph (a) of this Rule, or a determination that persons displaced by a major disaster in another jurisdiction and residing in this jurisdiction are in need of pro bono services and the assistance of lawyers from outside of this jurisdiction is required to help provide such assistance, a lawyer authorized to practice law in another United States jurisdiction, and not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in this jurisdiction on a temporary basis. Such legal services must be provided on a pro bono basis without compensation, expectation of compensation or other direct or indirect pecuniary gain to the lawyer. Such legal services shall be assigned and supervised through an established not-for-profit bar association, pro bono program or legal services program or through such organization(s) specifically designated by this Court.

(c) Temporary practice in this jurisdiction following major disaster in another jurisdiction. Following the determination of a major disaster in another United States jurisdiction, a lawyer who is authorized to practice law and who principally practices in that affected jurisdiction, and who is not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in this jurisdiction on a temporary basis. Those legal services must arise out of and be reasonably related to that lawyer's practice of law in the jurisdiction, or area of such other jurisdiction, where the major disaster occurred.

(d) Duration of authority for temporary practice. The authority to practice law in this jurisdiction granted by paragraph (b) of this Rule shall end when this Court determines that the conditions caused by the major disaster in this jurisdiction have ended except that a lawyer then representing clients in this jurisdiction pursuant to paragraph (b) is authorized to continue the provision of legal services for such time as is reasonably necessary to complete the representation, but the lawyer shall not thereafter accept new clients. The authority to practice law in this jurisdiction granted by paragraph (c) of this Rule shall end [60] days after this Court declares that the conditions caused by the major disaster in the affected jurisdiction have ended.

(e) Court appearances. The authority granted by this Rule does not include appearances in court except:

(1) pursuant to that court's pro hac vice admission rule and, if such authority is granted, any fees for such admission shall be waived; or

(2) if this Court, in any determination made under paragraph (a), grants blanket permission to appear in all or designated courts of this jurisdiction to lawyers providing legal services pursuant to paragraph (b). If such an authorization is included, any pro hac vice admission fees shall be waived.

(f) Disciplinary authority and registration requirement. Lawyers providing legal services in this jurisdiction pursuant to paragraphs (b) or (c) are subject to this Court's disciplinary authority and the Rules of Professional Conduct of this jurisdiction as provided in Rule 8.5 of the Rules of Professional Conduct. Lawyers providing legal services in this jurisdiction under paragraphs (b) or (c) shall, within 30 days from the commencement of the provision of legal services, file a registration statement with the Clerk of this Court. The registration statement shall be in a form prescribed by this Court. Any lawyer who provides legal services pursuant to this Rule shall not be considered to be engaged in the unlawful practice of law in this jurisdiction

(g) Notification to clients. Lawyers authorized to practice law in another United States jurisdiction who provide legal services pursuant to this Rule shall inform clients in this jurisdiction of the jurisdiction in which they are authorized to practice law, any limits of that authorization, and that they are not authorized to practice law in this jurisdiction except as permitted by this Rule. They shall not state or imply to any person that they are otherwise authorized to practice law in this jurisdiction.

State Bar's Diversity Program Hosts Pipeline Students for Seventh Year

by Marian Cover Dockery

Sixteen high school students, including 11 returning from 2013, participated in the 2014 Pipeline Program, sponsored by the State Bar of Georgia Diversity Program (GDP), Atlanta's John Marshall Law School (JMLS) and the Leadership Institute for Women of Color Attorneys, Inc. (LIWOCA). Marian Cover Dockery, executive director of the GDP and the Pipleline Program director, introduced this concept to her GDP law firm and corporate members JMLS and LIWOCA seven years ago and reports that Pipeline, which is a skill-building program, has served more than 120 students from metro-Atlanta, given about $20,000 to high school students in awards and stipends and has seen a larger number of students return to the program over the past two years.

Photos by Roger Washington

(Left to right) Ralph Culpepper, Pipeline instructor; Kara Wise, first place winner of oral and written competition; and James Johnson, of counsel, Sutherland, and competition judge.

The 2014 program opened with a visit to the State Bar of Georgia where the students participated in Journey Through Justice. Mornings were then spent at JMLS where grammar, writing and speech were taught by Ralph Culpepper, a member of the Teach for America Corps. Students prepared for the oral competition by preparing a speech on a different topic each day during the nine-day program. GDP attorneys, JMLS professors and volunteer attorneys evaluated the

(Left to right) Eric Pinckney, graduate of Woodward Academy, second place winner of the oral and written competition, accepts the senior award from Ralph Culpepper, Pipeline instructor.

Niki Phung, senior, John's Creek High School, third place winner of the oral and written competition, accepts her award from competition judge James Johnson, of counsel, Sutherland.

students' speeches daily. A retired attorney and GDP members from Equifax, Parker Hudson Rainer & Dobbs, LLP, and Jones Day served as speech instructors.

In the afternoons, students visited diversity program member law firms and corporate law offices for lunch followed by mentoring sessions with the attorneys. Turner Broadcasting System, Inc., presented an interviewing workshop. Students also participated in one-on-one mentoring sessions sponsored by Alston & Bird that gave students the opportunity to continue long-term relationships based on the students' interest.

As a new sponsor, the Alliance Theatre hosted a workshop on presentation techniques and Jones Day hosted a session on dining room etiquette and working in alternate careers before law school. At Equifax, students learned about credit and discussed alternative careers in the law; Kilpatrick Townsend presented a session on study skills and Swift Currie presented on social media etiquette. Baker Donelson attorneys discussed how to select the college of your choice and Polsinelli, PC, partners discussed opportunities in government service. Sutherland hosted the oral and written competition. Troutman Sanders provided breakfast snacks and Seyfarth Shaw purchased books and contributed to other Pipeline expenses. Arnall Golden Gregory sponsored the closing party. LIWOCA funded the competition awards and the stipends for the college-bound seniors and also assisted with other Pipeline expenses. JMLS donated the space for classes and provided administrative support.

The last day of the program featured the oral and written competition with monetary awards for first, second and third place. The 2014 winners were: Kara Wise, rising senior, Riverwood International Charter School, first place; Eric Pinckney Jr., rising freshman, University of Colorado, second place; and Niki Phung, rising senior, Johns Creek High School, third place. High school graduates also receive stipends to help them purchase books for their first year in college. The challenging program ended with a party hosted by Arnall Golden Gregory.

Several of this year's Pipeline students expressed their thoughts about participating in the Pipeline Program:

- "The Pipeline Program has given me confidence in myself and by doing so has made me a better public speaker . . . . I am thankful that I have had the privilege of meeting accomplished people. . ." *Amber Johnson, senior, Westlake High School*
- "The Pipeline Program has helped me become a better writer and public speaker. . ." *Ethan Staes, senior, Milton High School*
- "The Pipeline Program has allowed me to interact with people of different backgrounds, opinions and ideas. Being able to branch out and meet such accomplished people inspires me to make the most out of life and take advantage of any opportunities presented to me." *Alina Xu, junior, Milton High School*
- ". . . I loved getting to meet and talk to the lawyers in their offices. There's nothing else like it." *Kara Wise, senior, Riverwood International Charter School*

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Suicide Awareness Campaign

How To Save A Life

NEED HELP?

Call the State Bar's *confidential* Lawyer Assistance Program Hotline at

800-327-9631

The State Bar of Georgia has produced an educational DVD, titled "How to Save a Life," which is directed toward those who are suffering from anxiety and depression and may be at risk for suicide, as well as all Bar members, who need to recognize the severity of the problem and be able to identify warning signs among colleagues.

If you are thinking about suicide or are worried a friend may be contemplating suicide, immediate action is critical. **Call the confidential LAP Hotline 800-327-9631.**

The DVD includes three video lengths: 24 minutes, 11 minutes and six minutes. For more information or to obtain your copy of the DVD, call 404-527-8792.

State Bar of Georgia

(Front row, left to right) Pipeline students Alexis Harris, Eric Pinckney, Michael Hall (volunteer) and Nicholas Edwards; *(second row, left to right)* Anique Harvey (volunteer), Nia Sullivan, Anais Mayo, Amani Dabney, Amber Johnson, Kayla Willis, Jalen Pierce and Ralph Culpepper (instructor); *(third row, left to right)* Nia Jones, Tamia Carnell, Kara Wise, Bali Wise, Alina Xu and Niki Phung.

- "This program has helped me with my grammar and my writing skills . . . [and] has helped me with my confidence the most. I never really thought I'd be able to talk in front of people." *Amani Dabney, sophomore, Westlake High School*
- "Beginning summers with the Pipeline Program has been priceless. The public speaking and networking opportunities have encouraged me to make productive use of my summer time." *Niki Phung, senior, Johns Creek High School*
- "I hope to return to the Pipeline Program one day and give back to the program that did so much for me!" *Eric Pinckney Jr., freshman, University of Colorado*

Unanticipated beneficiaries of the Pipeline Program are the teachers and volunteers. The program, originally designed to encourage high school students to pursue law as a career, has also served as a mentoring program for our Pipeline teachers and volunteers, many of whom are interested in pursuing law school. This year, our Pipeline volunteers were Michael Hall, rising junior at Harvard who aspires to attend law school and Anique Harvey, rising sophomore at Spelman. To date, two of our volunteers are law school graduates and a third is currently in law school. The volunteers reported that the opportunity to visit the law firms gave them exposure and chances to network that they otherwise would not have experienced. The volunteers even found the mentoring programs to be valuable for their law school careers.

Three of our five Pipeline teachers have pursued law degrees and our current teacher will attend in 2015. Those teachers have expressed how the program has been of tremendous value, especially the visits to law firms and corporations that provided networking opportunities, mentoring opportunities and insight from the GDP attorneys regarding the different areas of law they may pursue upon graduation.

We look forward to another year of hosting the students and working with the volunteers, and we thank our sponsors for their support. GBJ

Marian Cover Dockery is an attorney with a background in employment discrimination and the executive director of the State Bar of Georgia Diversity Program. For more information on the Diversity Program, go to www.gabar.org.

SAVE THE DATE

SEPT. 24 2014

22ND ANNUAL STATE BAR OF GEORGIA DIVERSITY PROGRAM LUNCHEON AND CLE

3 CLE with 1 Professionalism *(self-reporting)*

KEYNOTE SPEAKER

Teresa Wynn Roseborough, executive vice president, general counsel and corporate secretary, The Home Depot, Inc.

Questions? Contact Marian Cover Dockery at lexikonmcd@aol.com.

Georgia Bar Foundation Awards Grants and Honors Individuals

by Len Horton

The Georgia Bar Foundation (the Foundation) began fiscal year 2014-15 with its annual grants meeting in which net IOLTA revenues received during fiscal year 2013-14 were available for grant awards to 20 applicants. During the meeting, several individuals were also recognized for their extraordinary contributions to the Foundation.

Georgia Bar Foundation Awards $314,935 in Grants

The Foundation awarded a total of $314,935 in grant awards at its meeting on July 17.

"While our revenues still have not recovered from the Great Recession, the money we did have available for grants this year provides important support to both of Georgia's two main providers of civil indigent legal services," said James B. Franklin, president of the Foundation.

After thorough discussion considering the 20 applicants, the Board decided to award $212,581 to Georgia Legal Services Program and $102,354 to Atlanta Legal Aid.

Photo by Len Horton

The Georgia Bar Foundation Board of Trustees reviews grant applications for the 2014-15 fiscal year.

Hon. Robert W. Chasteen, vice president of the Foundation, was named by Franklin to form a committee to review and expand the Fellows Program.

