August 2019

Volume 25, Number 1

# GEORGIA BAR JOURNAL

From the President—Continuing to Listen: #ShapeTheBar

Legal Trailblazer: Judge Rachel Pruden Herndon

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The *Georgia Bar Journal* welcomes the submission of news about local and voluntary 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; 404-527-8791; sarahc@gabar.org.

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# The August Issue

**Our August 2019 issue of the *Georgia Bar Journal*** is a celebration of the past, where members of the Bar have supported the causes that matter to Georgia's citizens and attorneys, and a look forward to the Bar's bright future under its new leadership, who officially took office at the 2019 Annual Meeting.

This month's features include an in-depth look at the 2019 Annual Meeting. We have the pleasure of outgoing Bar President Ken Hodges' final remarks to the Board of Governors, highlighting the wonderful accomplishments of the Bar's leaders and members over the last year. We also hear from our new Bar President, Darrell Sutton, about the foundation of optimism and hard work laid for him by his father and how those values will guide him in helping meet the challenges that lie ahead for the Bar and its members.

For those of us who were unable to attend the Annual Meeting, we are given a glimpse of the fascinating CLE offered on Dynamic Social Justice Advocacy, featuring as speakers two champions of justice in attorney Howard E. Moore Jr. and Hon. Glenda Hatchett.

Speaking of champions for justice, this month's edition also includes Executive Director Jeff Davis' look at the life and career of Judge Rachel Pruden Herndon, the first African-American woman admitted to practice law in the state of Georgia in the face of great adversity, and an interview with Marshall-Tuttle Award recipient Norman E. Zoller, so awarded for his tireless efforts to provide legal assistance to the brave and deserving veterans and active duty members of our country's military.

Our legal article this month, "Do's and Don'ts When Handling a Product Liability Matter in Georgia" by Arthur J. Park, focuses on helpful and practical tips for practitioners on both sides of a case. Park shares his wealth of experience in the defense of product liability cases and the pursuit of subrogation claims for insurers in order to help other attorneys narrow the issues in question and avoid the pitfalls of this complex field of law.

Any publication that serves the legal community would be remiss not to address some of the struggles faced by those in the legal profession. This month, we take a closer look at loneliness, with some eye-opening statistics and a view toward the impact loneliness can have on overall well-being. I encourage each of you to be aware of the impact of loneliness in your own life and to reach out to friends, family and colleagues, and to take advantage of the resources offered by your membership in our wonderful organization.

As a final thought on past accomplishments and bright futures in this, the first issue of my tenure as Editor-in-Chief, I would like to thank the members of the *Georgia Bar Journal* Editorial Board and my predecessors as Editor-in-Chief for making this publication one that I can be proud to chair in the coming year.

I hope that you will enjoy reading this issue as much as we enjoy bringing it to you. ●

**KRISTIN POLAND**
Editor-in-Chief, *Georgia Bar Journal*
journal@gabar.org

**ON THE COVER**
Pictured on the cover is 2019-20 President Darrell Sutton, wife Meredith, and their children Louise (4) and Wilson (2).

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DARRELL SUTTON

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# Continuing to Listen: #ShapeTheBar

**It was important as I prepared to take** office to hear from this state's lawyers. To hear about the issues you feel are important to the State Bar, your practices and our profession.

So I set out on the road, visiting with and listening to small groups of lawyers and judges in places like Rome, Macon, Augusta and Savannah. With the help of the Board of Governors members in the areas I visited, I was able to sit with and hear from many of you. I heard what concerns you, the issues you are facing and the role the Bar plays in your professional lives. Your willingness to share helped shape many of the initiatives we will accomplish over my 12 months leading our profession. (These initiatives can be found in the remarks shared with the Board of Governors during the Annual Meeting. See page 40.)

My only regret is that I could not meet with and hear from more of you. In a state with 159 counties and with our Bar's membership now exceeding 50,000, my 12 months in office are simply not enough to reach everyone—either individually or in small groups—on a live, in-person listening tour.

But by leveraging modern technology, the listening tour can continue. Utilizing online tools, we are launching a virtual listening tour called #ShapeTheBar. The goal is to continue and expand the conversations begun during the months leading to my inauguration—both during the next 12 months and beyond. We want to hear your opinions, ideas and concerns, and at the same time, ensure every member of the State Bar of Georgia is aware of the benefits of Bar membership.

The virtual listening tour will be structured around three themes:

**Programs:** What are the Bar's programs, and what benefits do Bar members receive from them? What I heard time and again from many of you is that the Bar could do a better job communicating to the members all the benefits of State Bar membership. The Bar has substantial resources available to enhance your professional life, and we want you to be better informed of this broad array of benefits available to you.

**Initiatives:** What are Bar leadership's initiatives, and how will Bar members benefit from them?

**Service:** What opportunities does the Bar offer for members to serve the legal profession through participation in Bar committees, sections and leadership positions?

We are creating a space for #ShapeTheBar on www.gabar.org where Bar members can share opinions, suggestions and concerns. We will promote the initiative via email as well as through the Bar's social media channels and in the *Georgia Bar Journal*.

Some of the questions we expect to ask and answer through this conversation with membership are:

- What resources does the Bar offer its members?
- How can members take advantage of those resources?
- How does the Bar serve its members and the public?
- What resources are not offered that would be beneficial to our members?

But this is only a starting point. We want to hear (and answer) questions you have as you have them. We want to know how best to communicate Bar benefits. And we want to create a forum for you to provide input about the future of the Bar and feedback on Bar initiatives as they develop. As you share, we will share, from time to time providing the results of your input on www.gabar.org, in the *Journal* and via social media.

# OFFICERS' BLOCK

*The State Bar of Georgia's eight officers are elected to a one-year term by the membership and serve as members of the Executive Committee. Three of the officer positions are held by the president, president-elect and immediate past president of the YLD, shown on page 11.*

**DARRELL SUTTON**
*President*

Sutton and his firm, Sutton Law Group LLC in Marietta, represent individuals, businesses, insurers, self-insured companies and third-party administrators throughout Georgia, defending workers' compensation and commercial general liability claims.

**DAWN M. JONES**
*President-Elect*

Jones, of The Firm of Dawn M. Jones, LLC, is a former ICU nurse representing clients and their families for death or severe injuries resulting from medical negligence, nursing home neglect/abuse, collisions and other tort-related matters. She also serves as a litigation and expert witness consultant.

**ELIZABETH L. FITE**
*Treasurer*

Fite recently formed Rogers & Fite, LLC, in Atlanta where she will focus on representing those injured in the areas of truck and motor vehicle accidents, premises liability, product liability and railroad accidents.

**SARAH B. "SALLY" AKINS**
*Secretary*

Akins is a partner at Ellis Painter Ratterree & Adams LLP in Savannah. Her practice focuses on civil trial practice, including premises liability, professional negligence and products liability, amongst others.

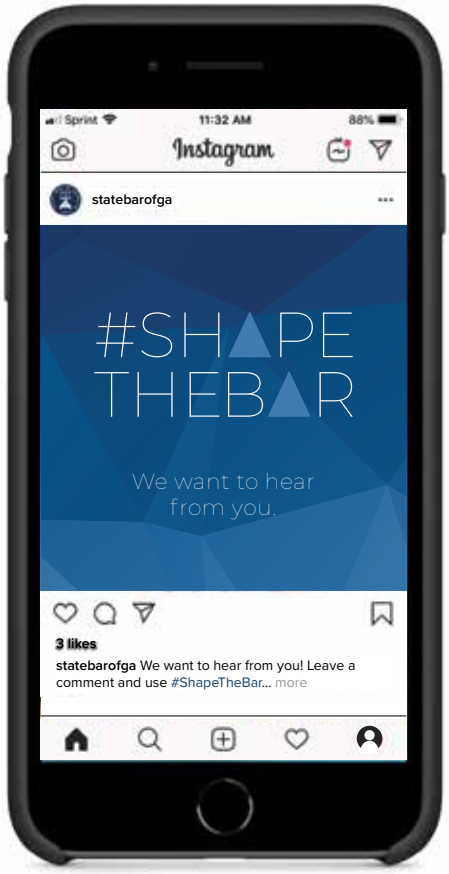
**HON. KENNETH B. HODGES III**
*Immediate Past President*

Hodges was sworn in to the Court of Appeals of Georgia as a judge in January 2019. Prior to being sworn in, Hodges' practice focused on criminal defense and civil litigation, including but not limited to personal injury, wrongful death, commercial litigation and civil rights cases.

This is your opportunity to make the Bar better, and the Bar's opportunity to make your professional life better.

Think about it this way: If you and I were sitting at a table together having lunch and I asked you to tell me your thoughts about the legal profession in Georgia, what would you say? If I asked you to tell me one thing the Bar could do to make the practice of law easier for you, what would you say? That's what I want to hear—nothing is too big or small. Email president@gabar.org with #ShapeTheBar as the subject line, or send feedback via social media with the tag #ShapeTheBar.

This is your opportunity to make the Bar better, and the Bar's opportunity to make your professional life better. I'm excited to continue this conversation with y'all. So please share. Help me shape the Bar. I'm listening! ●



Be on the lookout for #ShapeTheBar social media posts.

# We all have to start somewhere.

The State Bar of Georgia values wellness in the legal profession, and we offer a variety of resources to help lawyers in their lives and practices. Visit **lawyerslivingwell.org** to read articles on wellness and access discounts to gym memberships and classes. Plus, learn about the following programs:

**Lawyer Assistance Program**
**Lawyers Helping Lawyers**
**Suicide Awareness Campaign**
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**#UseYour6**

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lawyerslivingwell.org

Questions? Please contact one of our Wellness Committee members, listed at gabar.org/committees under Attorney Wellness.

WILL DAVIS

YLD President
State Bar of Georgia
*will@nsfamilylawfirm.com*

# **The YLD:** Opportunities to Learn and Serve

**If you are like me at the age of 22,** when you entered law school, you did so with dreams of making a positive difference in society by using your law degree to help others in their times of need. Whether they are dealing with the consequences of an arrest, going through a divorce, purchasing a home or making a major business decision, people often need lawyers to help.

Those of us fortunate enough to make it through law school, pass the bar exam and get a job have the opportunity to see those hopeful thoughts realized right away, although perhaps not as quickly as we thought. I'll tell you up front: I am one of the lucky ones. With my parents' encouragement and support, good schools and landing my first job with the Albany office of the Georgia Legal Services Program, those opportunities did come quickly, and I am thankful for that.

But I have also benefited greatly from my decision in 2012 to get involved with the Young Lawyers Division of the State Bar of Georgia. It was the summer meeting of Jon Pannell's year as YLD president. I was immediately impacted by the collegiality of those in attendance and the capacity that YLD members have to work together, from different backgrounds but toward a common goal: to work to promote the legal profession and our communities as "the service arm" of the State Bar.

For seven years now, through involvement in the YLD, I have made connections—and some lifelong friendships—with people whom I otherwise might never have met, much less worked with and learned from. Through these experiences with other young lawyers, I have discovered that differences we bring in terms of background, geography and practice areas, make us far more alike than we are different.

By choice, we are members of a profession that, by its nature, is adversarial. It's stressful. It can be hard. We often have to take the blame for things that are not our fault. Clients may love us. Clients may hate us. Judges may love us. Judges may seem to hate us. The YLD, however, offers us a way to break through the conflict that naturally arises in our profession and develop relationships with other young lawyers, similarly

situated, with whom we can comfortably exchange ideas, network, relax and enjoy time away from the office. I am a proud member of the YLD Leadership Academy Class of 2013, five members of which are now serving on the Board of Governors of the State Bar, proving that YLD programming works.