Franklin also announced the creation of the Philanthropy and Civil Indigent Legal Services Committee to oversee the recently received grant from the Public Welfare Foundation through the National Association of IOLTA Programs. Kitty Cohen, treasurer of the Foundation, was named chair of the committee, which also includes Foundation board members Aasia Mustakeem and Tim Crim; Sally Lockwood as a representative from the State Bar's Access to Justice Committee; and a representative to be announced

Photo from Supreme Court of Georgia

Justice Carol W. Hunstein was honored for her donation to the Georgia Bar Foundation of money remaining in her re-election campaign fund.

Photo by Len Horton

(Left to right) Mike Nations receives the 2014 James M. Collier Award from Georgia Bar Foundation President James B. Franklin.

from the Southeastern Council of Foundations. Guy Lescault, a revered leader in the national access to justice movement, will be a consultant on the project that is designed to expand awareness of IOLTA and access to justice in the philanthropic community in the southeast.

Justice Hunstein Honored for Donation

Supreme Court of Georgia Justice Carol W. Hunstein was honored for her donation to the Georgia Bar Foundation of money remaining in her re-election campaign fund. She has decided not to seek re-election.

"I hope this will stimulate interest in donating to the Georgia Bar Foundation," said Justice Hunstein. "The Foundation is working diligently to fund civil indigent legal services in Georgia, and making a donation to it is a great way to grow access to justice in this state. I would like to encourage elected officials not seeking re-election to consider giving unspent campaign donations to the Georgia Bar Foundation."

Franklin listed many of the things Justice Hunstein had done for the Foundation over the last decade. "If she had done nothing more, she would still be as supportive of the Georgia Bar Foundation as anyone in our history. But her latest donation, amounting to $28,200.45, comes at a time when we badly need additional resources. In her own special way and at the most appropriate time, she finds ways to help."

Nations Receives James M. Collier Award

Mike Nations, of Nations, Toman & McKnight, received the James M. Collier award during the annual grants meeting. The Foundation's most prestigious award is presented to an individual who has provided distinguished service to the Foundation.

"Mike Nations has volunteered so much time to promote rate comparability in Georgia that no award could give him the recognition he deserves," said Franklin. "At our last count, he has written 18 drafts of the proposed rule."

In addition to his obvious writing and thinking skills on this important subject, he has become someone whose counsel is now regularly sought on virtually all matters of the Foundation. It is well known that the way to job security is to make yourself invaluable to an organization. According to Franklin, "If he were a full-time employee of the Foundation, we'd have to keep his salary sky high to make sure we kept him working for us. Mike is that good."

The Georgia Bar Foundation is the charitable arm of the Supreme Court of Georgia and is the named recipient of interest on lawyer trust accounts. It also manages the Fellows Program that recognizes lawyers who are leaders in their communities throughout the state. GBJ

Len Horton is the executive director of the Georgia Bar Foundation. He can be reached at hortonl@bellsouth.net.

Kudos

The University of Alabama School of Law's Public Interest Institute awarded **Kristina Scott**, executive director of **Alabama Possible**, an **honorary Order of the Samaritan medal** for her efforts. With Alabama Possible, Scott works on anti-poverty initiatives involving issues such as hunger, sustainable food security and college readiness. The Public Interest Institute is a program that seeks to support law students at every stage of their development into public interest lawyers, as well as to foster a lifelong commitment to pro bono legal service in all law students.

Dial

Lord

Jones

Jett

Kilpatrick Townsend & Stockton LLP announced that **Audra Dial**, managing partner of the firm's Atlanta office, recently received the **Inspiria Award** from **Pathbuilders**. In 2005, Dial was a Pathbuilders Achieva participant. Achieva is designed for women who manage key assignments and are well-respected by their peers. This year marked the 25th class of Achieva and to commemorate that occasion, Pathbuilders honored five graduates with the Inspiria recognition. The Inspiria Award acknowledges how women have continued to excel beyond their Achieva experiences.

Partner **Ty Lord** was selected to participate in the **2015 Class of Leadership Atlanta**. Leadership Atlanta is the oldest continuously running training program of its type in the country. Formed in the early 1970s, it quickly addressed the growing need for a trained cadre of leaders to move metro-Atlanta towards unity and shared prosperity. More than 44 years later, Leadership Atlanta continues to educate, inspire and connect local leaders in adherence with the principles upon which it was founded.

Partner **Alicia Grahn Jones** was presented the **Visionary Award for 2014** by the **Georgia Association for Women Lawyers** (GAWL) at the GAWL Annual Dinner. The award is presented to a GAWL member who has shown the characteristics of being forward thinking, creative and working for the best interest of GAWL. GAWL has been pioneering for women lawyers for more than 80 years, staying true to its mission to enhance the welfare and development of women lawyers and to support their interests.

Associate **John Jett** was selected to participate in the **LEAD Atlanta Class of 2015**. In 2004, Leadership Atlanta founded LEAD Atlanta, as an initiative for emerging leaders between the ages of 25 and 32. Through personal and professional development and broad exposure to the community, LEAD Atlanta aims to equip young leaders early in their careers with the skills and knowledge needed to be effective leaders committed to the common good.

Hans A. von Spakovsky, senior legal fellow at The Heritage Foundation and former U.S. Department of Justice counsel and FEC commissioner, has coauthored a new book titled ***Obama's Enforcer: Eric Holder's Justice Department***. The book is a publication of Broadside Books, an imprint of HarperCollins. It is the first investigative look inside the U.S. Department of Justice under the tenure of Attorney General Eric Holder. The book centers on a series of chapters analyzing the DOJ's activities including national security, Fast and Furious, civil rights and more.

Henning Mediation and Arbitration, Inc., announced that the **Cobb County Bar Association** awarded **Ronald Arthur Lowry**, also of the **Law Offices of Ronald Arthur Lowry**, the **Bobby Cleveland Award for Professionalism**, the Cobb County Bar Association's highest honor bestowed on an attorney. Lowry served as president of the Cobb County Bar Association for the 2005-06 fiscal year and is currently a member of the Board of Governors of the State Bar of Georgia representing the Cobb Judicial Circuit. Lowry continues to serve as a member to Henning's Panel of Neutrals as he has since 1998.

Miller

Newcomb

Bomar

Wilhelm

Carlock, Copeland & Stair, LLP, announced that partner **Heather H. Miller** was elected to serve as **chair** of the **Board for the Women in the Profession Section (WIP)** of the **Atlanta Bar Association**. The section is dedicated to furthering the practice and perception of law with a focus on issues unique to women in the practice. As chair, Miller and the WIP Board will continue the section's work with Atlanta Legal Aid's Cancer Legal Initiative, its support of

ForeverFamily and will continue to provide programs and social events for section members and non-members.

Partner **William D. Newcomb** was selected to participate in the **2014-15 American Bar Association Tort Trial and Insurance Practice Section (TIPS) Leadership Academy**. The academy, a year-long program limited to a select group of only 25 attorneys nationwide, is designed to increase the diversity of leaders in the legal profession, nurture effective leadership with respect to ethical, professional and community service values, build relationships among leaders from across the country and from disciplines within the profession, and raise the level of awareness among lawyers regarding a broad range of issues facing the profession.

Partners **Spencer A. Bomar** and **Ryan B. Wilhelm** accepted nominations to join the **Claims and Litigation Management Alliance** (CLM). CLM is an alliance of insurance companies, corporations, corporate counsel, litigation and risk managers, claims professionals and attorneys. CLM's goal is to promote and further the highest standards of litigation management in pursuit of client defense. Attorneys and law firms are extended membership by invitation only based on nominations from CLM fellows, in-house claims professionals.

Chambliss, Bahner & Stophel, P.C., a Chattanooga-based law firm, announced that **Dana Perry** was appointed to the **Board of Directors** for **Meritas**, a global alliance of independent business law firms. In her role as a board member, Perry will be responsible for reviewing and establishing policy and setting strategy for the alliance. Perry will also act as an organizational leader, serving as a liaison to member firms on administrative issues. Perry will serve a three-year term, during which time she will also serve on the Finance Committee.

HunterMaclean partner **Dennis Keene** spoke at the 2014 ALFA International Asia regional seminar, **Flattening Legal Borders: Product Liability and IP/IT Issues for Asian Companies**, in Beijing, China, in May. His topic was "U.S. Litigation: A Comparison of Various Aspects of Litigating Cases in the U.S. and China." The session addressed product liability concerns for Chinese companies, particularly how lawsuits are litigated in state and federal courts in the United States and the role of mediation as an alternative dispute resolution tool.

The **Georgia Trial Lawyers Association** (GTLA) chose **Fulton County State Court Judge Diane Bessen** as a recipient of the **2014 Champion of Justice Award**. The award, given at the GTLA president's discretion, is traditionally given to members of Georgia's judiciary who have taken a courageous stand for justice in the face of tremendous pressure from powerful forces. Bessen received the award due to an order she issued in 2009 finding the portion of the 2005 tort reform legislation (SB 3) pertaining to caps on noneconomic damages unconstitutional, which was later unanimously affirmed by the Supreme Court of Georgia.

Nelson Mullins Riley & Scarborough LLP announced that partner **Richard Hines** was appointed to the **Board of Visitors** of the **Virginia Military Institute** (VMI) by Virginia Gov. Terry McAuliffe. The Board of Visitors is the supervisory board of VMI. The Board defines the mission of the institute as a public institution of higher education in the Commonwealth of Virginia and oversees the development, revision and implementation of a strategic plan for the accomplishment of that mission. Hines is the fourth generation of his family to have attended VMI.

Childs & Noland announced that partner **William Noland** was elected **president** of the **Macon Bar Association** for 2014-15. Noland previously served as president of the Macon Bar Young Lawyers Division and has served on the Macon Bar Association Executive Committee for the last three years. Noland's practice areas include local government law, insurance law and civil litigation.

Mason

Moffett

Muller

Kirby Mason, a partner in the Savannah office of **Hunter Maclean,** was elected **president** of the **Georgia Defense Lawyers Association** (GDLA) at its annual meeting held in June. Other GDLA officers elected include **President-Elect Matthew G. Moffett,** Gray, Rust, St. Amand, Moffett & Brieske, LLP, Atlanta; and **Secretary-Treasurer Peter D. Muller,** Goodman McGuffey Lindsey & Johnson, Savannah. GDLA was founded more than 40 years ago to further the interests of the civil defense bar. It provides education, training and networking opportunities to its more than 700 members.

Bracken

Grout

Sheffey

Biggerstaff

Stulce

Green

Hunton & Williams LLP recognized six attorneys in the Atlanta office with the **2014 E. Randolph Williams Pro Bono Award** for outstanding pro bono service: **Lawrence J. Bracken II, Bradley W. Grout** and **Rita A. Sheffey**, partners; **Audrey J. Biggerstaff**, pro bono fellow; **Andrew A. Stulce**, associate; and **T. Brian Green**, former Hunton pro bono fellow and current attorney with Atlanta Legal Aid Society, Inc. Recipients of the award, named after one of the firm's founders, each contributed more than 100 hours of pro bono legal services to indigent clients and nonprofit organizations during the firm's recent fiscal year.

The Burgoon Law Firm, LLC, announced that **Brian D. Burgoon** was awarded the **Tony Boggs Excellence in Discipline Award** by the president of **The Florida Bar** at the organization's annual convention. The award was created to recognize a lawyer for dedication, integrity, intellectual excellence and extraordinary work in and on behalf of the lawyer discipline efforts of The Florida Bar. In addition, Burgoon was **re-elected** as an **out-of-state member** of **The Florida Bar Board of Governors**, and was **elected** by the board to **The Florida Bar Executive Committee**. Burgoon also was **re-elected** to the **Board of Directors** of the **University of Florida Alumni Association**.

The **American Bar Association's Government and Public Sector Lawyers Division** honored the **Georgia Legal Services Program** (GLSP) with the **2014 Hodson Award for Public Service**. GLSP Executive Director Phyllis Holmen accepted the award at the ABA's Annual Meeting in August. The award named in honor of the distinguished public service career of the late Maj. Gen. Kenneth J. Hodson, a former judge advocate general of the U.S. Army, and a founding member of the Division, recognizes sustained, outstanding performance or a specific and extraordinary service by a government or public sector law office.

Fulcher Hagler LLP announced that associate **Steve Sanders** was selected as one of Augusta's **2014 Top 10 in 10 Young Professionals to Watch** by the **Augusta Metro Chamber of Commerce**. The award is designed to recognize the Augusta area's promising young professionals between the ages of 25 and 35 who have demonstrated the potential to positively impact the community in the next 10 years.

Judge J. Lane Bearden, Cherokee Judicial Circuit, was installed as **president** of the **Council of Juvenile Court Judges**. As president of the council, Bearden will also serve on the Judicial Council of Georgia. The Judicial Council is a policy-making body for the state's judicial branch, chaired by the chief justice of the Supreme Court of Georgia. Judicial Council membership consists of 26 judges who represent Georgia's appellate and trial courts, including the president and president-elect of each trial court council.

The **Board of Directors** of the **Georgia Legal Services Program** (GLSP) announced that **Damon Elmore**, a member with the law firm of Moore Sparks, LLC, was elected **president** of the **Board**. Elmore is a past president of the Young Lawyers Division of the State Bar of Georgia and served on the Executive Committee in that role. He is also a current member of the State Bar Board of Governors. His personal initiative to raise money, support and awareness about GLSP can be found at www.razoo.com/story/DAMON-BIKES-IN-EVERY-GEORGIA-COUNTY.

On the Move

In Atlanta

Kilpatrick Townsend & Stockton LLP announced the addition of **Amanda Hiffa** to the firm's Atlanta office as an **associate** on the mergers and acquisitions and securities team in the corporate, finance and real estate department. The firm is located at 1100 Peachtree St. NE, Suite 2800, Atlanta, GA 30309; 404-815-6500; Fax 404-815-6555; www.kilpatricktownsend.com.

The Atlanta office of **Miller & Martin PLLC** moved to a **new location** in May. Although the physical address changed, the main office phone number and all other contact information for the firm and

its personnel remains the same. Free visitor parking for the new office is available by pulling up to the front of the building to valet services. The firm is now located at 1180 W. Peachtree St. NW, Suite 2100, Atlanta, GA 30309; 404-962-6100; Fax 404-962-6300; www.millermartin.com.

Boyd Collar Nolen & Tuggle, LLC, announced that former **Chief Judge Cynthia D. Wright** of the **Fulton County Superior Court** will join the firm as a **partner**. Wright served as chief judge for two, two-year consecutive terms before stepping down earlier this year. At Boyd Collar Nolen & Tuggle, Wright will expand the firm's mediation and arbitration practice, focusing on a variety of legal cases, including family law matters, as well as disputes between companies and governmental entities. The firm is located at 3330 Cumberland Blvd., 100 City View, Suite 999, Atlanta, GA 30339; 770-953-4300; Fax 770-953-4700; www.bcntlaw.com.

Shockley

Burney

Kirson

Deeb

Kessler & Solomiany, LLC, announced that **Rachel Simpson Shockley** and **Karine P. Burney** were named **partners** in the firm, **Steven K. Kirson** joined the firm as a senior **associate** and **Michael D. Deeb** joined the firm as an **associate**. Shockley counsels clients in all areas of family law including divorce for all income levels, prenuptial agreements, postnuptial or reconciliation agreements, spousal support, child custody and child support issues. Burney handles complex divorce cases, child custody matters, support and alimony claims, modification actions, prenuptial agreements and all other domestic relations issues. Kirson's practice includes alimony, child support, support or custody modification, contempt and related matters as well as QDRO preparation, in addition to divorces. Deeb brings a business-oriented perspective to the firm, having experience working with a vast array of complex financial documents. In addition, the firm announced the opening of its satellite office. The new office is located at One Premier Plaza, 5605 Glenridge Drive, Suite 840, Atlanta, GA 30342; 404-688-8810; Fax 404-681-2205; www.ksfamilylaw.com.

Fisher & Phillips LLP announced that **Roger K. Quillen** was **re-elected** by the firm's Management Committee to serve as its **chairman** and as the firm's **managing partner**. Quillen has served on the Management Committee continuously since 1997 and has been the firm's chairman and managing partner since 1999. The committee works with the chairman and managing partner and serves as a board of directors for the 31-office labor and employment law firm. The firm is located at 1075 Peachtree St. NE, Suite 3500, Atlanta, GA 30309; 404-231-1400; Fax 404-240-4249; www.laborlawyers.com.

James-Bates-Brannan-Groover-LLP announced that **Paul J. Quiner** joined the firm as a **partner** after 22 years of working in corporate executive management roles. He serves as chair of the health care practice group. The firm is located at 3399 Peachtree Road NE, Suite 1700, Atlanta, GA 30326; 404-997-6020; Fax 404-997-6021; www.jamesbatesllp.com.

King

Winders

FisherBroyles, LLP, announced the addition of **Susana B.M. King** and **Dolph Winders** to the firm's Atlanta office as **partners.** King brings almost 15 years of wealth management and estate planning experience to the firm from SunTrust Bank, and Winders is a former partner at Moore Ingram Johnson & Steele, where he practiced in the firm's corporate, tax and estate planning departments. The firm is located at Northpark Town Center, 1200 Abernathy Road, Building 600, Suite 1700, Atlanta, GA 30328; www.fisherbroyles.com.

Novateur Partners, LLC, added **Gregory Riggs** as a **principal** to its leadership team. Riggs was formerly general counsel at Delta Air Lines and associate dean for external relations at Emory University School of Law. Novateur is an Atlanta-based coaching, consulting and training company that helps lawyers improve performance and success. Novateur is located at 3340 Peachtree Road NE, Suite 1460, Tower Place 100, Atlanta, GA 30326; 404-975-3000; www.novateurpartners.com.

Smith, Gambrell & Russell, LLP, (SGR) expanded its corporate immigration practice with the acquisition of **The Kapoor Law Group**, a specialty boutique firm based in Atlanta. The firm's owner

and managing partner **Romy K. Kapoor** serves as a **partner** in the corporate section of SGR. He and his staff have extensive experience in all aspects of immigration law for top multinational companies, as well as complex immigration, nationality and removal defense issues. In addition to Kapoor, **Robert J. Lee** joined SGR's corporate section as an **associate.** The firm is located at Promenade, Suite 3100, 1230 Peachtree St. NE, Atlanta, GA 30309; 404-815-3500; Fax 404-815-3509; www.sgrlaw.com.

Mozley, Finlayson & Loggins announced that **Sharon P. Horne** joined the firm as an **associate**. Horne previously worked for the DeKalb County District Attorney's Office and the Office of the Attorney General. Her practice focuses on trucking, personal injury, premises liability and insurance defense. The firm is located at One Premier Plaza, Suite 900, 5605 Glenridge Drive NE, Atlanta, GA 30342; 404-256-0700; Fax 404-250-9355; www.mfllaw.com.

Tatum, Hillman, Hickerson & Powell, LLP, announced that **Susan E. Foxworth** was named a **partner** with the firm. Foxworth concentrates her practice on a wide variety of commercial real estate transactions, including representation of lenders and borrowers in loan transactions, representation of purchasers and sellers in real estate acquisitions, divestitures and 1031 exchanges, representation of landlords and tenants in commercial lease negotiations and controversies and serving as local Georgia counsel. The firm can be reached at 678-214-5029; Fax 678-348-7666; thplawfirm.com.

In Alpharetta

Cordell & Cordell, the nation's largest domestic litigation firm focusing on representing men in family law cases, announced the opening of its first **office** in **Alpharetta**. The office is located at 2050 Marconi Drive, Suite 300, Alpharetta, GA 30005; 404-793-0000; cordellcordell.com.

In Buford

Chandler, Britt & Jay, LLC, welcomed **Jamie Danielle Britt** as an **associate** in the firm's criminal defense and litigation section. Britt was formerly with the Office of the Public Defender in the Tallapoosa Judicial Circuit. The firm is located at 4350 S. Lee St., Buford, GA 30518; 770-271-2991; Fax 770-271-2986; www.cbjblawfirm.com.

In Macon

Childs & Noland announced the addition of **Lauren N. Schultz** as an **associate**. Her practice areas include family law and civil litigation. The firm is located at 165 First St., Macon, GA 31201; 478-745-4712; www.childsandnoland.com.

In New York, N.Y.

Greenberg Traurig, LLP, announced that **Kamal Jafarnia** joined the firm's New York office as **of counsel** in its real estate investment trusts (REIT), corporate & securities, and financial regulatory and compliance practices. Jafarnia focuses his practice on REITs, business development companies and securities matters. The office is located at 200 Park Ave., New York, NY 10166; 212-801-9200; Fax 212-801-6400; www.gtlaw.com.

In Winston-Salem, N.C.

Allman Spry Leggett & Crumpler, P.A., announced the addition of **Loretta C. Biggs** as a **member**, and the firm changed its name to **Allman Spry Davis Leggett & Crumpler, P.A.** Biggs practices exclusively in the area of family law. The firm is located at 380 Knollwood St., Suite 700, Winston-Salem, NC 27103; 336-722-2300; Fax 336-721-0414; www.allmanspry.com.

How to Place an Announcement in the Bench & Bar column

If you are a member of the State Bar of Georgia and you have moved, been promoted, hired an associate, taken on a partner or received a promotion or award, we would like to hear from you. Talks, speeches (unless they are of national stature), CLE presentations and political announcements are not accepted. In addition, the *Georgia Bar Journal* will not print notices of honors determined by other publications (e.g., Super Lawyers, Best Lawyers, Chambers USA, Who's Who, etc.). Notices are printed at no cost, must be submitted in writing and are subject to editing. Items are printed as space is available. News releases regarding lawyers who are not members in good standing of the State Bar of Georgia will not be printed. For more information, please contact Stephanie Wilson, 404-527-8792 or stephaniew@gabar.org.

2014 Accountability Courts Conference Registration Open

Registration is now open for the 10th annual Georgia Accountability Courts Conference, to be held Sept. 14-17, at the Renaissance Waverly Atlanta Hotel. This year's theme is "Different Paths, One Goal. A Decade of Reform, Restoration and Results." Organized by the Judicial Council of Georgia's Accountability Courts Committee, this year's conference will emphasize treatment and standards for accountability courts. Online registration and speaker information is available at http://tinyurl.com/2014ACConference.

More than 900 attendees are expected, according to Lateefah Thomas, program manager of the Office of Accountability Courts & Grants Management. "The conference brings in national and local subject matter experts to speak on accountability court issues. It's designed to allow attendees to share ideas and information, and build relationships," Thomas said. "Our 10th anniversary presents a unique opportunity to recognize some of the wonderful people who began this work, as well as those who are now improving the lives of others through our accountability courts."

Georgia currently has 111 accountability courts, with more in the planning stage. These courts include drug, DUI, mental health, family dependency, juvenile, child support and veterans' courts. The annual conference provides training and collaboration for judges, court administrators, prosecutors, public defenders, child welfare staff, treatment providers, law enforcement and other professionals.

"As accountability courts become increasingly common, it is imperative that criminal defense attorneys become familiar with their programs as an option for their clients, just as attorneys are familiar with other aspects of sentencing," says Brenda Weaver, chief superior court judge of the Appalachian Judicial Circuit and chair of the Judicial Council's Accountability Courts Committee. "Both criminal defense attorneys and prosecutors need to learn about addiction and its effects, so they can better recommend and predict which defendants will be best served by these courts."