As the first openly LGBT president of the YLD and the first openly LGBT State Bar officer elected statewide, I am happy and privileged to be a part of the diverse traditions of the YLD. As one of my predecessors, Damon Elmore, said last year, the YLD is and has been at the forefront of diversity and innovation in practice for many years, and the "Big Bar" often takes its cues from us. I want us to continue leading the charge on those fronts.

We will do so in part by continuing to celebrate and capitalize on the diversity of our membership. With a focus on geographic diversity, we will work to grow our existing affiliates across the state and reach out to untapped groups of YLD-eligible lawyers such as those who work as assistant district attorneys and public defenders. We have 10,000 young lawyers in the state of Georgia. Most of them are in the metro-Atlanta area, but many of them are in Augusta, Savannah, Albany, Macon and other communities in between. We need to really make those members know we are there for them, working with our 10 current affiliates to make sure that they know they are part of and supported by the State Bar. We'll also work to strengthen the YLD's relationships with the Multi-Bar Leadership Council and other specialty and local bar associations. Young lawyers pay to belong to these specialty bars, while they are already members of the YLD without any additional expense.

We will also work to strengthen our already successful and ongoing programs and projects, including the YLD Leadership Academy, the "Build a Better Georgia Day" with Habitat for Humanity, the Georgia Legal Food Frenzy with the Attorney General's Office, the Georgia High School Mock Trial Competition, our annual Signature Fundraiser, which this year will benefit the Georgia Legal

# OFFICERS' BLOCK

*The Young Lawyers Division officers consist of a president, president-elect, treasurer, secretary, immediate past president and two newsletter editors, who are responsible for carrying out the purposes of the Young Lawyers Division.*

**WILL DAVIS** | *YLD President*

Davis, of Naggiar & Sarif LLC, in Atlanta, practices primarily in all areas of family law including divorce, custody, child support, adoption and LGBT family law issues.

**BERT HUMMEL** | *YLD President-Elect*

Hummel is a senior associate with Lewis Brisbois Bisgaard & Smith in Atlanta. He has extensive litigation experience and practices insurance defense primarily in the areas of general liability, premises liability and workers' compensation.

**ELISSA B. HAYNES** | *YLD Treasurer*

Haynes is a partner at Goodman McGuffey, LLP, in Atlanta. Her insurance defense practice consists primarily of liability and appellate matters involving negligent security and other premises liability claims, religious institution liability and bodily/catastrophic injury claims.

**RON DANIELS** | *YLD Secretary*

Daniels is the owner of Daniels Law LLC, in Eastman, Georgia. The firm focuses on claims under the Fair Debt Collection Practices Act and the Fair Credit Reporting Act. He also serves as special assistant attorney general representing the Division of Child Support Services.

**RIZZA O'CONNOR** | *YLD Immediate Past President*

O'Connor is the chief magistrate judge of Toombs County. She presides over small civil claims, dispossessories, criminal warrant application hearings and the issuance of arrest and search warrants.

**ASHLEY AKINS** | *YLD Newsletter Co-Editor*

Akins is an associate at Nelson Mullins Riley & Scarborough. She practices in the areas of K-12 and higher education law and workers' compensation defense.

**AUDREY B. BERGESON** | *YLD Newsletter Co-Editor*

Bergeson is the managing attorney for the Family Law Program of Atlanta Volunteer Lawyers Foundation, which provides family law assistance and representation for survivors of intimate partner abuse and coordinates volunteer attorneys to represent survivors pro bono.

I am honored that the YLD membership and Bar membership have put their faith in me to lead this group in 2019-20. I hope to—with the help of my fellow officers, our Board of Directors, committee chairs and general membership—make an impactful contribution to the YLD that honors the gifts I have received, professionally and personally, from it.

Services Program, and the pro bono challenge known as "Due Justice. Do 50."

I am often asked, "What is your theme, what is your big signature project?" What I simply want to do is build upon the projects we already have, rather than a signature stamp or project that might not be carried forward in future years. When so much of the focus is on new things, some projects that have been in place for a few years tend to fall by the wayside. With the very future of the unified Bar facing uncertainty, now is the time to grow what we have, in order for the YLD to remain a strong part of whatever the future holds.

All of our quarterly YLD meetings this year will be held in Georgia and are accessible for all young lawyers in our state. Our Summer Meeting will be on St. Simons Island later this month, followed by the Fall Meeting at Lake Lanier in November, the Midyear Meeting in Atlanta in January and the Spring Meeting in Athens in late April. Large, out-of-state meetings are fun and sometimes necessary, but so are in-state meetings for young lawyers who might not have the resources or firm support to travel across the country.

We are encouraging young lawyers from across Georgia to see that these meetings are accessible and that they can get to them over the course of one weekend. At the Annual Meeting in June, I challenged every member of the Board of Governors to sponsor a young lawyer to attend at least one YLD meeting during this Bar year. I'll repeat that to all Bar members here. Find a young lawyer in your office who's an associate, or a solo in your community, or a staff attorney in your office, encourage them to sign up for a meeting, and offer them some assistance to pay for their travel and activity costs. All of our meetings will continue to offer CLE programs and service projects in our host communities.

I also want to take this opportunity to thank the YLD's immediate past president, Rizza O'Connor, for her leadership throughout the previous year. Rizza earns special congratulations for successfully revamping our Signature Fundraiser and for organizing an awesome trip to Washington, D.C., for the swearing in of Georgia young lawyers into the U.S. Supreme Court. Our group was able to meet with and hear from Justices Clarence Thomas, Ruth Bader Ginsburg and Brett Kavanaugh—truly a once in a lifetime opportunity.

I am honored that the YLD membership and Bar membership have put their faith in me to lead this group in 2019-20. I hope to—with the help of my fellow officers, our Board of Directors, committee chairs and general membership—make an impactful contribution to the YLD that honors the gifts I have received, professionally and personally, from it.

Everyone, ultimately, ages out of YLD membership, as I will when I turn 36 next May, even though I will be permitted the victory lap of immediate past president. But I hope every YLD-eligible member of the State Bar of Georgia will take advantage of what our organization has to offer: opportunities to serve the public and the profession, to make new friends, to visit with and learn from judges and State Bar leaders and to learn from those who might see the world differently than how we do.

Finally, to any member of the State Bar: if you have ideas or if you want to come to a YLD meeting, please come. We love to network, and everyone is invited regardless of age or years of practice. We're here to work together and move these projects forward for the benefit of not just young lawyers, but the Bar as a whole. When we all work together, as the service arm of the Bar, much can be achieved. ●

# 2019-20 YLD MEETINGS

## SUMMER | AUG. 22-25, 2019

**THE KING AND PRINCE BEACH & GOLF RESORT**
**ST. SIMONS ISLAND, GA**

Join us as we kick off the 2019-20 Bar year on beautiful St. Simons Island. Programming will include a CLE, the General Session, a group dinner and a group outing. There will also be plenty of time to meet friends by the pool or at the beach.

## FALL | NOV. 15-17, 2019

**LANIER ISLANDS LEGACY LODGE**
**BUFORD, GA**

The Lanier Islands Legacy Lodge will host the YLD for the 2019 Fall Meeting. Informative programming, a group dinner, a CLE and a trip through the Magical Nights of Lights means that there will be something for everyone to enjoy.

## MIDYEAR | JAN. 9-11, 2020

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# **Legal Trailblazer:** Judge Rachel Pruden Herndon

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**The history of the legal profession** in Georgia dates back to colonial times, at least to 1755, when General James Oglethorpe's original prohibition of lawyers was lifted. Until the early 20th century, the makeup of the legal profession in Georgia was entirely male and entirely white.

The gender barrier was broken in 1916 with the admission of Minnie Anderson Hale (after marriage known as Minnie Hale Daniel) to the Georgia Bar. She had graduated from law school in 1911 but was not licensed to practice law until legislation passed by the Georgia General Assembly forced the Bar to admit women.

The climate was even more hostile toward African-American lawyers in Georgia, who were few in number and excluded from membership in either the Georgia Bar Association or the Atlanta Bar Association.

According to J. Clay Smith Jr., author of "Emancipation: The Making of the Black Lawyer, 1844-1944," not a single African-American lawyer was admitted to the Georgia Bar in the 1930s. There were only five African-American lawyers in Atlanta and "probably less than a dozen throughout the state" at the beginning of the decade, Smith wrote, noting that many lawyers who had taken the Bar exam during that period, and "who had been trained at leading law schools in the nation, were failed by the Georgia Bar examiners."

By 1940, the number of African-American lawyers in Georgia had dropped to three in Atlanta, two in Savannah and one each in Augusta and Macon. In 1941, none of the four African-Americans who took the Georgia Bar exam passed. According to Smith, it was speculated that "the forceful advocacy" of African-American attorneys like Benjamin Jefferson Davis Jr. and John H. Geer, who had represented political activist Angelo Herndon—whose 1933 conviction on charges of attempting to incite insurrection was later overturned by the U.S. Supreme Court—was the reason that others were being denied admission to the Georgia Bar.

So it was that before 1942, there were no African-American women who were licensed to practice law in Georgia. On Dec. 27 of that year, the "Urban League Bulletin" column in *The Atlanta Constitution* reported that Rachel E. Pruden Herndon of Atlanta had passed the Bar exam and would become the first African-American woman admitted to the practice of law in Georgia.

Herndon was not the first African-American woman who attempted to join the Georgia Bar. In 1919 it was reported, according to Smith, that a Morris Brown College faculty member named Estelle A. Henderson, who had already been admitted to the Bar in Alabama, was preparing to take the Georgia Bar exam and had "gone through the usual formalities." But there is no record of Henderson ever having been admitted to the Georgia Bar.

In 1937, Rachel Pruden was not yet married and was studying law under the well-known "dean" of African-American lawyers

in Georgia, Austin Thomas Walden, for whom she worked as a secretary. According to his *New Georgia Encyclopedia* biography written by Louis Williams, Walden was a Georgia native who earned a law degree from the University of Michigan Law School in 1911 and practiced law in Macon from 1912 until he joined the Army, serving as a captain and assistant judge advocate in World War I. He moved his law practice to Atlanta in 1919 and became, Williams wrote, "a noted attorney, a civil rights leader and one of the New South's first black political power brokers." Walden founded the Gate City Bar Association in 1948 and in 1963 was appointed by Mayor Ivan Allen to the Atlanta Municipal Court bench, becoming Georgia's first African-American judge since Reconstruction.

It was under Walden's tutelage and the books in his law library, in addition to a correspondence course and her own knowledge of the law, that Pruden sat for the Georgia Bar exam in 1937, the only African-American among 80 taking the exam. According to Smith, she "was one of the first Bar applicants to complete the task of answering the required 50 questions," which took 15 hours. Judge Virlyn B. Moore, who administered the exam, noted, "Miss Pruden was the second colored woman to take the state examination." She did not pass the examination in 1937, and, Smith wrote, "may have failed other attempts to pass the Bar" until succeeding in 1942, as the only African-American candidate and one of 18 who passed the exam out of 63 who took it.

Hon. Rachel Pruden Herndon, 1971.