(Left to right) Judge Juanita Stedman, Cobb County Juvenile Court; Executive Director Robyn Garrett-Gunnoe, Georgia Community Service Board; Chief Superior Court Judge Brenda S. Weaver, Appalachian Judicial Circuit; and Director Marla S. Moore, Administrative Office of the Courts, at the 2013 Georgia Accountability Courts Conference.

Weaver currently presides in the adult drug court and the veterans' court in her circuit, and previously presided in its mental health court. "Other than adoptions, the most rewarding part of my job is presiding in an accountability court," she said. "The members of my accountability court team are really making a difference in the lives of participants and their family members, while making our community safer than before."

She Was Practically One of the Family

by Paula Frederick

"Has anyone seen Mary?" your partner asks as he wanders into your office. "We were supposed to meet with her about some accounting issues this morning."

"I had a call from her," your paralegal responds. "She says she's not going to make the meeting. Something has come up and she doesn't know when she will be back in the office. I reminded her you wanted to meet today to compare the trust account ledger to the bank statements and she got offended! She yelled at me about minding my own business. She wouldn't even tell me where she keeps the bank records! I finally found them stuffed in the back of her closet."

"I just want to know who Raffles Court Reporting is," you say, reaching for the records. "The escrow ledger shows four checks payable to them for a total of $50,000! Nobody here has ever heard of them."

After a few minutes of rummaging you find copies of the canceled checks to Raffles.

"You know whose signature that looks like?" you ask in disbelief.

"MARY'S!" your partner and paralegal shout in unison.

"We were like family," you lament.

What does a lawyer do when faced with employee theft?

Although it is impossible to cover this topic thoroughly in a one-page column, there are some simple steps that can help the lawyer avoid becoming the target of a disciplinary investigation.

Deal with the threat immediately. Whether from embarrassment or fear of damage to the firm's reputation, many lawyers choose not to file criminal charges when an employee steals. Fire the employee and cut off access to any firm accounts or property. Talk to other employees to be sure the rogue acted alone.

Tighten your protocol for handling money and retrain all staff in proper accounting procedures. If you have not paid much attention to the books, now would be a good time to begin to personally oversee your office's money management.

You will likely need professional help to determine the depth and breadth of the loss, so arrange for a forensic audit of all escrow and business accounts. Your ledger may show payments to fake entities, real payees may never have received payments or money may have been improperly transferred to your operating account before being funneled away.

Talk to your bank. You may need to close the affected accounts and open brand new ones. If client money was stolen you will need to put money into the escrow account so that outstanding checks don't bounce (comingling that would normally be a violation of the rules itself. . .).

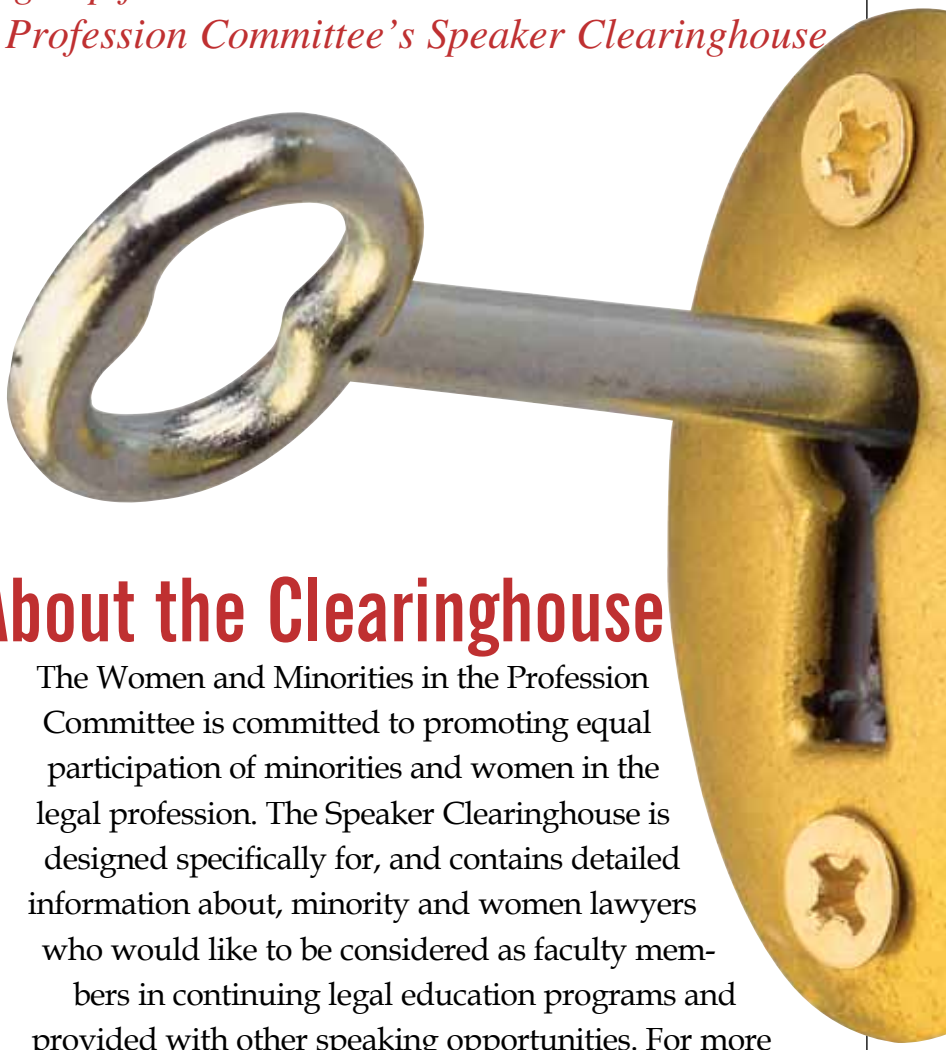
And make sure it won't happen again. Obviously, proper supervision is essential. Bar Rule 5.3 requires a managing lawyer in a firm that has non-lawyer employees to "make reasonable efforts to make sure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer." Consider background checks and credit checks for staff who will handle money. If you choose to employ a suspended or disbarred lawyer you should be prepared to provide even closer supervision.

Even the most number-phobic lawyer cannot avoid responsibility for her escrow account. If it's time to review your day-to-day accounting procedures, contact the Bar's Law Practice Management Program for help. GBJ

Paula Frederick is the general counsel for the State Bar of Georgia and can be reached at paulaf@gabar.org.

Unlock *your* Potential

Sign up for the Women & Minorities in the Profession Committee's Speaker Clearinghouse



About the Clearinghouse

The Women and Minorities in the Profession Committee is committed to promoting equal participation of minorities and women in the legal profession. The Speaker Clearinghouse is designed specifically for, and contains detailed information about, minority and women lawyers who would like to be considered as faculty members in continuing legal education programs and provided with other speaking opportunities. For more information and to sign up, visit **www.gabar.org/attorney-resources.** To search the Speaker Clearinghouse, which provides contact information and information on the legal experience of minority and women lawyers participating in the program, visit **www.gabar.org/attorneyresources**.

Attorney Discipline Summaries

(April 26, 2014 through June 26, 2014)

by Connie P. Henry

Disbarments/Voluntary Surrenders

Xavier Cornell Dicks
Decatur, Ga.
Admitted to Bar 1991

On May 5, 2014, the Supreme Court of Georgia disbarred attorney Xavier Cornell Dicks (State Bar No. 221142). A client hired Dicks in June 2007 to represent him in a suit to enforce a mechanic's lien to recover $175,000. Dicks was aware that the statute of limitations would expire on Dec. 15, but he did not file to enforce the lien until January 2008. Dicks believed the suit had no merit. He failed to appear at the hearing to dismiss and the court dismissed it for failure to prosecute. Dicks re-filed the action, but it was dismissed with prejudice because the original action had not been timely filed.

In July 2009, Dicks informed his client that the action had been dismissed and presented him with a document that released Dicks from any causes of action arising out of his handling of the suit in exchange for a promise to pay the client $25,000 by Sept. 28. The client also agreed not to file a Bar complaint. Dicks did not inform the client that he should have another lawyer look over the release. The client's signature on the release is notarized by Dicks' paralegal, but the client testified that he did not sign the release before a notary. Dicks failed to file a timely response to a notice of investigation and although he promised to reimburse $25,000 to his client, he has only paid $6,000.

The special master found that Dicks did not make a timely good-faith effort to make restitution; that he refused to acknowledge the wrongful nature of his conduct; that he submitted false evidence by presenting the release with the false notarization; that he had two prior Investigative Panel reprimands that involved a similar pattern of abandonment and trying to justify his actions by expressing doubts about the merits of the cases; that the case presents multiple offenses; and that he has substantial experience in the practice of law. During this time, Dicks received a formal letter of admonition in another case for abandoning a client and for submitting false or misleading evidence to the special master.

Michael Rene' Berlon
Grayson, Ga.
Admitted to Bar 1994

On June 16, 2014, the Supreme Court of Georgia accepted the Petition for Voluntary Surrender of License of attorney Michael Rene' Berlon (State Bar No. 054822). Berlon agreed in June 2010 to represent a client in a medical malpractice matter arising from the death of her husband. Although Berlon was concerned that the statute of limitations had expired, he told his client that he believed there was sufficient time in which to file an action. He falsely led her to believe that he was actively working on the case by sending a demand letter and contacting expert witnesses. Berlon did not accurately advise the client of the status of her case through early 2012 and never filed an action on her behalf. Berlon's responses to the grievance

filed with the State Bar contained factual misrepresentations.

Suspensions

H. Owen Maddux
Chattanooga, Tenn.
Admitted to Bar 1983

On May 5, 2014, the Supreme Court suspended attorney H. Owen Maddux (State Bar No. 465516) for nine months with conditions for reinstatement after the imposition of a nine-month suspension in Tennessee. The Tennessee Supreme Court found that after Maddux was retained to represent a client in a dispute with the client's business partner in a landscaping business, he sent a letter to customers of the business, advising them to send any money owed to the business to him, to be deposited with the court pending a ruling regarding payment to creditors. There was no case pending when the letter was mailed. Weeks later, Maddux filed a lawsuit against the landscaping partner. While the case was pending, opposing counsel discovered that Maddux had received funds from landscaping customers in response to his letter and had not deposited them with the court. Although the court ordered Maddux to explain the disposition of those funds, he failed to adequately account for them and failed to pay the funds collected to the court as he represented he would. Maddux had twice before been suspended in Tennessee.

Eric Charles Lang
Atlanta, Ga.
Admitted to Bar 1990

On May 19, 2014, the Supreme Court suspended attorney Eric Charles Lang (State Bar No. 435515) for 12 months, to begin May 6, 2014, with conditions for reinstatement. In 1990, Lang represented a client who had been sued on a note. Summary judgment was granted against the client in 2012 on all issues except damages. On May 1, 2013, there was a final hearing on damages and judgment was entered against the client. Lang did not tell the client about the hearing or the judgment. When this Court imposed a suspension on Lang on May 6, 2013, he informed his client of the suspension, but he did not tell the client about the judgment. The client learned of the judgment in July 2013, when he received a notice of garnishment.

Lang offered that he was experiencing emotional problems during the relevant time, including treatment for bipolar disorder and major depressive disorder. Lang also submitted that he has attempted to mitigate any damages to his client and that he has otherwise exhibited good character, integrity and reputation, is deeply remorseful, and has apologized.

Lang's reinstatement is conditioned upon a finding by a licensed psychologist or psychiatrist that he is mentally competent to practice law; that for a three-year period following the termination of his suspension, his continued active status be conditioned upon providing a quarterly report to the Committee on Lawyer Impairment that he is mentally competent to practice law; and that he execute a waiver of confidentiality with respect to the Office of the General Counsel and his psychologist or psychiatrist for the Committee on Lawyer Impairment. Lang also received an Investigative Panel reprimand in 2008.