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Rachel Pruden Herndon was born in Atlanta on Feb. 12, 1898. According to "Politics, Civil Rights and Law in Black Atlanta, 1870-1970," written by Herman Skip Mason, she was a product of the Atlanta public schools and a graduate of Atlanta University. She was active in civic and community affairs and was a lifelong member of Beulah Baptist Church. On May 1, 1944, Herndon was admitted to practice law before the Supreme Court of Georgia. As an attorney, Herndon was instrumental in the establishment of the Gate City Bar Association Women's Auxiliary. She was active with the Atlanta branch of the NAACP.

In 1956, she became the first African-American woman from Georgia to be admitted to practice before the U.S. Supreme Court. In December of 1965, Herndon was appointed by Mayor Allen as the first African-American woman judge of the Atlanta Municipal Court, filling the vacancy created by the death of her mentor, Judge A.T. Walden. Because of her work with the Democratic Party of Georgia, she was invited to visit the White House and was greeted personally by President Lyndon B. Johnson and Vice President Hubert H. Humphrey.

In 1971, *The Atlanta Journal* published a photograph by Billy Downs of Judge Herndon in her office. The caption read: "Judge Pruden Herndon looks over papers: 'There but for the grace of God go I.'" Herndon retired from the bench some 30 years after her admission to the Bar. She died Jan. 10, 1979, and was buried in Atlanta's Lincoln Cemetery.

As the first African-American woman admitted to the practice of law in Georgia, Judge Herndon blazed an important trail for generations of future Bar members across the state and played an instrumental role in the history of our state's legal profession. ●

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# Do's and Don'ts When Handling a Product Liability Matter in Georgia

Product liability cases often involve multiple causes of action against more than one defendant in the chain of distribution, with some claims sounding in tort and others sounding in contract. Carefully analyzing which parties are involved (designer, manufacturer, distributor or seller) and which causes of action have "teeth" in Georgia can help both sides narrow the issues for discovery and trial, as well as prepare the case for meaningful settlement discussions on the damages that might actually be awarded.

BY ARTHUR J. PARK

**Product liability matters in Georgia** present a unique array of factual and legal issues. Who qualifies as "the manufacturer" under O.C.G.A. section 51-1-11? What causes of action can a plaintiff bring? How does the plaintiff's theory of liability impact the evidence required at trial? Did this particular consumer actually read the warnings and manual? Having handled the defense of product liability cases as well as subrogation claims on behalf of insurers, I hope to provide the reader with a few tips that may be helpful in this tricky field.

## What causes of action are available in a product liability case?

### Georgia's Uniform Deceptive Trade Practices Act[1]

Georgia's Uniform Deceptive Trade Practices Act bans advertising in consumer transactions that is false or likely to cause confusion or misunderstanding, such as misrepresenting the origin or quality of a product, "bait-and-switch" tactics, or the like.[2] Although this cause of action sounds great and many states have fee-shifting statutes,[3] Georgia law is not very helpful to consumers here. Under Georgia law, injunctive relief is the "sole remedy" available to a party under Georgia's Uniform Deceptive Trade Practices Act (UDTPA).[4] Because the UDTPA provides for equitable relief only, all claims for monetary relief under the UDTPA are subject to being summarily dismissed.[5] To avoid dismissal, a plaintiff must raise a factual question about the "likelihood of some future wrong" to him.[6] Damages allegedly caused by an earlier deceptive act cannot be remedied through an injunction.[7] An injunction is only available to remedy future wrongs and "'does not afford a remedy for what is past.'"[8] As such, a claim under the UDTPA for a manufacturer's alleged misrepresentation of the quality and abilities of a product is not viable where the consumer's claim is based entirely on damages suffered for past wrongs.[9]

*Do not* bring a cause of action for violation of the UDTPA, unless you enjoy banging your head against a wall.

### Breach of Warranty

When a plaintiff has purchased a defective product, he or she may bring a claim for breach of warranty—either an implied warranty or an express warranty—that sounds in contract.

#### Implied Warranty of Merchantability

Under Georgia's version of the Uniform Commercial Code (UCC), "a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind."[10] Goods are merchantable if they (a) are fit for the ordinary purposes for which such goods are used; and (b) conform to the promises or affirmations of fact made on the container or label.[11] Under Georgia law, in order to prove a breach of implied warranty, a plaintiff must show four elements: (1) the goods were subject to the warranty; (2) the goods were defective at the time of sale; (3) the injury was caused by the defective goods; and (4) damages were incurred as a result.[12]

*Do* consider the UCC remedies if the product seller is the primary target.

#### Express Warranties

An express warranty is contractual in nature and arises from specific statements or representations, either verbal or written, made by a seller concerning the quality or character of goods.[13] Express warranties are usually made at the time of sale (oral statement) or provided in writing with the product.[14]

A seller's oral statement made at the time of sale must (a) refer to the character, quality or title to the goods, and (b) the seller must promise or ensure that certain facts are true.[15] For an oral express warranty to be enforceable, the statement or representation must be made contemporaneously with and as part of the sale of the product.[16] The buyer must allege that he relied upon the seller's statement or representation in order to establish a claim for breach of express warranty.[17] A plaintiff must show that a statement was made and intended to be an express warranty and that it was relied upon as such.[18]

For breach of a written warranty, Georgia law imposes two conditions: (1) notice of the defect, and (2) a reasonable opportunity to repair the defect.[19] The Courts have found:

> A warranty is not breached simply because a vehicle is found on delivery or at some time thereafter within the warranty period to have a defective part or an operational deficiency. Assuming the purchaser has maintained his vehicle in the manner specified, it is the *refusal to remedy* within a reasonable time, or a *lack of success* in the attempts to remedy that would constitute a breach of warranty. And where the buyer makes the vehicle available for repair under the warranty, refusal to repair, unsuccessful repair, or repeated failures of the repair constitute a breach of the express warranty.[20]

If there is no repair remedy for a defect, then "there will be a breach of warranty, because the product is not merchantable with an unrepairable defect."[21] If there is a written warranty that includes repair or replacement of parts, then again, two conditions of the warranty must be satisfied before a breach of warranty can exist: first, notice of the defect, and second, a reasonable opportunity to repair the defect.[22]

*Do* read the provisions of any written warranty very closely, as they could make or break your entire case. A typical Lim-

Under Georgia's version of the Uniform Commercial Code, "a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind."

ited Warranty might be restricted to the original purchaser of the product, have a warranty period of one year, only cover repair or replacement of the product and contain a disclaimer for consequential, indirect, special or punitive damages.

### The Privity Requirement

A defendant cannot be held liable for any breach of warranty claim in the absence of privity.

> Generally, before a recovery may be had for breach of warranty, this state has recognized the necessity of privity between the parties where a plaintiff-purchaser of an article has been injured because of its alleged defectiveness and brings an action based on warranty. That is, if a defendant is not the seller to the plaintiff-purchaser, the plaintiff as the ultimate purchaser cannot recover on the implied or express warranty, if any, arising out of the prior sale by the defendant to the original purchaser, such as distributor or retailer from whom plaintiff purchased the product.[23]

The privity requirement is consistent with the notion that claims for breach of warranty are governed by the Uniform Commercial Code and apply only to the "seller" of the good.[24] Under Georgia law, there is no viable breach of warranty claim where there is no privity of contract between the manufacturer and the plaintiff.[25]

For rent-to-own agreements on appliances, O.C.G.A. section 10-1-682(a)(11) provides that "if any part of a manufacturer's warranty continues to cover the leased property at the time the lessee assumes ownership of the property, if allowed by the terms of the warranty, it will be passed on to the lessee." Until the consumer makes all of the payments to the rent-to-own company, there is no privity with the product manufacturer. If ownership of the appliance never passes to the plaintiff, it logically follows that any written warranty never passes to the plaintiff, and he is never in direct privity with the product manufacturer. Because there is no privity, a breach of warranty claim must be dismissed as a matter of law.[26]

*Do* raise the privity defense early and often.

### What are the damages for a breach of warranty?

The UCC controls the damages allowed for a breach of warranty claim.[27] Remedies for breach of warranty can be limited by the manufacturer in the purchase documents.[28] For example, the written warranty can limit "the buyer's remedies to return of the goods and repayment of the price or to repair and replacement of nonconforming goods or parts."[29]

Incidental damages are generally recoverable.[30] Consequential damages are allowed for "[a]ny loss resulting from general or particular requirements and needs of which the seller at the time of contracting had reason to know."[31] However, consequential damages are often limited or excluded in the written warranty.[32]

### Unjust Enrichment and Restitution

Unjust enrichment is an equitable doctrine which provides that a party conferring labor and things of value must act with the expectation that the other will be responsible for the cost.[33] "Unjust enrichment applies when as a matter of fact there is no legal contract, but when the party sought to be charged has been conferred a benefit by the party contending an unjust enrichment which the benefitted party equitably ought to return or compensate for."[34] An unjust enrichment claim requires the plaintiff to establish that (1) the plaintiff conferred a benefit on the defendant, and (2) equity requires the defendant to compensate the plaintiff for that benefit.[35] It appears that the measure of damages would simply be the purchase price of the product at issue.

*Do not* waste your time bringing a claim for unjust enrichment unless the purchase price was substantial.

### Strict Liability for a Product Defect

In Georgia, the plaintiff's cause of action for products liability is statutory in nature, and O.C.G.A. section 51-1-11(b)(1) provides as follows:

> The manufacturer of any personal property sold as new property directly or through a dealer or any other person shall be liable in tort, irrespective of privity, to any natural person who may use, consume, or reasonably be affected by the property and who suffers injury to his person or property because the property when sold by the manufacturer was not merchantable and reasonably suited to the use intended, and its condition when sold is the proximate cause of the injury sustained.

The phrase "not merchantable and reasonably suited for the use intended" means that the product was defective when it left the manufacturer's hands.[36] It is also interesting to note that the strict liability cause of action is limited to "any natural person," so a corporation is not entitled to bring such a case.[37]

In *Banks v. ICI Americas, Inc.*, the Supreme Court of Georgia indicated that there are three types of product defect claims: manufacturing defect, design defect and marketing/packaging defects.[38] "The existence of a defect is crucial, because a manufacturer is not an insurer against all risks of injury associated with its product."[39] Even though an injury may happen to result, a product is not defective so long as it has been properly prepared, manufactured, packaged and accompanied with adequate warnings and instructions.[40]

For manufacturing defect claims, the plaintiff can ascertain whether a product is "defective" by simply comparing it to a properly manufactured item from the same product line.[41]

For design defect claims, the court will conduct a risk-utility analysis including whether the manufacturer acted reasonably in choosing a particular design, the probability and seriousness of the risk posed, the usefulness of the product and the burden on the manufacturer to eliminate the risk.[42] In general, the plaintiff must allege an alternative product design that would have made the product safer.[43] In addition, "in a design defect case the entire product line may be called into question."[44] Thus, a defendant may be asked how many products were manufactured (in the same model, of the same batch, in the same factory, etc.) and how many of those products were allegedly defective.