Ricardo L. Polk
Decatur, Ga.
Admitted to Bar 2004

On May 19, 2014, the Supreme Court suspended attorney Ricardo L. Polk (State Bar No. 001354) for 30 months with conditions for reinstatement. In the representation of three clients Polk failed to act with reasonable diligence and promptness, failed to communicate with his clients in a timely and full manner and failed to properly terminate the representations. The special master found that Polk was suffering personal and emotional problems at the time and he has expressed remorse. Polk has made restitution to a former client and has repaid two of the three grievants. Additionally, Polk has agreed to the following conditions for reinstatement: (1) a Review Panel finding that Polk has paid $1,000 to one client who remains unpaid; and (2) that within six months of reinstatement, Polk will schedule an evaluation by the Law Practice Management Department of the State Bar and waive confidentiality with respect to the Office of the General Counsel.

Robert Bruce Richbourg
Tifton, Ga.
Admitted to Bar 1991

On June 16, 2014, the Supreme Court accepted the Petition for Voluntary Discipline of attorney Robert Bruce Richbourg (State Bar No. 604415) and suspended him for three years or at the termination of his probation, whichever is longer, with conditions for reinstatement.

On Aug. 22, 2012, Richbourg pled guilty in the Superior Court of Tift County, to two felony counts of false imprisonment. He was sen-

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tenced under the First Offender Act to 10 years on probation and ordered to pay fees and fines, and to perform 200 hours of community service work. He also is required to attend and undergo alcohol testing and treatment if recommended after evaluation, and for the term of his probation he may not possess weapons of any nature.

The Supreme Court found that Richbourg's conduct was violent and egregious, however, no person was physically harmed and no client suffered as a result of his actions. The Court also found that Richbourg had an exemplary history as a member of the Bar.

John B. Tucker
Newnan, Ga.
Admitted to Bar 1984

On June 16, 2014, the Supreme Court accepted the Petition for Voluntary Discipline of attorney John B. Tucker (State Bar No. 717750) and suspended him from the practice of law for six months. In 2012 and 2013 Tucker represented 26 clients in separate bankruptcy cases in the U.S. Bankruptcy Court for the Northern District of Georgia. In each of those cases, he worked with Samuel Brantley, a former lawyer who had been disbarred as a result of a conviction of wire fraud. Tucker knew that Brantley had been disbarred but nevertheless allowed him to have contact with clients in person, by telephone and in writing; allowed him to meet with clients in Tucker's office; allowed him to discuss and advise clients about the procedural and substantive aspects of their cases; did not tell the clients that Brantley had been disbarred and told clients Brantley was a lawyer; and allowed Brantley to prepare pleadings (although Tucker signed them and appeared in court). In July 2013 the U.S. Bankruptcy Court entered an order sanctioning Tucker in a case for allowing Brantley to effectively represent the client except for making court appearances, and it suspended him from practice in that court for six months.

In mitigation of discipline Tucker offered that he cooperated with the State Bar and expressed sincere remorse. Tucker noted that he had already been sanctioned for his conduct by the Bankruptcy Court, however, the Supreme Court expressly rejected as a mitigating factor the imposition of prior punishment for the same conduct. Tucker also submitted an affidavit from a city of Newnan Municipal Court judge who averred that Tucker is the sole public defender in the court; that he knew Tucker to be a person of the highest integrity; and that if Tucker were unavailable, the court's administration would be seriously jeopardized. The Court found that Tucker's conduct was knowing and intentional and not merely a mistake.

Public Reprimand

Margrett Ann Skinner
Macon, Ga.
Admitted to Bar 1987

On May 19, 2014, the Supreme Court ordered that attorney Margrett Ann Skinner (State Bar No. 650748) be issued a Public Reprimand. A special master found that between July and October 2010, Skinner failed to keep a client reasonably informed of the status of her divorce, and that she disclosed confidential information about her client on the Internet. In aggravation, the special master noted that Skinner had substantial experience in the practice of law. In mitigation the special master found that Skinner had no prior discipline, the absence of a dishonest or selfish motive, that she refunded a substantial portion of her fee to the client even after doing work for the client, that she accepted responsibility for her misconduct, that she was cooperative in the disciplinary proceedings and that she expressed remorse. The special master also found that Skinner experienced a number of personal problems during the relevant time.

The Court also ordered Skinner to consult with the State Bar's Law Practice Management services and recommendations with respect to internal office procedures, client files and case tracking procedures. The Court found that the improper disclosure of confidential information was isolated and limited to a single client, it did not appear that the information worked against or threatened substantial harm to the interests of the client, and that there were significant mitigating circumstances.

Review Panel Reprimands

Edward R. Mashek III
Atlanta, Ga.
Admitted to Bar 2000

On May 5, 2014, the Supreme Court accepted the Petition for Voluntary Discipline of attorney Edward R. Mashek III (State Bar No. 475384) and ordered that he receive a Review Panel reprimand. Mashek runs a solo practice representing personal injury litigants. Medical providers would alert his office to a person receiving or contemplating treatment or seeking legal counsel.

Mashek's office would then contact the potential client. It was standard practice for Mashek's firm to send a "sign up person" to meet with the patient. Southern Healthcare Associates (SHA) was a medical provider that referred patients to various lawyers. Mashek asserts that he never paid SHA to solicit or refer clients to his firm and that he had no knowledge that SHA improperly solicited patients for these legal referrals.

On Oct. 7, 2011, a man was involved in an automobile accident and within a few days spoke with friends about referrals to medical providers, but not to legal counsel. On Oct. 14, a representative from Mashek's office contacted the man and solicited him for both legal representation and medical care. A "sign up person" from Mashek's office met with the man later that day, and he hired Mashek to represent him. The special master con-

demned Mashek's behavior, noting that he should have known that the case was suspect and that he had initiated a system in his office through which his representatives contacted potential clients based on no more than tips from a medical provider and without knowing anything about how the client originated. In mitigation of discipline, Mashek had no prior discipline, was cooperative with the State Bar, and he showed remorse.

Peggy Ruth Goodnight
Atlanta, Ga.
Admitted to Bar 1987

On May 19, 2014, the Supreme Court ordered that attorney Peggy Ruth Goodnight (State Bar No. 301445) be issued a Review Panel Reprimand. The following facts are admitted by default: The Court placed Goodnight on interim suspension in January 2012 for her failure to respond to a Notice of Investigation. To date Goodnight has filed no response. Goodnight had no prior discipline.

Reinstatement Granted

Thomas Richard Topmiller
Marietta, Ga.
Admitted to Bar 2008

On May 5, 2014, the Supreme Court of Georgia determined that attorney Thomas Richard Topmiller (State Bar No. 443008) had complied with all of the conditions for reinstatement following his suspension, and reinstated him to the practice of law in Georgia effective May 5, 2014.

Pamela Michelle Bounds
Ocala, Fla.
Admitted to Bar 1991

On June 11, 2014, the Supreme Court of Georgia determined that attorney Pamela Michelle Bounds (State Bar No. 070325) had complied with all of the conditions for reinstatement following her suspension, and reinstated her to the practice of law in Georgia effective June 11, 2014.

Interim Suspensions

Under State Bar Disciplinary Rule 4-204.3(d), a lawyer who receives a Notice of Investigation and fails to file an adequate response with the Investigative Panel may be suspended from the practice of law until an adequate response is filed. Since April 26, 2014, no lawyers have been suspended for violating this Rule and none have been reinstated. GBJ

Connie P. Henry is the clerk of the State Disciplinary Board and can be reached at connieh@gabar.org.

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It is our pleasure to announce Robert D. "Bob" Cheeley has rejoined the firm as a name partner. Brandon L. Peak has become a name partner. John C. "Buddy" Morrison has been elected partner. Michael A. "Mike" Sexton is joining the firm of counsel. In addition, our partner and friend of 23 years, George W. Fryhofer III, has retired from the practice of law. We wish George the best in his well-deserved retirement. This firm will continue to do any and all kinds of trial work, just as it has done for the past 26 years – including business torts, commercial litigation, products liability, trucking & auto wreck cases, class actions, False Claims Act cases, and environmental torts.
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Creating a Law Office Management Checklist

by Natalie R. Kelly

The Law Practice Management Program receives calls and emails each day covering anything and everything about setting up and running a law practice. In determining what's most asked and discussed in our office, we keep close watch over our interactions with members. The services we provide are confidential, so it is only shared in general ways to help firms become more efficient and productive with their office management. We often suggest and provide checklists for lawyers looking to improve their practices. Perhaps this broad list of topics and concerns we've assisted members with recently will get you thinking about what you'd want to put on your own office management checklist.

Management

Staffing and Compensation

What's the going rate for a paralegal in our area of the state? At what point should I hire a new staff person? Does my firm need to have a formal partnership track with so many of our older lawyers looking to retire soon? How much should we pay a new associate?

Disaster Recovery and Business Continuity

What happens to a lawyer's practice after he or she passes away? Does the Bar have a sample disaster recovery plan? Is there any insurance for business continuity? Can we sell our law practice and do you know who does business valuation?

File Management and Retention

How long do we have to keep client files? What is the best way to organize files on our computers? What's the easiest way to access data across my smartphone, desktop and home computer? Do we have easy access to where our files are backed up?

Marketing

Advertising Rule Change

What does the *new* change to the advertising rule mean for my practice? What address must I give in my advertising? If I have multiple offices throughout the state, how do I comply with the advertising rule change?

Social Media Marketing

Should lawyers use the popular social media services to get clients? What should we put online about ourselves? Should staff be allowed to use social media at work? Which service is better for lawyers?

Finance

Financial Reports

Which reports do I need to have as far as my accounting goes? Should I track transactions daily, weekly or monthly with my accounting program? Does my accounting program bill in multiple formats? Can reports show us how much time each lawyer has billed and collected, and what's outstanding client by client?

Trust Accounting Reconciliation and Record Keeping

Do I have to have my business account and my trust account at the same bank? How do I handle credit card payments that should go into my trust account? How long do I have to keep trust accounting records? Am I required to reconcile the trust account every month? What exactly should be put into the trust account?

Billing

Should we bill all clients every month? What should we put on our bills? Can we easily upload our logo to the bill template or use our letterhead for bills? How do we effectively collect on past due client bills? Can I charge interest on my past due bills, and if so, what's the normal rate for this?

Technology

Bring Your Own Device Policies

Should your firm have a "bring your own device" policy and what exactly does that mean for staff and management? Is there a system or service to help monitor external devices brought in by staff?

Cloud Computing

Should our firm use cloud-based practice management software? Is the cloud safe? What should we do about online storage and the client confidentiality concerns we have with the cloud? Should we do away with our office network and move everything to the cloud?

Apps

Do you know of any reliable apps for lawyers? Which apps work best for litigators? What are your favorite apps for note taking? Do most law office management software programs have apps? Is there a timekeeping app I can use while I work away from my office?

Practice Management Software

How much will it cost to implement a practice management system in our firm? Do you offer training and support on practice management software programs? Can the practice management system talk to our time billing and accounting program? Is there software that will do both time billing and accounting and practice management? Who do we call for support on our practice management system?

Program Services

Does your office help members with QuickBooks? What resources are new in the Law Practice Management Program Resource Library? Can my staff check material out of the Resource Library? How do I get signed up for the Solo and Small Firm Discussion Board? What topics are being covered in the next Solo and Small Firm quarterly CLE event? Do Georgia lawyers receive a discount on software programs? Is the office startup kit free? Can my staff check out resource library material? Where can lawyers go to see if they can get a discount on products or services? What is the Fastcase member benefit and where can I get training on how to use it? What benefits are offered to Bar members?

The questions outlined here are just a sampling of what our program can assist members with in their law offices. Be sure to take the time to put together a workable checklist for your practice or practice group, and contact us if you need any help, or simply have ideas for what other services may be provided. GBJ

Natalie R. Kelly is the director of the State Bar of Georgia's Law Practice Management Program and can be reached at nataliek@gabar.org.

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Section Awards, Updates and Information

by Derrick W. Stanley

The State Bar of Georgia's Intellectual Property Law Section, chaired by Tina Williams McKeon of Kilpatrick Townsend & Stockton, LLP, received the 2013-14 Section of the Year Award. This annual award honors an outstanding section for its members' dedication and service to their areas of law practice and for devoting significant hours of volunteer effort to the profession.

Three Awards of Achievement were also presented this year. The sections honored were:

- Child Protection & Advocacy Section, chaired by Nicki N. Vaughan, Gainesvlle, Ga.
- Family Law Section, chaired by Jonathan J. Tuggle, Boyd Collar Nolen & Tuggle LLC
- Military/Veterans Law Section, chaired by Drew N. Early, Shewmaker & Shewmaker LLC

2014 Tradition of Excellence Award Recipients

The Tradition of Excellence Award is given annually to members of the General Practice & Trial Law Section.

SECTIONS

Administrative Law ✶ Agriculture Law ✶ Animal Law ✶ Antitrust Law ✶ Appellate Practice ✶ Aviation Law ✶ Bankruptcy Law ✶ Business Law ✶ Child Protection and Advocacy Law ✶ Consumer Law ✶ Constitutional Law ✶ Corporate Counsel ✶ Creditors' Rights ✶ Criminal Law ✶ Dispute Resolution ✶ E-Discovery and the Use of Technology ✶ Elder Law ✶ Eminent Domain Law ✶ Employee Benefits Law ✶ Entertainment and Sports Law ✶ Environmental Law ✶ Equine Law ✶ Family Law ✶ Fiduciary Law ✶ Franchise and Distribution Law ✶ General Practice and Trial Law ✶ Government Attorneys ✶ Health Law ✶ Immigration Law ✶ Individual Rights Law ✶ Intellectual Property Law ✶ International Law ✶ Judicial Section ✶ Labor and Employment Law ✶ Law and Economics ✶ Legal Economics Law ✶ Local Government Law ✶ Military/Veterans Law ✶ Nonprofit Law ✶ Product Liability Law ✶ Professional Liability Law ✶ Real Property Law ✶ School and College Law ✶ Senior Lawyers ✶ Taxation Law ✶ Technology Law ✶ Tort and Insurance Practice ✶ Workers' Compensation Law

Candidates for these prestigious awards should meet the following qualifications:

- be a Georgia resident;
- have 20 years of outstanding achievement as a trial lawyer, general practitioner or judge;
- be 50 years or older;
- have made a significant contribution to CLE or Bar activities;
- have a record of community service; and
- have a personal commitment to excellence.

Awards are presented at the State Bar's Annual Meeting during a breakfast ceremony in the following categories: plaintiff, defense, general practitioner and judicial. The recipients are then honored at a formal reception.

Photo by Betty Simms

(Left to right) General Practice & Trial Law Section Chair Jimmy Hurt presented the Tradition of Excellence Awards to recipients Joe A. Weeks, general practice; Hon. John D. Allen, judicial; Judson Graves, defense; and Neal Pope, plaintiff.

New Sections Solicit Members

Over the past several years, the State Bar of Georgia has seen a substantial increase in the number of sections. The three youngest sections are listed below with a brief description:

- **Constitutional Law:** The purpose of this Section shall be to promote the objectives of the State Bar of Georgia within the field of constitutional law (state and federal); to actively sponsor the continuing education of the members of the State Bar of Georgia in this field; to make appropriate recommendations in this field to the State Bar of Georgia; and to further the purposes of a section of the State Bar of Georgia as contemplated under the provisions of Article XIV of the bylaws of the State Bar of Georgia.
- **E-Discovery and the Use of Technology:** The purpose of this Section shall be to provide education and training to lawyers across practice areas about all facets of legal technology and e-discovery, including the tools and applications; best practices and procedures; applicable rules and laws; and ethical considerations.
- **Economics and the Law:** The purpose of this Section shall be to increase awareness of the economic impact of statutes, regulations and case law decisions by bringing together lawyers and scholars to discuss and study such issues.

It is easy to join a section. You can go to www.gabar.org, log in to your membership account and click the "Join a Section" link.

Section Officers Updated on the Website

On July 1, the Bar fiscal year began under the leadership of new officers. Likewise, many sections officers changed as well. The current officers for the sections are listed on the section webpages at www.gabar.org. The description pages for each section provide a list of the current officers and a link to their contact information. These pages will offer the most current information about the sections.

More Sections Offer Specialized Training

The Institute of Continuing Legal Education (ICLE) in Georgia 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 and Georgia State, and the John Marshall Law School. As the CLE provider for the Bar, ICLE has been working with section leaders to create institutes and programming geared to specific areas of practice. From "Nuts and Bolts" to destination weekend programs, you can fine-tune your skills and increase your knowledge base while networking with your peers. Visit www.iclega.org for a list of programs that may be valuable to your practice. Be sure to check out the institute schedule at www.iclega.org/programs/institute.html. Section members receive marketing and registration information prior to the general public. GBJ

Derrick W. Stanley is the section liaison for the State Bar of Georgia and can be reached at derricks@gabar.org.

Fastcase, Not Just Another Pretty Interface

by Shelia Baldwin

The ever-growing number of new cases and the additional content such as law reviews necessitated a recent revamping of Fastcase servers to accommodate more data and to satisfy the expanding membership. Those Bar members who use Fastcase on a regular basis appreciate the time-saving features that are now available. They enjoy finding cases quickly and seeing them displayed in two distinct but linked views. They also know that Fastcase is more than just another pretty interface. If you haven't logged in to Fastcase in a while, you will find that increased speed and several new features will greatly enhance your experience. Following is an introduction to some other cool things Fastcase now offers.

The Search Within feature, which aids in constructing a good query, and the new Explore Case Relationships tool enables a view of relevant data not necessarily found in the original results. The new Alerts are also a great time saver, almost like having a personal assistant helping with your research. The increased speed makes possible the goal of research that is faster, smarter and more powerful.

Curious as to how many cases there are in the entire Fastcase database, I searched all jurisdictions using the word "court" and 7,664,585 were populated in the results page. That may not be the total number, but it's probably close. That's a lot of cases, but what's more impressive is the quickness with which Fastcase pulls them into the results page. Using an iPhone stopwatch, the time to it took to get the results was under 2.5 seconds. To be fair, it took a second to hit stop so probably more like 1.5 seconds. That is pretty amazing! A member once jokingly referred to Fastcase as Slowcase, but I haven't heard that lately.

From the beginning, Fastcase received positive reviews because of the way the Timeline plotted results on a graph so that the most-cited cases were immediately apparent. In one quick click of the Interactive Timeline tab to the right of the Results tab you can see a rich variety of information. To make it even more useful the developers added the Explore Case Relationships function that provides a way to see how the cases are related. Now users can click on a specific case in the Interactive Timeline and get a new Interactive Timeline of the cases cited within that case as well as the cases that cite back to the original case.

Using the terms search w/5 seizure* within the jurisdiction of Georgia and the 5th and 11th Circuit Courts, 3,227 cases result. To narrow, I selected the Search Within tab and added the terms "Curb* or garbage or trash." This narrows the results to 193 (see fig. 1). Using the back button, one can see that the Search Within feature automatically added the parenthesis in the appropriate place. The asterisk was added to the end of the word curb to include curbside.

Moving from the default view to the interactive timeline, all 193 cases display with *United States v. Colbert*

showing up as relevant and cited within the search criteria (see fig. 2). I rested my mouse over the case circle and called up the case information about the case and opened the Explore Case Relationships link. From here one can see which cases *United States v. Colbert* cites as well as what cases cite to *United States v. Colbert.* Now you can see our original case is on the timeline at about 1980. To the left of the case you can see all the cases cited to in the *Colbert* opinion. To the right are the cases that cite back to *Colbert* (see fig. 3).

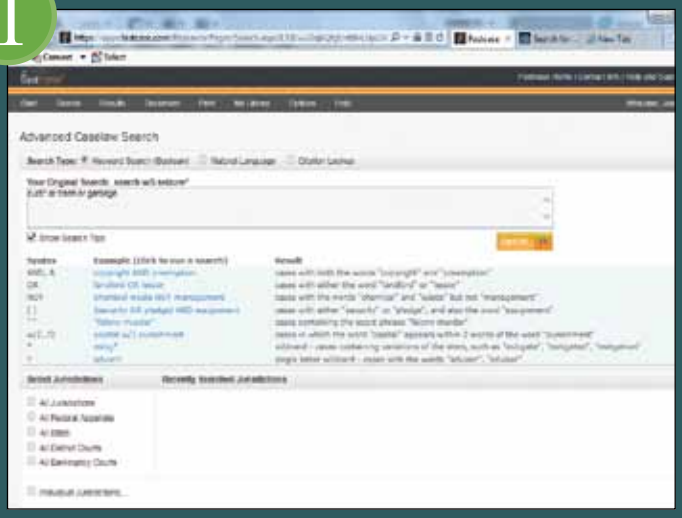
Seeing this information on the timeline can be useful in determining the value of my case in reference to how significant the related cases appear to be in terms of relevancy and authority based on frequency of citation and court level. In this case, *United States v. Colbert* was cited 220 times, but few of those citing cases were rated high in relevance, although the case itself was 78 percent relevant. Conversely, at least a half dozen were very highly cited and cited by at least a few cases in my result list which indicated they would be at least somewhat relevant.

Going back to the results view, there is an option to add an alert. An Alert is set up to send any further cases that fit my search criteria to a designated email to keep the search query active until the information is no longer needed and the user removes the alert. Alerts can also be used to keep track of cases that are settled to see when they are cited by other cases by creating a search using the case name and then selecting Add Alert.

Smarter tools and quicker speed ensures that Fastcase remains a valued member benefit. Please call 404-526-8614 or contact sheilab@gabar.org with any questions or for help with your research. GBJ

Sheila Baldwin is the member benefits coordinator of the State Bar of Georgia and can be reached at sheilab@gabar.org.