A claim for marketing/packaging defects centers on a defendant's failure to warn of a dangerous condition associated with the product. A manufacturer is liable for failure to warn when it (a) knows or has reason to know that the product is, or is likely to be, dangerous for the use for which it is supplied, (b) has no reason to believe that those for whose use the product is supplied will realize its dangerous condition and (c) fails to exercise reasonable care to inform those to whom the product is supplied of its defective or dangerous condition, or of the facts that make it likely to be dangerous.[45] "Under Georgia law, a product user's failure to read an allegedly negligent warning is a complete bar to a product defect failure to warn claim."[46] If a plaintiff had the opportunity to read the label or manual but failed to do so, any insufficiency in the warning simply was not the proximate cause of his injuries.[47]

Regardless of which theory a plaintiff pursues, a plaintiff must establish a causal link between the defective condition and the injury.[48] In a product liability action, the trial court must grant summary judgment if a plaintiff fails to establish causation.[49]

Under O.C.G.A. section 51-1-11(b)(2), there is a 10-year statute of repose for strict liability claims which begins to run "from the date of the first sale for use or consumption of the personal property."

### Liability of the Seller and Distributor

As noted above, the Georgia statute on strict liability is limited to "the manufacturer."[50] The Court of Appeals of Georgia has held that a manufacturer is one "actively involved in the design, specifications, or formulation of a defective final product or of a defective component part which failed during use of a product and caused injury."[51] In other words, a manufacturer is one who has an "active role" in the production, design or assembly of products and places them in the stream of commerce.[52] An entity cannot be strictly liable if it had "no real role in the creation of products" and had "no input into its making, either by design or manufacture or assembly."[53] Georgia courts have consistently held that entities that do not have an active role in the production, design or assembly of products are not manufacturers and are not to be held strictly liable.[54]

O.C.G.A. section 51-1-11.1(b) specifically provides that a "product seller" is not a manufacturer for purposes of strict liability. In O.C.G.A. section 51-1-11.1(a), the term "product seller" is defined as one who "leases or sells and distributes; installs; prepares; blends; packages; labels; markets; or assembles pursuant to a manufacturer's plan, intention, design, specifications, or formulation; or repairs; maintains; or otherwise is involved in placing a product in the stream of commerce." A mere product seller is not a manufacturer and is not liable as a manufacturer on grounds of strict liability.[55]

Unlike many other states,[56] strict liability in Georgia does not apply to parties other than the manufacturer; in other words, the seller and distributor cannot be held strictly liable.[57] Thus, "a product seller of a product manufactured by another . . . is not liable in strict product liability by statute."[58] A few examples may be instructive:

- In *Buford v. Toys R' Us, Inc.*, 217 Ga. App. 565 (1995), a toy retailer that completed the assembly of a partially assembled bicycle could not be held strictly liable for injuries incurred after a manufacturer's weld gave way.
- In *Dean v. Toyota Industrial Equipment Manufacturing, Inc.*, 246 Ga. App. 255 (2000), summary judgment was not appropriate where the defendant assembled a forklift and there was a "lack of clarity" regarding which entity was responsible for design.
- In *Buchan v. Lawrence Metal Products, Inc.*, 270 Ga. App. 517 (2004), the seller of a crowd control system chose the retractable tape cassettes and other components of the posts, purchased the components from different manufacturers, and assembled the units according to its own design; as such, questions of fact precluded summary judgment.

The seller or distributor can still be held liable for negligence. However, a seller is under no obligation to test an article purchased and sold by him for the purpose of discovering latent or concealed defects; when he purchases and sells an article in the usual course of trade, without knowledge of its dangerous quality, and with nothing tending reasonably to call his attention thereto, he is not negligent in failing to exercise care to determine whether it is dangerous or not.[59]

Next, a product seller has a duty to warn "only of dangers actually or constructively known at the time of the sale."[60] Although the seller has no duty to warn of patent/obvious defects, there is potential liability when the seller "is aware of a danger either not communicated by the manufacturer's warning or substantively different from the dangers the manufacturer has included in a warning label."[61]

*Do* file a motion for summary judgment as to the issue of strict liability at the close of discovery if you represent the seller or distributor of the product.

### Negligence

The Supreme Court of Georgia has held that in a product defect case, "the claims of negligence . . . are but re-statements of the claims relative to defective design."[62] "The sine qua non of a products liability claim, regardless of whether plaintiff proceeds under a theory of strict liability or negligence, is a defect in the product."[63] Only "semantics" distinguish the cause of action for negligence and a cause of action pursuant to O.C.G.A. section 51-1-11 claiming strict liability for defective design.[64] Practically, "the determination of whether a product was defective (involving the reasonableness of a manufacturer's design decisions), which is a basic inquiry for strict liability purposes, generally will overlap the determination of whether the manufacturer's conduct was reasonable, which is a basic inquiry for negligence purposes."[65] In short, "the distinction between negligence and strict liability is not significant for purposes of the risk-utility analysis" required in a design defect claim.[66] Although strict product liability and negligence are technically different theories of liability, in the area of product design there exists an area of overlap so that the case law may be applied from either area.[67] "The existence

of a defect in the product is an essential element of a products liability claim, whether brought under a theory of strict liability or of negligence."[68]

Finally, the 10-year statute of repose generally applies to negligence claims involving the product.[69] However, it appears that three exceptions apply: (1) causing a disease or birth defect; (2) willful, reckless or wanton disregard for life or property by the manufacturer; and (3) failure to warn of a danger that becomes known to the manufacturer.[70]

#### Negligent Misrepresentation

The "essential elements of a negligent misrepresentation claim are: (1) the defendant's negligent supply of false information to foreseeable persons, known or unknown; (2) such person's reasonable reliance upon false information; and (3) economic injury proximately resulting from such reliance."[71] Generalized representations about the product are not definitive and are not capable of exact proof to support a negligent misrepresentation claim.[72] Of course, the plaintiff must prove that the false representation was the proximate cause of any harm.[73] If the plaintiff was only told generic representations like "that's a good product right there," this cause of action is not going to get off the ground.

### Can the manufacturer and the distributor/seller be lumped together?

Sometimes the complaint will refer to multiple parties as "the ABC defendants" or something to that effect, lumping an overseas manufacturer together with a distributor or seller that is based in the United States. This approach has enjoyed little success. The corporate defendants should be considered separate and distinct entities; even closely related corporations are treated as distinct entities absent fraud.[74] Georgia law draws a clear distinction between a corporate entity and individuals. "It is axiomatic that each corporation is a separate entity, distinct and apart from its stockholders and that a person who is not a party to a contract (i.e., is not named in the contract and has not executed it) is not bound by its terms."[75]

*Do not* assume the alter ego theory will carry the day.

### How are punitive damages addressed in a product defect case?

O.C.G.A. section 51–12–5.1(b) provides that "[p]unitive damages may be awarded only in such tort actions in which it is proven by clear and convincing evidence that the defendant's actions showed willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would raise the presumption of conscious indifference to consequences." According to the Supreme Court of Georgia,

> Something more than the mere commission of a tort is always required for punitive damages. There must be circumstances of aggravation or outrage, such as spite or "malice," or a fraudulent or evil motive on the part of the defendant, or such a conscious and deliberate disregard of the interests of others that the conduct may be called willful or wanton. There is general agreement that, because it lacks this element, mere negligence is not enough, even though it is so extreme in degree as to be characterized as "gross."[76]

In short, a finding of gross negligence is not sufficient to support an award of punitive damages.[77] If the defendant's actions rise, at most, to the level of gross negligence, the trial court errs by denying defendant's motion for summary judgment on a punitive damages claim.[78] "In contrast to gross negligence, the expression 'conscious indifference to consequences' means 'an intentional disregard of the rights of another, knowingly or willfully disregarding such rights.'"[79] If the plaintiff cannot produce evidence that would warrant the imposition of punitive damages, summary judgment is proper in favor of the defendant.[80] "Bare conclusions and contentions unsupported by an evidentiary basis in fact are insufficient to oppose a motion for summary judgment."[81]

In a product defect case, punitive damages typically are not appropriate where the manufacturer has complied with regulatory standards.[82] Compliance with regulatory or industry standards tends to show that there was no willful misconduct, malice, fraud or oppression by the defendant.[83] If the defendant shows compliance with the applicable safety regulations, the plaintiff must come forward with "other evidence showing culpable behavior" to avoid the entry of summary judgment.[84]

Georgia's generic $250,000 cap on punitive damages does not apply to "a tort case in which the cause of action arises from product liability."[85] However, a defendant can only be forced to pay punitive damages one time based on the wrongful act or omission, i.e., the design or manufacture of the defective product at issue.[86] In addition, 75 percent of any such punitive damage award based on a product defect will be paid into the state treasury.[87]

*Do not* pursue punitive damages for a product defect claim: they are difficult to prove, and the state receives most of the funds.

### Conclusion

Product liability cases often involve multiple causes of action against more than one defendant in the chain of distribution, with some claims sounding in tort and others sounding in contract. Carefully analyzing which parties are involved (designer, manufacturer, distributor or seller) and which causes of action have "teeth" in Georgia can help both sides narrow the issues for discovery and trial, as well as prepare the case for meaningful settlement discussions on the damages that might actually be awarded. ●

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## Endnotes

1. O.C.G.A. §§ 10-1-370 – 10-1-439.4 (2017).
2. O.C.G.A. § 10-1-372 (1968).
3. *See, e.g.,* the West Virginia Consumer Credit and Protection Act, W. VA. CODE §§ 46A-1-101 – 46A-8-102 (1974).
4. O.C.G.A. § 10-1-373(a) (2017). *See* Moore-Davis Motors, Inc. v. Joyner, 252 Ga. App. 617, 619, 556 S.E.2d 137, 140 (2001); Friedlander v. HMS-PEP Prods., Inc., 226 Ga. App. 123, 124, 485 S.E.2d 240, 241 (1997); Lauria v. Ford Motor Co., 169 Ga. App. 203, 206, 312 S.E.2d 190, 193 (1983).
5. Akron Pest Control v. Radar Exterminating Co., Inc., 216 Ga. App. 495, 498, 455 S.E.2d 601, 603 (1995).
6. Catrett v. Landmark Dodge, Inc., 253 Ga. App. 639, 644, 560 S.E.2d 101, 106 (2002).
7. *Id.*
8. *Id.* (*quoting* Hunter v. George, 265 Ga. 573, 575, 458 S.E.2d 830, 832 (1995)).
9. Terrill v. Electrolux Home Products, Inc., 753 F. Supp. 2d 1272, 1291 (S.D. Ga. 2010).
10. O.C.G.A. § 11-2-314(1) (1962).
11. O.C.G.A. § 11-2-314(2).
12. Mitchell v. BBB Servs. Co., Inc., 261 Ga. App. 240, 242, 582 S.E.2d 470, 471-42 (2003).
13. Steward v. Gainesville Glass Co., Inc., 131 Ga. App. 747, 752 (1974).
14. O.C.G.A.§ 11-2-313(1) (1962).
15. North Ga. Ready Mix Concrete Co. v. L & L Constr., Inc., 235 Ga. App. 68, 72, 508 S.E.2d 722, 726 (1998).
16. *Id.*; Bell v. Menzies, 110 Ga. App. 436, 437-38, 138 S.E.2d 731, 732 (1964).
17. Moore v. Berry, 217 Ga. App. 697, 699, 458 S.E.2d 879, 880-81 (1995) (express warranty created where sales clerk stated that tree stand was "probably the safest one on the market" and that there is "no way you can fall" from it).
18. Servais v. Philbrick, 190 Ga. App. 861, 862, 380 S.E.2d 496, 497 (1989) (express warranty not created by "[m]ere words of recommendation") (*quoting* Kushner v. McClarty, 165 Ga. App. 400, 403, 300 S.E.2d 531, 534 (1983)).
19. Knight v. American Suzuki Motor Corp., 272 Ga. App. 319, 321-22, 612 S.E.2d 546, 549 (2005) (*citing* McDonald v. Mazda Motors of Am., Inc., 269 Ga. App. 62, 65, 603 S.E.2d 456, 460 (2004)). *See also* DeLoach v. General Motors, 187 Ga. App. 159, 369 S.E.2d 484, 485-86 (1988); O.C.G.A. § 11-2-508 (1962); O.C.G.A. § 11-2-605 (2010); O.C.G.A. § 11-2-607(3)(a) (1962).
20. Knight, at 322.
21. McDonald, 269 Ga. App. at 64, 603 S.E.2d at 459.
22. *Id.* at 65.
23. Gowen v. Cady, 189 Ga. App. 473, 476, 376 S.E.2d 390, 393 (1988) (holding summary judgment proper when defendant did not sell the product in question to plaintiff). *See also* Cobb Cnty. Sch. Dist. v. MAT Factory, Inc., 215 Ga. App. 697, 702, 452 S.E.2d 140, 145-46 (1994) (affirming trial court's grant of summary judgment to defendant where there was no privity between the parties).
24. *See* O.C.G.A. § 11-2-313 (1962) (express warranties made by seller); O.C.G.A. § 11-2-314(1) (1962) (implied warranty applies to "sale if the seller is a merchant with respect to goods of that kind").
25. Bodymasters Sports Indus., Inc. v. Wimberley, 232 Ga. App. 170, 174, 501 S.E.2d 556, 561 (1998); Stewart v. Gainesville Glass Co., Inc., 131 Ga. App. 747, 753-54, 206 S.E.2d 857, 860 (1974). However, O.C.G.A. section 11-2-318 does extend the warranty claim to the household of the buyer for personal injury matters.
26. *See, e.g.,* Heyde v. Xtraman, Inc., 199 Ga. App. 303, 305, 404 S.E.2d 607, 609-10 (1991) (breach of warranty claim requires privity, and plaintiff was only in privity with party to the rental agreement).
27. *See* O.C.G.A. § 11-2-102 (1962) (UCC applies to sale of goods); Redfern Meats, Inc. v. Hertz Corp., 134 Ga. App. 381, 215 S.E.2d 10 (1975) (same).
28. O.C.G.A. § 11-2-316(4) (1962).
29. O.C.G.A. § 11-2-719(1)(a) (1962).
30. O.C.G.A. § 11-2-715(1) (1962).
31. O.C.G.A. § 11-2-715(2)(a) (1962).
32. *See* O.C.G.A. § 11-2-719(3) (1962).
33. Jones v. White, 311 Ga. App. 822, 828, 717 S.E.2d 322, 328 (2011); Morris v. Britt, 275 Ga. App. 293, 294, 620 S.E.2d 422, 424 (2005).
34. Tuvim v. United Jewish Communities, Inc., 285 Ga. 632, 635, 680 S.E.2d 827, 829-30 (2009).
35. J'CARPC, LLC v. Wilkins, 545 F. Supp. 2d 1330, 1340 (N.D. Ga. 2008).
36. Center Chem. Co. v. Parzini, 234 Ga. 868, 869, 218 S.E.2d 580, 582 (1975).
37. Mike Bajalia, Inc. v. Amos Constr. Co., Inc., 142 Ga. App. 225, 226-27, 235 S.E.2d 664, 665-66 (1977).
38. 264 Ga. 732, 733, 450 S.E.2d 671, 672 (1994).
39. Giordano v. Ford Motor Corp., 165 Ga. App. 644, 645, 299 S.E.2d 897, 899 (1983).
40. Parzini, 234 Ga. 868, 870, 218 S.E.2d at 582 (1975).
41. Banks, 264 Ga. at 733, 450 S.E.2d at 673 (1994).
42. *Id.* at 734 (1994). A plaintiff must present some evidence of the design defect—more than the fact that the injury occurred. *See* In re Mentor Corp. ObTape Transobturator Sling Prods. Liability Litigation, 711 F. Supp. 2d 1348, 1365 (M.D. Ga. 2010) ("Plaintiffs have the burden to demonstrate a genuine issue of material fact that [the product] is defectively designed; to do this, they must produce evidence from an expert who is qualified to conduct the risk-utility analysis … ."). If a plaintiff's liability expert is excluded from trial, a plaintiff may not be able to present a prima facie case of a design defect (absent a recall or admissions by the defendant).
43. *See* Jones v. NordicTrack, Inc., 274 Ga. 115, 118, 550 S.E.2d 101, 103 (2001).
44. Banks, 264 Ga. at 733, 450 S.E.2d at 673.
45. Greenway v. Peabody Int'l Corp., 163 Ga. App. 698, 703, 294 S.E.2d 541, 545 (1982).
46. Silverstein v. Procter & Gamble Mfg. Co., 700 F. Supp. 2d 1312, 1321 (S.D. Ga. 2009) (*citing* Cobb Heating & Air Conditioning Co., Inc. v. Hertron Chem. Co., 139 Ga. App. 803, 804, 229 S.E.2d 681, 682 (1976); Powell v. Harsco Corp., 209 Ga. App. 348, 350, 433 S.E.2d 608, 610 (1993)).
47. Silverstein, 700 F. Supp. 2d at 1321 (*citing* Thornton v. E.I. DuPont De Nemours & Co., Inc., 22 F.3d 284, 290 (11th Cir. 1994)).
48. *See* Beman v. Kmart Corp., 232 Ga. App. 219, 221, 501 S.E.2d 580, 582 (1998).
49. *See, e.g.,* Bunch v. Maytag Corp., 211 Ga. App. 546, 547-48, 439 S.E.2d 676, 678 (1993) (inconclusive expert testimony that could not rule out several possible causes of fire mandated summary judgment in light of lack of proof of causation); Wilson v. Taser Int'l, Inc., 303 Fed. Appx. 708, *5 (11th

Cir. 2008) (Georgia law requires expert testimony in products liability case that shows a probable cause, not a mere possible one).

50. O.C.G.A. § 51-1-11(b)(1).
51. Davenport v. Cummins Alabama, Inc., 284 Ga. App. 666, 671, 644 S.E.2d 503, 507 (2007).
52. Alltrade, Inc. v. McDonald, 213 Ga. App. 758, 760, 445 S.E.2d 856, 858 (1994).
53. *Id.* at 759-60.
54. *See, e.g.*, Schneider v. Tri Star Int'l, Inc., 223 Ga. App. 85, 86, 476 S.E.2d 846, 847-48 (1996); Buford v. Toys R' Us, Inc., 217 Ga. App. 565, 566, 458 S.E.2d 373, 375 (1995), *disapproved of on other grounds by* Wal-Mart Stores, Inc. v. Wheeler, 262 Ga. App. 607, 611, 586 S.E.2d 83, 86 (2003); Ream Tool Co. v. Newton, 209 Ga. App. 226, 227-28, 433 S.E.2d 67, 70 (1993); Mullins v. M.G.D. Graphics Sys. Grp., 867 F. Supp. 1578, 1582-83 (N.D. Ga. 1994); Freeman v. United Cities Propane Gas of Ga., Inc., 807 F. Supp. 1533, 1539-40 (M.D. Ga. 1992).
55. Ream Tool Co., 209 Ga. App. At 227-28, 433 S.E.2d at 70.
56. *See, e.g.*, Morningstar v. Black & Decker Mfg. Co., 253 S.E.2d 666, 683 n.22 (W. Va. 1979) (strict liability "applies to both the manufacturer and the seller" but innocent seller may have indemnity remedy against manufacturer).
57. *See* Farmex, Inc. v. Wainwright, 269 Ga. 548, 549-50, 501 S.E.2d 802, 803 (1998) (seller acquired inventory from manufacturer); Ellis v. Rich's, Inc., 233 Ga. 573, 577, 212 S.E.2d 373, 376 (1975) (retail seller); Robinson v. Williamson, 245 Ga. App. 17, 19, 537 S.E.2d 159, 161 (2000) (pharmacists and pharmacy that package and sell drugs manufactured by others are sellers, not manufacturers).
58. Boyce v. Gregory Poole Equip. Co., 269 Ga. App. 891, 894, 605 S.E.2d 384, 388 (2004).
59. *See generally* Ellis, 233 Ga. 573, 212 S.E.2d 373 (1975). *See also* Ryals v. Billy Poppell, Inc., 192 Ga. App. 787, 788, 386 S.E.2d 513, 514 (1989) (no evidence reasonably tended to call seller's attention to any alleged defect).
60. DeLoach v. Rovema Corp., 241 Ga. App. 802, 804 (2000) (*citing* Bishop v. Farhat, 227 Ga. App. 201, 206, 489 S.E.2d 323, 328 (1997)).
61. Boyce, 269 Ga. App. at 896, 605 S.E.2d at 389 (2004) (*quoting* Farmer v. Brannan Auto Parts, Inc., 231 Ga. App. 353, 355, 498 S.E.2d 583, 585 (1998)).
62. Mann v. Coast Catamaran Corp., 254 Ga. 201, 202, 326 S.E.2d 436, 437 (1985), *disapproved of on other grounds by* Banks v. ICI Americas, Inc., 264 Ga. 732, 733, 450 S.E.2d 671, 673 (1994).
63. Boswell v. Overhead Door Corp., 292 Ga. App. 234, 235, 662 S.E.2d 262, 263 (2008).
64. *See* Banks, 264 Ga. at 735, 450 S.E.2d at 674 n.3.
65. *Id.*
66. Ogletree v. Navistar Int'l Transp. Corp., 269 Ga. 443, 445, 500 S.E.2d 570, 572 (1998).
67. Boyce v. Gregory Poole Equip. Co., 269 Ga. App. 891, 898, 605 S.E.2d 384, 390 (2004) (adequate warnings are part of the total product design).
68. Udoinyion v. Michelin N. Am., Inc., 313 Ga. App. 248, 250, 721 S.E.2d 190, 193 (2011) (*citing* Boswell, 292 Ga. App. at 235, 664 S.E.2d at 223). *See also* John Crane, Inc. v. Jones, 278 Ga. 747, 751, 604 S.E.2d 822, 826 (2004) (proximate cause is essential element whether plaintiff proceeds under negligence or strict liability).
69. O.C.G.A. §§ 51-1-11(b)(2), (c) (2009).
70. O.C.G.A. § 51-1-11(c) (2009).
71. DaimlerChrysler Motors Co., LLC v. Clemente, 294 Ga. App. 38, 50, 668 S.E.2d 737, 749 (2008).
72. King v. Codisco, 217 Ga. App. 704, 705, 458 S.E.2d 881, 882 (1995).
73. Home Depot U.S.A., Inc. v. Wabash Nat'l Corp., 314 Ga. App. 360, 372, 724 S.E.2d 53, 63-64 (2012); Gentry v. Volkswagen of Am., Inc., 238 Ga. App. 785, 791, 521 S.E.2d 13, 18 (1999).
74. RC Cola Bottling Co., Inc. v. Vann, 220 Ga. App. 479, 481, 469 S.E.2d 523, 524 (1996).
75. Levy v. Reiner, 290 Ga. App. 471, 473, 659 S.E.2d 848, 851 (2008) (quotations omitted).
76. Banks v. ICI Americas, Inc., 266 Ga. 607, 610, 469 S.E.2d 171, 174-75 (1996).
77. COMCAST Corp. v. Warren, 286 Ga. App. 835, 839, 650 S.E.2d 307, 311 (2007).
78. Cullen v. Novak, 201 Ga. App. 459, 460, 411 S.E.2d 331, 332 (1991) (running red light insufficient); Mableton Parkway CVS, Inc. v. Salter, 273 Ga. App. 477, 482, 615 S.E.2d 558, 563-64 (2005) (errors in misfiling prescriptions).
79. Trotter v. Summerour, 273 Ga. App. 263, 265-66, 614 S.E.2d 887, 889-90 (2005) (*quoting* Dow Chem. Co. v. Ogletree, Deakins, Nash, Smoak & Stewart, 237 Ga. App. 27, 31, 514 S.E.2d 836, 840 (1999)) (awarding attorney's fees to defendant when plaintiff pursued a frivolous claim of punitive damages).
80. Artzner v. A & A Exterminators, Inc., 242 Ga. App. 766, 772-73, 531 S.E.2d 200, 206 (2000); Keith v. Beard, 219 Ga. App. 190, 194, 464 S.E.2d 633, 638-39 (1995).
81. Mimick Motor Co. v. Moore, 248 Ga. App. 297, 299, 546 S.E.2d 533, 536 (2001). *See also* Taylor v. Powertel, Inc., 250 Ga. App. 356, 357, 551 S.E.2d 765 (2001) ("plaintiff failed to come forward with some evidence that would indicate that at trial he could meet the intermediate standard of proof by clear and convincing evidence").
82. Barger v. Garden Way, Inc., 231 Ga. App. 723, 728, 499 S.E.2d 737, 743 (1998).
83. Stone Man, Inc. v. Green, 263 Ga. 470, 471-72, 435 S.E.2d 205, 206 (1993). *See also* Ivy v. Ford Motor Co., No. 1:08-CV-2078-TCB, 2010 WL 9115838 at *15 (N.D. Ga. Jan. 22, 2010), *aff'd* 646 F.3d 769 (11th Cir. 2011) (plaintiff cannot satisfy higher burden of establishing punitive damages); Moore v. Wright Med. Tech., Inc., No. 1:14-CV-62, 2016 WL 1298975 at *6 (S.D. Ga. Mar. 31, 2016) (noting defendant's compliance with federal regulations and plaintiffs' failure to point to evidence of willful and wanton misconduct); Welch v. General Motors Corp., 949 F. Supp. 843, 844-46 (N.D. Ga. 1996) (plaintiff unable to overcome compliance with applicable federal regulations).
84. General Motors Corp. v. Moseley, 213 Ga. App. 875, 885, 447 S.E.2d 302, 311 (1994), *abrogated on other grounds by* Webster v. Boyett, 269 Ga. 191, 193-94, 496 S.E.2d 459, 461-62 (1998); Welch v. General Motors Corp., 949 F. Supp. At 844.
85. O.C.G.A. §§ 51-12-5.1(e), (g) (2010).
86. O.C.G.A. § 51-12-5.1(e)(1) (2010).
87. O.C.G.A. § 51-12-5.1(e)(2) (2010).