1



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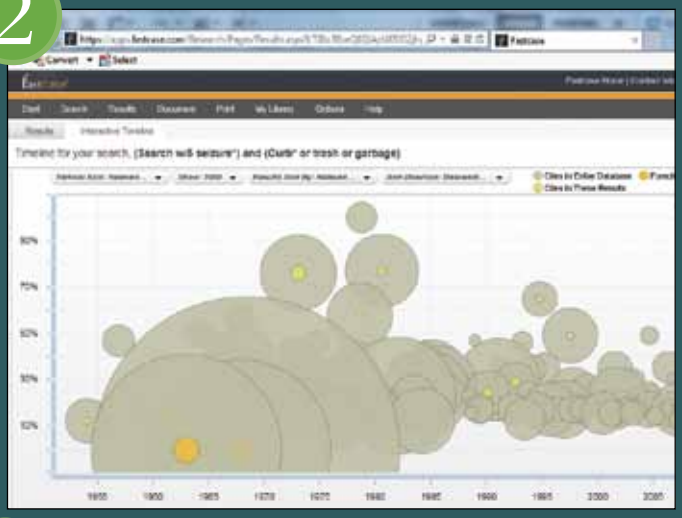


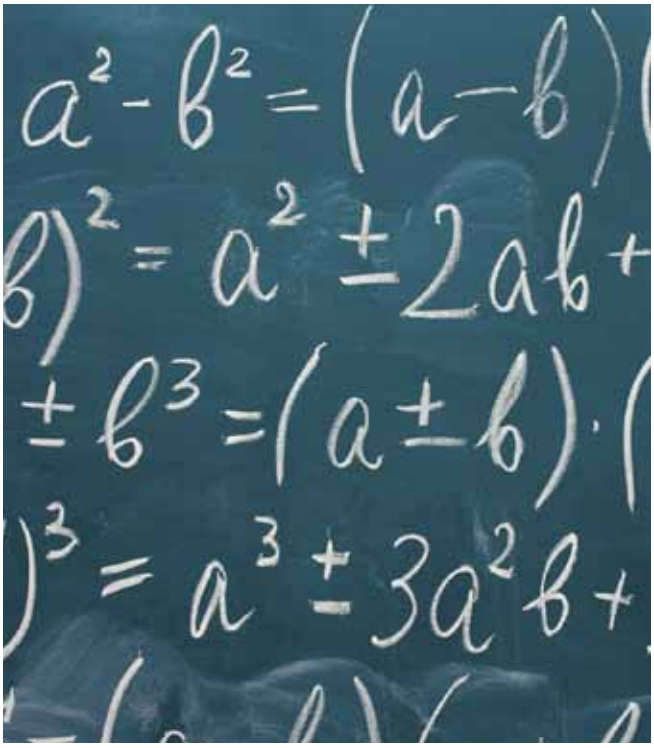
3

Fastcase training classes are offered four times a month at the State Bar of Georgia in Atlanta for Bar members and their staff. Training is available at other locations and in various formats and will be listed on the calendar at www.gabar.org. Please call 404-526-8618 to request onsite classes for local and specialty bar associations.

2 + 2 = Henceforth, the Fourth Integer from Zero, Notwithstanding Other Interpretations

by Bryan O. Babcock

Math is a lawyer's worst enemy. We try our best to avoid it by declaring, "I didn't go to law school to do math." Unfortunately, mathematical formulas and numeric ranges often appear in contracts—specifying how amounts should be categorized and calculated. Profit or loss allocations, funding of marital or charitable trusts, company distributions, royalties and bonuses all require mathematical formulas outlined in contract provisions. Properly drafting these provisions provide clear instructions within the contracts. Writing formulas and numerical ranges is an area of drafting in which many attorneys are most afraid, and least prepared. This installment of "Writing Matters" provides not only helpful examples for drafting mathematical formulas and numerical ranges within legal documents, but also advice for drafting clear and precise provisions.



Did you notice in the title of this article that the answer to the problem could be two different numbers? The fourth integer from zero could be either 4 or -4. Following the written description of the answer to the problem, then, 2 + 2 = -4 is a correct answer. A lawyer can make this mistake easily without precise language. A simple fix to the title is to change "Fourth Integer" to "Fourth Positive Integer." When drafting formulas or other provisions involving numbers, a lawyer should always do the following:

- isolate each mathematical step;
- ensure terms are defined precisely;
- clearly state how and when things are being measured.

In following these guidelines, you can avoid ambiguous, or incorrect, formulaic and numerical results from poorly drafted contract provisions.

Isolate Each Mathematical Step

Suppose you are drafting a purchase agreement for a client. The purchase price is $250,000. The seller would also like to be reimbursed for 80 percent of his costs to deliver the product (such as transportation costs) that exceed $8,000. Late delivery will be penalized—1 percent of the total purchase price subtracted for each day after April 15 that delivery isn't made. In order to isolate the mathematical steps, write these provisions in a mathematical formula, using the symbols "P" for the purchase price, "C" for the delivery costs and "L" for each day that delivery is late:

P = ($250,000 + (.80 x (C - $8,000))) x ((100 – L) / 100)

Once you have checked your math to ensure the formula would result in a correct amount, it is time to draft the formula with words:

> "Purchase Price" means (a) $250,000 plus 80 percent of the amount (if any) by which the delivery costs exceed $8,000, multiplied by (b) a fraction no less than zero, the numerator of which is 100 minus the number of days (if any) after April 15, 2014, that delivery is not completed, and the denominator of which is 100.

Ensure Terms are Defined Precisely

It is important to ensure that any terms used in a formula or range have been defined in such a way that it precisely identifies the information you are using. Review this purchase option provision:

> Company may not exercise the Purchase Option at any time that its total debt exceeds 70 percent of its total capitalization.

There is ambiguity in the terms "total debt" and "total capitalization." Does debt include notes payable to shareholders, or short-term loans which will be paid off within the year? Does capitalization refer only to retained earnings? Assuming debt is all liabilities, and capitalization represents all assets and liabilities, combined:

> Company may not exercise the Purchase Option at any time *(as set forth on its most recent balance sheet)* that its *B* exceeds 70 percent of *the sum of its "Total Assets" and "Total Liabilities."*

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Clearly State How and When Things are Being Measured

You must be clear on the process or timing of your mathematical or numerical provisions. Consider an imprecise example:

> The Company shall not permit Consolidated EBITDA on any date set forth below to be less than the amount set forth next to such date:

Date	Amount
Dec. 31, 2014	$4,500,000
Dec. 31, 2015	$5,000,000
Dec. 31, 2016	$6,000,000

For this provision, a lawyer needs specialized knowledge (accounting) to understand the drafting mistake. EBITDA (earnings before interest taxes depreciation and amortization) is an item reported on an income statement. An income statement measures a period of time, not a specific date. This provision would be misinterpreted because looking at the EBITDA on Dec. 31, would be inaccurate. The correct timing would be the fiscal year of the company ending Dec. 31. Therefore, the measurement for this provision would be precisely expressed as:

> The Company shall not permit Consolidated EBITDA *for any period* set forth below to be less than the amount set forth next to such *period*:

Fiscal Year Ending	Amount
Dec. 31, 2014	$4,500,000
Dec. 31, 2015	$5,000,000
Dec. 31, 2016	$6,000,000

Here are some additional tips to proofread your formula or numerical provisions:

- **Do the math**. Anyone should be able to "do the math." Your document will be read by non-lawyers; therefore, you want to ensure that anyone reading the formula or range can clearly understand it without paying for additional billable hours each time it must be read. Whether by hand, or through Microsoft Excel, anyone should be able to follow your provision precisely and arrive at the correct answer. If there is a mistake in your formula, you will find it and be able to correct it before contracts are signed.
- **Know your audience**. For any provisions that are dependent on knowledge of a particular industry, verify your provision with an expert in that industry (e.g., time measurements for balance sheet items is based on a date while time measurements for income statement items are based on a period). Concordance is key. In many instances your formula or numeric provision will be dependent on prior or subsequent provisions within the writing (e.g., defined terms). Review all provisions to ensure agreement between all terms.

Finally, and most importantly:

- **Relax; it's just math**. You are a lawyer; therefore, you can reduce anything to writing—even math. Take deep cleansing breaths. Free your mind. Have an intern write the first draft, and work from there. I won't tell. GBJ

Bryan O. Babcock practices in the areas of estate, gift and fiduciary income taxes. He currently manages a group of estate tax attorneys, advising on technical and procedural issues for estate and gift tax returns.

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State Bar of Georgia **Georgia Legal Services Program**

Thank you for your generosity and support.

The Georgia Legal Services Program (GLSP) is a 501(c)(3) nonprofit law firm. Gifts to GLSP are tax-deductible to the fullest extent allowed by law.

(The client story is used with permission. The photograph and name do not necessarily represent the actual client.)

Win an Appeal Without Being a Heel:

Appellate Lawyers and Professionalism

by Leah Ward Sears and Crystal Conway

Much has changed in private law practice the last 20 years, not all for the best. The most alarming change is the unfortunate trend away from professionalism and civility. It's not hard to notice that lawyers today are too often conducting themselves with less courtesy and good manners than before. This is particularly troubling given that the very foundation of our profession is rooted in our ability to remain civil in the midst of conflict. We are supposed to serve as the beacons of consistent civility, but along the way we've dimmed our own light.

While the issue of civility is important in every area of law, it's of even more consequence in appellate law because appellate lawyers, being a smaller group of litigation specialists, tend to encounter the same lawyers and appear in front of the same judges. Essentially we "run in the same circles." But even in this practice area, we aren't always civil to one another. For example, many appellate practitioners file appeals that are obviously frivolous. It's true that lawyers are obligated to vigorously pursue their clients' wishes, but debasing our profession by engaging in frivolity is neither justified nor civil. If you continue an appeal when you know your client has no chance of winning, you'll damage your reputation and waste everybody's time.

It's also unprofessional to file briefs that aren't fair or accurate. Lawyers should only argue potentially

meritorious reasons for an appeal, abandoning those that are meritless. As your clients' representative, you've got to vigorously defend them, but you should never omit important facts that don't favor your clients. Nor should you make exaggerated claims. If you make embellished statements, your credibility will be called into question, not your client's. If you leave out pertinent information that is damaging to your client, opposing counsel will almost certainly point that out to the court, making you look untrustworthy in the jurists' eyes. Your brief will also lose its value which will set the stage for an oral argument that will have to overcome the discrepancies. Appellate practice moves fast. Don't bother putting yourself at the disadvantage of making up lost ground.

Sometimes, lawyers take cheap shots at the judge or the opposing counsel in their briefs. This isn't civilized or very smart either. While opposing counsel may sometimes make you want to say some not so nice words, using them in your brief isn't appropriate. Take the opportunity an appeal provides to challenge an argument without resorting to attacking a person. Besides, judges know that lawyers who engage in this type of hyperbole do so because they don't have a winning argument for their position. That being said, don't write disparaging remarks in your brief. Instead, focus on winning your arguments with the law and logic.

Professionalism, and even the higher ethical standards, requires a lawyer to candidly disclose not just the facts, but the cases that do not support your position. If you don't, you can be assured that opposing counsel will bring the missing law to the attention of the court. Wouldn't you? Many lawyers have been sanctioned for failing to disclose adverse cases which have sometimes resulted in very public embarrassment.

Oral argument also offers lawyers an opportunity to act in an uncivilized manner, but you must avoid it. This doesn't mean that you have to shy away from a fight. Your clients want you to fight to the bitter end, but you have to know the limits. You can't allow your clients' emotions to guide how you practice law. It's understandable that they may be upset because they won at the trial level and feel that it all should have ended there; or they may have lost at the trial level and believe they were wronged. However, judges are expecting you to present valid arguments in a professional and courteous manner. They do not appreciate attorneys who act as if they are on reality TV. Nor do judges appreciate the lack of effort put into just giving a recitation of your brief. In the appellate arena, those who do best present polished, well-reasoned thoughts that are the result of a thorough, even-tempered and conscientious lawyer.

It's further astonishing how many times during an appellate oral argument lawyers treat the jurists like their enemies. Truth be told, judges don't want you to fail. They just want you to give them the reasons the law says you're right. Choosing to act in an oafish manner while interacting with the bench invites the opportunity for disaster and detracts from your position. Oftentimes lawyers are so convinced they will lose their argument that they take offense to every question that's asked. Or their annoyance is apparent when they lose their stride by being interrupted with a question. While a lawyer may have a million things running through her mind when presenting her oral argument, it's best to remember that a judge may be questioning you to lob you a softball or clarify a point that he can't figure out. The judge may actually be on your side. Whatever the reason for the questioning, rudely answering or not answering at all will only divert attention from any argument you make and cast you as being immature.

Experience shows that the opportunity for abuse at the appellate level presents itself most often during the motion for rehearing. Don't forget, the sole point of a rehearing is to inform the court of any facts or rules of law that were neglected during previous proceedings. It is not the time to introduce new arguments not mentioned in the briefs or express your disgust with either the judges or their written opinion. Thinking that it's fine to sneak in everything you overlooked or forgot when doing your appeal is not proper. It also makes you appear like you were unprepared the first time around.