# 2019 Annual Meeting: A Change in Location Brings a Fresh Perspective

BY JENNIFER R. MASON

The Ritz-Carlton Orlando, Grande Lakes

PHOTO PROVIDED BY THE RITZ-CARLTON ORLANDO, GRANDE LAKES

**The State Bar of Georgia held its 2019** Annual Meeting in Orlando, Florida, at the impeccable Ritz-Carlton Orlando, Grande Lakes. A departure from past years' beach resort venues, this meeting was superbly positioned for members and their families to take full advantage of the amenities of the Ritz-Carlton and the Orlando area all while providing a conference experience that surpassed expectations. Change often invokes a fresh perspective, which leads to clarity and focus. With the new Bar year upon us, those qualities were noticed and appreciated by all who attended.

## Opening Night Festival

The traditional Thursday Opening Night Festival, aptly-named Royal Jubilee, was moved indoors due to weather, but that didn't dampen the spirits of Bar members, their families and guests. This casual event

The Pope family enjoys the Opening Night Festival. *(Standing, left to right)* Derrick and Lanette; *(seated, left to right)* Sallie Elizabeth Pope-Howard and Sydney Alizabeth Pope.

PHOTO BY SARAH I. COOLE

was the perfect open to the weekend as it provided an informal and relaxed atmosphere in which friends old and new were able to connect and recharge with their families. Food, drinks and music were plentiful as the fanciful world of pirates and princesses was brought to life. Characters interacted with the guests, pulling willing participants into the land of make-believe to the delight of everyone there. Plenty of faces were painted, crowns were created and playful sword-fights ensued. And when a dance party spontaneously occurred toward the end of the evening, you knew the night was a success.

## Working for the Weekend

The focus of the weekend was Bar business, and there was ample opportunity to take care of that during the day. Several committees and sections took advantage of the time to finish up current years' business while reflecting upon the successful completion of another Bar year in addition to setting goals for the next. CLE seminars available on Thursday and Friday offered all those present the opportunity to fulfill education requirements on some highly-anticipated topics, including technology, data protection and the law, social justice advocacy in action and the annual installment of the war stories series.

Business wasn't always conducted in a ballroom or classroom meeting space. Evening events geared more toward networking and socializing provided a welcome change from a more organized and structured setup. Beginning with the Opening Night Festival on Thursday and continuing throughout the weekend, members and their guests could choose to attend one or more of the social functions depending on time and level of interest. Friday night featured receptions hosted by law school alumni groups, sections and other organizations. Those who chose to attend a reception (or two) were able to engage in meaningful conversations with smaller groups of colleagues and friends from the past as well as make new connections that could serve them well in the future on any number of levels. More formal events included the YLD Dinner and Swearing-In Ceremony on Friday and the Presidential Inaugural Gala on Saturday.

## Board Meeting Highlights

The June 7 plenary session began with a special recognition by President Kenneth B. "Ken" Hodges III of members of the judiciary, past presidents of the Bar and other special guests, in addition to recognizing and honoring retiring Executive Committee members and Board of Governors members.

President Hodges then took time to present a number of special awards, calling upon specific Bar members and members of the judiciary for assistance. After inviting Jay Elmore, chair of the Military Legal Assistance Program to the podium, the Marshall-Tuttle Award was presented to Norman Zoller, former coordinating attorney of the State Bar of Georgia Military Legal Assistance Program. Following the presentation of the Marshall-Tuttle Award, Hodges called up TILPP Director Michelle E. West to present the John T. Marshall Mentor Award to Cara R. Mitchell, partner, Whelchel Dunlap Jarrard & Walker LLP. Hodges then invited Nicki Vaughan, chair, Child Protection & Advocacy Section, and Supreme Court of Georgia Presiding Justice David Nahmias to the

PHOTO BY JENNIFER R. MASON

*(Left to right)* Terri Gordon, Marquetta Bryan, Shiriki Jones and Jennifer Alewine attend the Mercer University School of Law Alumni Reception honoring Incoming President Darrell Sutton.

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Katie Leonard receives the Section of the Year Award on behalf of the Family Law Section from 2018-19 President Ken Hodges.

podium to present the Juvenile Law and Child Advocacy Awards. The Judge Willie Lovett Award for Advancing the Field of Juvenile Law was presented to Hon. Bradley J. Boyd, chief judge, Fulton County Juvenile Court, and Nathan A. Hayes, attorney, Fulton County Child Attorney Office. The Chief Justice Harris Hines Award for Outstanding Advocacy for Children in Dependency Proceedings was presented by Justice Nahmias to Jasmine Spratling, Forsyth County DFCS (case manager), and Anissa Patton, Fulton County Office of the Child Attorney (lawyer).

President Hodges then presented a replica check to GLSP General Counsel Ira Foster in the amount of $563,438, representing the voluntary contributions made by Bar members to GLSP's 2018 "And Justice for All Campaign."

Following the presentation of the annual awards, the State of the Supreme Court of Georgia was given by Chief Justice Harold Melton and the State of the Court of Appeals of Georgia was given by Chief Judge Stephen Dillard. The State of the Office of the Governor was delivered by Executive Counsel David Dove on behalf of Gov. Brian Kemp. The State of the Georgia House Judiciary Committee was given by Rep. Barry Fleming (chair). The memorials reports was given by President Hodges.

Outgoing YLD President Rizza O'Connor reported on the activities of the YLD over the past year. She stated it was a busy and productive year with the YLD holding 133 events, much of those held outside of the metro-Atlanta area, and devoting hundreds of hours in community service projects. The YLD co-sponsored the 8th Annual Georgia Legal Food Frenzy, raising 1.7 million pounds of food in 2019. The annual Signature Fundraiser held on April 13 raised $47,000 with proceeds benefitting Lawyers for Equal Justice. Championship teams from across the United States competed in the National High School Mock Trial Championship in Athens on May 17-18. The YLD Spring Meeting was held in Washington, D.C., on April 26-29 where a group of young lawyers were sworn in to the U.S. Supreme Court and the YLD received personal visits from Justices Clarence Thomas, Brett Kavanaugh and Ruth Bader Ginsburg. O'Connor thanked the Board of Governors members for their support and stated it has been an honor to serve as the YLD president. Lastly, O'Connor reported that she is excited and encouraged for YLD President-Elect Will Davis' upcoming leadership. The board also received a written report of the activities of the YLD for the Bar year.

Reports were given on the State Disciplinary Board by Chair Melody Glouton, the State Disciplinary Review Board by Chair Tony Askew and the Formal Advisory Opinion Board by Chair Jeff Schneider.

During the plenary session, President Hodges delivered his outgoing remarks as required by the bylaws of the State Bar of Georgia. A copy of these remarks can be found on page 36.

Darrell Sutton presided over the 279th meeting of the Board of Governors on Saturday, June 8. Highlights of the meeting included:

- President Sutton addressed the Board of Governors and presented an overview of his proposed program activities for the 2019-20 Bar year (see page 40).
- The Board approved the following presidential appointments:
  **State Disciplinary Board:**
  Christopher Sutton Connelly, Summerville (2022)
  Casey Carter Santas, Duluth (2022)

Louise Sutton, daughter of President Darrell Sutton, leads the Board of Governors members and guests in the Pledge of Allegiance.

*(Left to right)* The 2019-20 YLD officers include President Will Davis, President-Elect Bert Hummel, Treasurer Elissa Haynes, Secretary Ron Daniels, Newsletter Editor Ashley Akins and Immediate Past President Rizza O'Connor. (Not pictured, Newsletter Editor Audrey Bergeson.)

Lay Member: Michael A. Fuller, Macon (2022)

**State Disciplinary Review Board:**
Northern District: Aimee Lynn Pickett, Atlanta (2022)
Middle District: Caroline Whitehead Herrington, Macon (2022)
Southern District: Paul Threlkeld, Savannah (2022); Jack Long, Augusta (2020)
Lay Member: Clarence Pennie, Kennesaw (2022)

**Formal Advisory Opinion Board:**
Member-at-Large: David N. Lefkowitz, Athens (2021)
Member-at-Large: Edward B. Krugman, Atlanta (2021)
Georgia Defense Lawyers Assoc.: Jacob Edward Daly, Atlanta (2021)
Young Lawyers Division: Elissa Blache Haynes, Atlanta (2021)
Atlanta's John Marshall Law School: Prof. Jeffrey Van Detta, Atlanta (2021)
Mercer University School of Law: Prof. Patrick E. Longan, Macon (2021)
University of Georgia Law School: Prof. Lonnie Brown Jr., Athens (2021)

**State Disciplinary Review Board:**
Alfreda Sheppard, Albany (2020)

- The Board approved the proposed 2019-20 standing, special and program committees and boards by unanimous voice vote.
- Following a report by Sutton, the Board, by unanimous voice vote, approved the following list of nominees, as revised, to the Judicial Qualifications Commission (JQC), which was submitted by the JQC Nominating Committee: Christopher Paul Twyman, LaRae Dixon Moore, Samuel S. Olens, Matthew Glen Moffett, Scott Dewitt Delius and Robert Laurence Barr Jr. The names will be provided to Gov. Brian Kemp for consideration.
- Treasurer Elizabeth Fite reported on the Bar's finances and investments, and the Board, by unanimous voice vote, approved the 2019-20 proposed consolidated budget and ICLE budget.
- As required by Article V, Section 8 of the Bylaws, the Board:
  - authorized the president to secure a blanket fidelity bond to cover all officers, employees and other persons handling State Bar funds.
- As required by Article V, Section 6 of the Bylaws, the Board:
  - directed the State Bar of Georgia 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/or Investment 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 president, the immediate past president, the executive director, the office manager and the general counsel, provided either the president 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

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# Photos *from the* ANNUAL MEETING

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1. *(Left to right)* 2019-20 President Darrell Sutton presents Immediate Past President Ken Hodges with the president's gift.
2. *(Left to right)* University of Georgia School of Law alumni David Dove, Jennifer McNeely and Kevin Epps take a break from dancing during the Opening Night Festival.
3. State Bar of Georgia's 2019-20 Executive Committee: *(back row, left to right)* YLD Immediate Past President Rizza O'Connor, YLD President Will Davis, Secretary Sally Akins, Member Amy Howell, Member David Lipscomb, Member Ivy Cadle, Member Tony DelCampo, Member Javoyne Hicks; *(front row, left to right)* Member Nicki Vaughan, President-Elect Dawn Jones, Treasurer Elizabeth Fite, President Darrell Sutton; Immediate Past President Hon. Ken Hodges, YLD President-Elect Bert Hummel.
4. *(Left to right)* Tradition of Excellence recipients Weymon H. Forrester, Gainesville (defense), Julius M. Hulsey, Gainesville (general practice), Hon. Verda M. Colvin, Macon (judicial), Ken Shigley, Atlanta (plaintiff) with General Practice & Trial Law Section Chair Rob Register.
5. Board Member Sutton Connelly enjoys the Oprning Night Festival with children Branch and Lily.
6. Attorney Nathan A. Hayes accepts the Judge Willie Lovett Award for Advancing the Field of Juvenile Law given by the Child Protection & Advocacy Section and the Committee on Justice for Children of the Supreme Court of Georgia. *(Left to right)* Seletha Butler, Hayes, Presiding Justice David Nahmias, Child Protection & Advocacy Section Chair Nicki Vaughan and 2018-19 President Ken Hodges.
7. GABWA President Liz Brown and Past President Rita M. Treadwell accept the President's Cup on behalf of the Georgia Association of Black Women Attorneys from 2018-19 State Bar President Ken Hodges. This traveling award is presented annually to the voluntary bar association with the best overall program.
8. Platinum Band Atlanta brings all the dancers to the floor.
9. *(Left to right)* O.V. Brantley and Avarita Hanson are all smiles at the Opening Night event.
10. *(Left to right)* Secretary Sally Akins, Treasurer Elizabeth Fite and President-Elect Dawn Jones were sworn in as officers of the State Bar of Georgia on Saturday, June 8.
11. The Presidential Gala doughnut wall.
12. Board Member Randy Davis escorts his granddaughter Vivianna Lane "Vivi" Kouznetsov to the Opening Night Festival.

*(Left to right)* Leslie Cadle, Court of Appeals of Georgia Chief Judge Stephen Dillard and Presiding Judge Sara Doyle enjoy the Mercer University School of Law Alumni Reception honoring Incoming President Darrell Sutton.

*(Left to right)* 2018-19 YLD President Rizza P. O'Connor presents Hon. Carla Wong McMillian with the YLD Distinguished Judicial Service Award.

concerned until they are notified in writing of such revocation of authority and in writing, acknowledge receipt thereof.

- designated Mauldin & Jenkins as the independent auditing firm to audit the financial records of the State Bar of Georgia for the fiscal year 2018-19.
- The Board, by unanimous voice vote, elected Jeff Davis as executive director for the 2019-20 Bar year.
- The Board approved the proposed 2019-20 election schedule.
- Executive Committee elections were held with the following results: Ivy N. Cadle, R. Javoyne Hicks, Amy V. Howell and David S. Lipscomb.
- The Board approved the appointments of Darrell Sutton, Demetrius Tennel Locket and William Hulbert Gregory IV to the Georgia Legal Service Board of Trustees by unanimous voice vote for two-year terms.
- The Board approved the appointment of Dr. Monica Willis-Parker to the Chief Justice's Commission on Professionalism for a three-year term.
- The Board approved the appointment of President-Elect Dawn Jones to the ICJE Board of Trustees for a three-year term.
- Following a report by President Sutton, the Board approved the revised Officer Reimbursement Policy by unanimous voice vote.
- Following a report by President Sutton, the Board approved recommending to the Supreme Court of Georgia proposed amendments to Part XII Client Assistance Program (formerly Consumer Assistance Program) Rules 12-101 and 12-102 by unanimous voice vote.
- The Board approved the following presidential appointments to the ICLE Board of Trustees for three-year terms: Carol V. Clark, Harold T. Daniel Jr., Allegra J. Lawrence Hardy and Kenneth B. Hodges by unanimous voice vote.
- YLD President Will Davis reported that he is excited to serve as YLD president. He said that he became active in the YLD in 2012 with the support of his then employer, GLSP. Davis stated that his main focus will be to build upon and grow the great projects of the YLD. He plans to start with the YLD membership by letting the members know that the YLD is there for them and that the YLD offers tremendous opportunities to work together across the state to make a statewide impact. He will also work closely with the 10 YLD affiliates. Davis announced that his Summer

Meeting will be at the King & Prince on St. Simons Island in August, the Fall Meeting will be at Lake Lanier Islands in November and the Spring Meeting will be in Athens on the last week in April. He wants to encourage more YLD members to participate by letting them know that the meetings are accessible and over one weekend. Davis also asked the Board of Governors to sponsor a young lawyer in their firm or community to attend a YLD meeting. He reported that the YLD will continue to work on its signature projects, including its Build a Better Georgia Day and the High School Mock Trial Program. He stated that he has assigned two of his board members to reach out to the specialty bars so they and the YLD can work together on projects, and the YLD will continue to take a lead in diversity and innovation. Davis said that the YLD has given a lot to him both professionally and personally and he has made good friendships. He will continue to reach out to the lawyers across the state to get behind the YLD and work for the profession. Lastly, Davis reported that he looks forward to working with his slate of officers, and he gave a quick shout-out to the Leadership Academy members.

- Governmental Affairs Director Christine Butcher Hayes reported that the Bar successfully lobbied the passing of both the family law bill and guardianship rewrite bill. She stated that she was grateful for the support of the Bar's contract lobbyists Rusty Sewell, Mark Middleton and Roy Robinson. Hayes reported that the Bar is moving forward with the coming year's legislative agenda, and will continue to produce quality legislation thoroughly vetted by the Advisory Committee on Legislation that will be chaired by Amy Howell. She also reported that they will continue to encourage lawyers to run for the Legislature. Lastly, Hayes thanked Immediate Past President Ken Hodges, the Executive Committee and the Board of Governors for their support of the legislative program.
- High School Mock Trial Director Michael Nixon reported on the National High School Mock Trial Championship that took place May 16-18, in Athens. Immediate Past President Ken Hodges recognized Nixon for his outstanding job in planning and running the competition.
- Sen. Jen Jordan (chair) reported on the activities of the Senate Special Judiciary Committee. She also encouraged Board of Governors members to run for legislative office.
- The Board received copies of the minutes of the Executive Committee meeting held March 16-18.
- The Board received written reports from the following: the Office of the General Counsel, the Insurance Committee, the Consumer Assistance Program, the Fee Arbitration Program, the Law Practice Management Program, the Military Legal Assistance Program, the Unlicensed Practice of Law Program, the Georgia Legal Services Program, the Transition Into Law Practice Program, the Chief Justice's Commission on Professionalism and the Arc of Justice Institute, Inc.
- The Board received a copy of the 2019-20 media report.

## Annual Awards

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

### Local and Voluntary Bar Awards

The Thomas R. Burnside 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 Jacqueline F. Bunn as 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

PHOTO BY SARAH I. COOLE

*(Left to right)* John Shiptenko, State Bar of Georgia Senior Assistant General Counsel, was presented with the 2019 Employee of the Year Award by 2018-19 President Ken Hodges and General Counsel Paula Frederick.

local lawyers and devoting endless hours to serving their communities.

- Walton County Bar Association (under 50 members)
- Blue Ridge Bar Association (101-250 members)
- Georgia Association of Black Women Attorneys (251-500 members)
- Atlanta Bar Association (501 or more members)

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.

- Blue Ridge Bar Association (101-250 members)
- Cobb County Bar Association (501 or more members)

The Best Newsletter Award is presented to local and voluntary bars that provide the best information source to their membership.

- Gwinnett County Bar Association (101-250 members)
- Georgia Defense Lawyers Association (501 or more members)

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.

- Walton County Bar Association (under 50 members)
- Gwinnett County Bar Association (101-250 members)
- Georgia Association of Black Women Attorneys (251-500 members)
- Cobb County Bar Association (501 or more members)

The President's Cup Award is presented annually to the 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*
  Family Law Section—Scot Kraeuter, chair
- *Awards of Achievement*
  Animal Law—Betsy Renee Choder, chair
  Intellectual Property Law—Virginia Carron, chair

**Tradition of Excellent Awards**

The Tradition of Excellence Awards are presented annually at the General Practice & Trial Law Section Breakfast to select Bar members in recognition of the commitment to service to the public, the Bar and to civic organizations. The 2019 recipients were: Weymon H. Forrester, Gainesville (defense), Julius M. Hulsey, Gainesville (general practice), Hon. Verda M. Colvin, Macon (judicial) and Kenneth L. Shigley, Atlanta (plaintiff).

**Young Lawyers Division Awards**

Young Lawyers Division Awards are presented during the YLD Dinner and Swearing-In Ceremony.

The Distinguished Judicial Service Award was presented to Hon. John J. Ellington, Hon. Carla Wong McMillian and Hon. Kathy Stephens Palmer.

The Ross Adams Award was presented to Darrell Sutton.

The Award of Achievement for Service to the Bar was presented to Autumn

THANK YOU

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Chief Justice Harold D. Melton swears in Darrell Sutton as the 57th president of the State Bar of Georgia while Sutton's family looks on. *(Left to right)* Melton, wife Meredith, Wilson (2), Louise (4) and Sutton.

Cole, Montoya Ho-Sang, Zack Howard, Tanesha Steward and Sarah Yaeger.

The Award of Achievement for Service to the Profession was presented to Cary Burke, Samantha Dorsey, Kristen Files, Margaret Head and Chelsea Swanson.