Also, when in court, no cell phones, no head shaking, no grunting or noisemaking or other expressions of disagreement, dismay or displeasure designed to denigrate the other side should be undertaken. Kindness to opposing counsel is welcome and should also become part of your appellate advocacy.

In sum, there are many reasons for today's decline in civility, including increased competition for clients as well as the fact that law firms operate more like businesses today then professional associations. The result is that it's harder for many lawyers, appellate and otherwise, to practice law. It's also the reason that many a lawyer thinks long and hard about leaving for greener pastures. Plus, it's part of the reason that we are the subject of such disdain. But remember two things. First, your credibility is essential to your ability to practice law, and you must care for it as you would care for your health. Second, you are an officer of the court and, as such, the justice system is your main concern. This means that it must be your top priority to perform your duties to the best of your ability without forgetting that you should always do unto others as you would have them do unto you. Because your reputation will precede you, be sure it's a good one. GBJ

Former Chief Justice **Leah Ward Sears** is a partner in the Atlanta office of Schiff Hardin LLP and leader of the firm's appellate services team. After serving 17 years on the Supreme Court of Georgia, she is uniquely qualified as an appellate specialist and is consistently called on for her perspective and expertise.

Crystal Conway is an attorney in the Atlanta office of Schiff Hardin LLP on the appellate services team. She is very active in the State Bar of Georgia, serving as 2013-14 newsletter co-editor of *The YLD Review* and also participating in many State Bar committees.

In Memoriam honors those members of the State Bar of Georgia who have passed away. As we reflect upon the memory of these members, we are mindful of the contributions they made to the Bar. Each generation of lawyers is indebted to the one that precedes it. Each of us is the recipient of the benefits of the learning, dedication, zeal and standard of professional responsibility that those who have gone before us have contributed to the practice of law. We are saddened that they are no longer in our midst, but privileged to have known them and to have shared their friendship over the years.

Harold E. Abrams
Atlanta, Ga.
Harvard University Law School (1957)
Admitted 1957
Died June 2014

Jesse E. Barrow III
Marietta, Ga.
University of Georgia School of Law (1985)
Admitted 1986
Died May 2014

J. Michael Carpenter
Macon, Ga.
Samford University Cumberland School of Law (1976)
Admitted 1976
Died May 2014

Aubrey L. Coleman Jr.
Atlanta, Ga.
Vanderbilt University Law School (1967)
Admitted 1970
Died May 2014

Scott William Dawkins
Atlanta, Ga.
Emory University School of Law (2004)
Admitted 2005
Died May 2014

George W. Fryhofer
Waynesboro, Ga.
Emory University School of Law (1950)
Admitted 1950
Died June 2014

James W. Head
Savannah, Ga.
Emory University School of Law (1952)
Admitted 1952
Died June 2014

Earl L. Hickman
Jasper, Ga.
University of Georgia School of Law (1957)
Admitted 1958
Died May 2014

Victoria Jo Hoffman
Roswell, Ga.
Emory University School of Law (1981)
Admitted 1981
Died May 2014

R. Hopkins Kidd
Snellville, Ga.
University of Georgia School of Law (1949)
Admitted 1950
Died June 2014

Virginia L. Looney
Atlanta, Ga.
University of Georgia School of Law (1985)
Admitted 1986
Died June 2014

Jud E. McNatt
Woodstock, Ga.
Duke University School of Law (1977)
Admitted 1977
Died May 2014

Julie Ann Minor
Chicago, Ill.
University of Georgia School of Law (1995)
Admitted 1996
Died June 2014

E. Wycliffe Orr Sr.
Gainesville, Ga.
University of Tennessee College of Law (1970)
Admitted 1971
Died May 2014

Alice Willingham Robertson
Columbus, Ga.
Private Study of Law
Admitted 1956
Died May 2014

William F. Rucker
Decatur, Ga.
Emory University School of Law (1978)
Admitted 1978
Died June 2014

Carter A. Setliff
Conyers, Ga.
Woodrow Wilson College of Law (1965)
Admitted 1965
Died June 2014

William S. Shelfer Jr.
Decatur, Ga.
Duke University School of Law (1967)
Admitted 1967
Died April 2014

Paul Lefeyette Styles Jr.
Sioux Falls, S.D.
University of Alabama School of Law (1968)
Admitted 1988
Died January 2014

Robert Charles Ward Jr.
Montgomery, Ala.
University of Alabama School of Law (1989)
Admitted 2004
Died April 2014

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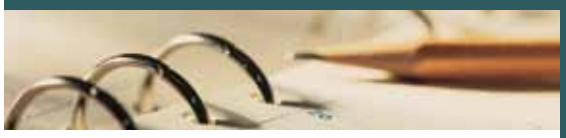

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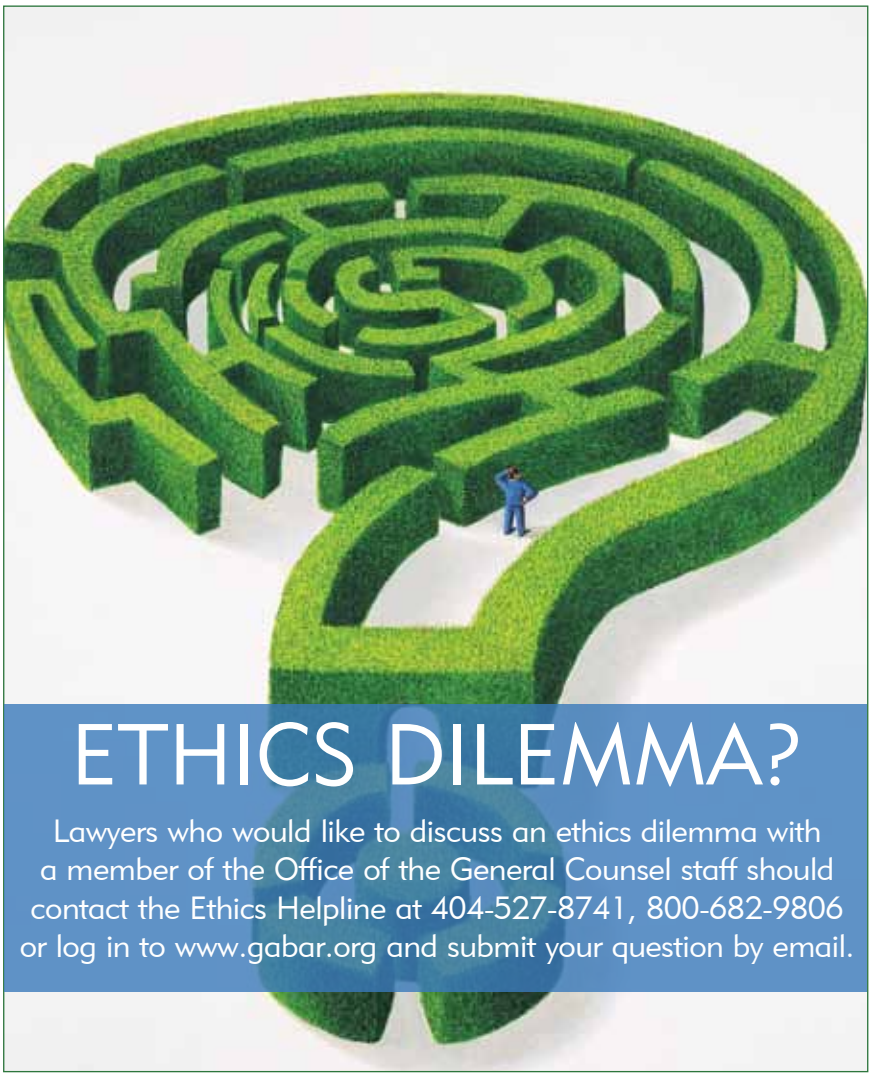
Notice of and Opportunity for Comment on Amendments to the Rules of the U.S. Court of Appeals for the Eleventh Circuit

Pursuant to 28 U.S.C. § 2071(b), notice and opportunity for comment is hereby given of proposed amendments to the Rules of the U.S. Court of Appeals for the Eleventh Circuit.

A copy of the proposed amendments may be obtained on and after Aug. 1, 2014, from the court's website at www.ca11.uscourts.gov. A copy may also be obtained without charge from the Office of the Clerk, U.S. Court of Appeals for the Eleventh Circuit, 56 Forsyth St. NW, Atlanta, Georgia 30303 [phone: 404-335-6100]. Comments on the proposed amendments may be submitted in writing to the Clerk at the above address by Sept. 5, 2014.



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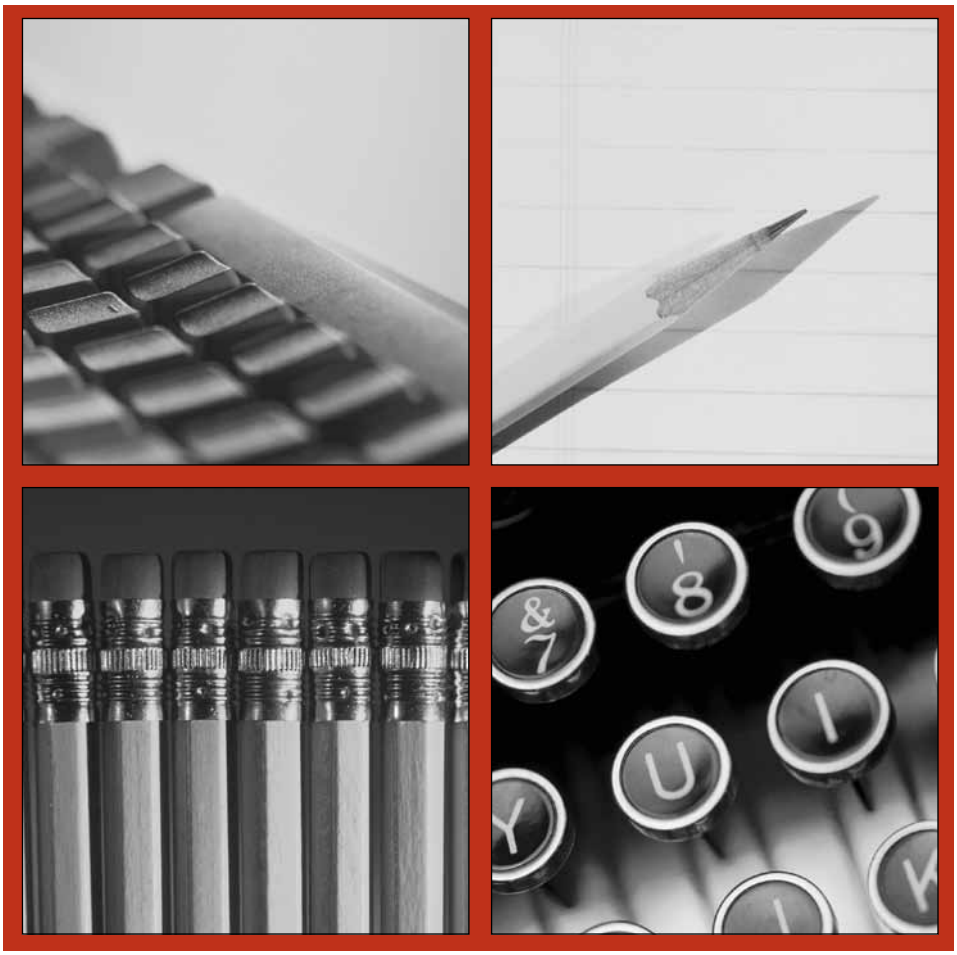

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