The Award of Achievement for Outstanding Service to the YLD was presented to Nicole Grush, Chinny Law, Nicole Leet, Shalamar Parham, Kevin Patrick, Alyssa Peters and Jennifer Weaver.

The Award of Achievement for Outstanding Service to the Public was presented to Brittanie Browning, Sarah Jett, Morgan Lyndall and Justin Oliverio.

The Award of Excellence for Dedication to the YLD was presented to Joe Dent, Michelle Garner, Amy Howell and Mary McAfee.

The YLD Ethics & Professionalism Award was presented to Ron Daniels.

The Joe Dent Hospitality Award was presented to Jared Parrish.

The Outstanding YLD Affiliate Award was presented to the Glynn County YLD.

## Passing of the Gavel

Saturday evening began with the annual reception honoring the justices and judges of the Supreme Court of Georgia and the Court of Appeals of Georgia, followed by the business portion of the evening. Prior to the swearing-in ceremony, President Hodges presented the Employee of the Year Award, which honors a staff member of the State Bar of Georgia who distinguished himself or herself by being dedicated to carrying out the ideals of the Bar, to John Shiptenko, Senior Assistant General Counsel. He is commended for his exemplary work, conscientious manner and positive attitude.

Following the award presentation, Chief Justice Harold Melton swore in Darrell Sutton as the 57th president of the State Bar. With his hand on the Bible, Sutton repeated the following:

*I, Darrell Sutton, 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 rule and regulations of the State Bar of Georgia and constitution of the United States, so help me God.*

The evening continued with dinner, drinks, dancing and entertainment, including the bourbon, cigar and scotch bar and the ever-popular dance club featuring Atlanta's Platinum Band. ●

**Jennifer R. Mason**

Assistant Director
of Communications
*State Bar of Georgia*

jenniferm@gabar.org

# 2019–20 State Bar Officers, Executive Committee and Board of Governors Members

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*Marietta*

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*Atlanta*

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*Savannah*

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*Atlanta*

**YLD President**
William T. "Will" Davis
*Atlanta*

**YLD President-Elect**
Norbert Daniel "Bert" Hummel IV
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**YLD Immediate Past President**
Rizza O'Connor
*Lyons*

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*Macon*

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*Atlanta*

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*Stone Mountain*

Amy V. Howell
*Atlanta*

David S. Lipscomb
*Lawrenceville*

Nicki Noel Vaughan
*Gainesville*

## New Board of Governors Members

Atlanta Circuit, Post 1
*Nicole Christine Leet, Atlanta*

Atlanta Circuit, Post 3
*Lisa Katsuko Liang, Atlanta*

Atlanta Circuit, Post 25
*Amanda Rourk Clark Palmer, Atlanta*

Atlanta Circuit, Post 37
*Harold Eugene Franklin Jr., Atlanta*

Chattahoochee Circuit, Post 2
*Brandon Lee Peak, Columbus*

Clayton Circuit, Post 1
*John Thomas O'Neal, Jonesboro*

Eastern Circuit, Post 1
*Paul Wain Painter II, Savannah*

Griffin Circuit, Post 2
*Christopher Charles Edwards, Fayetteville*

Gwinnett Circuit, Post 3
*Wesley Charles "Chuck" Ross, Lawrenceville*

Member-at-Large, Post 1
*Ira L. Foster, Atlanta*

Member-at-Large, Post 2
*Francys Johnson Jr., Statesboro*

Ocmulgee Circuit, Post 2
*Ashley Mackin Brodie, Gray*

Out-of-State, Post 1
*Philip Augustine, Lake Mary, Florida*

South Georgia Circuit, Post 2
*Tabitha Edwina Payne, Whigham*

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*Larry Michael Johnson, Nashville*

Alapaha Circuit, Post 2
*Hon. Clayton Alan Tomlinson, Nashville*

Alcovy Circuit, Post 1
*Michael G. Geoffroy, Covington*

Alcovy Circuit, Post 2
*Michael R. Jones Sr., Loganville*

Appalachian Circuit
*Will H. Pickett Jr., Jasper*

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*Nicole Christine Leet, Atlanta*

Atlanta Circuit, Post 2
*Kent Edward Altom, Alpharetta*

Atlanta Circuit, Post 3
*Lisa Katsuko Liang, Atlanta*

Atlanta Circuit, Post 4
*Jeffrey Ray Kuester, Atlanta*

Atlanta Circuit, Post 5
*Catherine Koura, Atlanta*

Atlanta Circuit, Post 6
*Tracee Ready Benzo, Atlanta*

Atlanta Circuit, Post 7
*William M. Ragland Jr., Atlanta*

Atlanta Circuit, Post 8
*Hon. Paige Reese Whitaker, Atlanta*

Atlanta Circuit, Post 9
*Keith Elliott Gammage, Atlanta*

Atlanta Circuit, Post 10
*Scott Dewitt Delius, Atlanta*

Atlanta Circuit, Post 11
*Hon. Jill Pryor, Atlanta*

Atlanta Circuit, Post 12
*Joyce Gist Lewis, Atlanta*

Atlanta Circuit, Post 13
*R. Gary Spencer, Atlanta*

Atlanta Circuit, Post 14
*Edward B. Krugman, Atlanta*

Atlanta Circuit, Post 15
*Letitia A. McDonald, Atlanta*

Atlanta Circuit, Post 16
*James Daniel Blitch I, Atlanta*

Atlanta Circuit, Post 17
*Hon. JaDawnya Cintelle Baker, Atlanta*

Atlanta Circuit, Post 18
*Foy R. Devine, Atlanta*

Atlanta Circuit, Post 19
*Zahra S. Karinshak, Atlanta*

Atlanta Circuit, Post 20
*Jennifer Auer Jordan, Atlanta*

Atlanta Circuit, Post 21
*Patricia Anne Gorham, Atlanta*

Atlanta Circuit, Post 22
*Frank B. Strickland, Atlanta*

Atlanta Circuit, Post 23
*Donna G. Barwick, Atlanta*

Atlanta Circuit, Post 24
*Joseph Anthony Roseborough, Atlanta*

Atlanta Circuit, Post 25
*Amanda Rourk Clark Palmer, Atlanta*

Atlanta Circuit, Post 26
*Anthony B. Askew, Atlanta*

Atlanta Circuit, Post 27
*Nancy Jean Whaley, Atlanta*

Atlanta Circuit, Post 28
*J. Henry Walker IV, Atlanta*

Atlanta Circuit, Post 29
*Tina Shadix Roddenbery, Atlanta*

Atlanta Circuit, Post 30
*Shiriki Cavitt Jones, Atlanta*

Atlanta Circuit, Post 31
*Michael Brian Terry, Atlanta*

Atlanta Circuit, Post 32
*Seth David Kirschenbaum, Atlanta*

Atlanta Circuit, Post 33
*Hon. Susan Eichler Edlein, Atlanta*

Atlanta Circuit, Post 34
*Allegra J. Lawrence, Atlanta*

Atlanta Circuit, Post 35
*Terrence Lee Croft, Atlanta*

Atlanta Circuit, Post 36
*J. Marcus Edward Howard, Atlanta*

Atlanta Circuit, Post 37
*Harold Eugene Franklin Jr., Atlanta*

Atlanta Circuit, Post 38
*Michael Dickinson Hobbs Jr., Atlanta*

Atlanta Circuit, Post 39
*Anita Wallace Thomas, Atlanta*

Atlanta Circuit, Post 40
*Carol V. Clark, Atlanta*

Atlantic Circuit, Post 1
*H. Craig Stafford, Hinesville*

Atlantic Circuit, Post 2
*Carl Robert Varnedoe, Hinesville*

Augusta Circuit, Post 1
*Sam G. Nicholson, Augusta*

Augusta Circuit, Post 2
*William James Keogh III, Augusta*

Augusta Circuit, Post 3
*Thomas Reuben Burnside III, Augusta*

Augusta Circuit, Post 4
*John Ryd Bush Long, Augusta*

Bell Forsyth Circuit
*Hon. Philip C. Smith, Cumming*

Blue Ridge Circuit, Post 1
*Hon. David Lee Cannon Jr., Canton*

Blue Ridge Circuit, Post 2
*Eric Alvin Ballinger, Canton*

Brunswick Circuit, Post 1
*James L. Roberts IV, Saint Simons Island*

Brunswick Circuit, Post 2
*Martha Wilson Williams, Brunswick*

Chattahoochee Circuit, Post 1
*Amy Carol Walters, Columbus*

Chattahoochee Circuit, Post 2
*Brandon Lee Peak, Columbus*

Chattahoochee Circuit, Post 3
*Thomas Frederick Gristina, Columbus*

Chattahoochee Circuit, Post 4
*Donna Stanaland Hix, Columbus*

Cherokee Circuit, Post 1
*Randall H. Davis, Cartersville*

Cherokee Circuit, Post 2
*John Thomas Mroczko, Cartersville*

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Clayton Circuit, Post 2
*Harold B. Watts, Jonesboro*

Clayton Circuit, Post 3
*Hon. Martin L. Cowen III, Jonesboro*

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Cobb Circuit, Post 2
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*Hon. David P. Darden, Marietta*

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*Patrick H. Head, Marietta*

Cobb Circuit, Post 5
*Dawn Renee Levine, Marietta*

Cobb Circuit, Post 6
*Laura Joan Murphree, Marietta*

Cobb Circuit, Post 7
*William C. Gentry, Marietta*

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Conasauga Circuit, Post 2
*Robert Harris Smalley III, Dalton*

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*James W. Hurt, Cordele*

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*Nina Markette Baker, LaGrange*

Coweta Circuit, Post 2
*Jason W. Swindle Sr., Carrollton*

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Dougherty Circuit, Post 2
*William Fleming Underwood III, Albany*

Douglas Circuit
*Ryan Reese Leonard, Douglasville*

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Eastern Circuit, Post 2
*Lester B. Johnson III, Savannah*

Eastern Circuit, Post 3
*Jonathan B. Pannell, Savannah*

Eastern Circuit, Post 4
*John Bell Manly, Savannah*

Enotah Circuit
*Hon. Joy Renea Parks, Dahlonega*

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Flint Circuit, Post 2
*John Philip Webb, Stockbridge*

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*Janice Marie Wallace, Griffin*

Griffin Circuit, Post 2
*Hon. Christopher Charles Edwards, Fayetteville*

Gwinnett Circuit, Post 1
*David S. Lipscomb, Lawrenceville*

Gwinnett Circuit, Post 2
*Judy C. King, Lawrenceville*

Gwinnett Circuit, Post 3
*Wesley Charles Ross, Lawrenceville*

Gwinnett Circuit, Post 4
*Gerald Davidson Jr., Lawrenceville*

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Lookout Mountain Circuit, Post 2
*Douglas Ray Woodruff, Ringgold*

Lookout Mountain Circuit, Post 3
*Christopher Sutton Connelly, Summerville*

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Macon Circuit, Post 2
*Thomas W. Herman, Macon*

Macon Circuit, Post 3
*Ivy Neal Cadle, Macon*

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*Mark William Alexander, Gainesville*

Northeastern Circuit, Post 2
*Nicki Noel Vaughan, Gainesville*

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Northern Circuit, Post 2
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*Carl Santos Cansino, Milledgeville*

Ocmulgee Circuit, Post 2
*Ashley Mackin Brodie, Gray*

Ocmulgee Circuit, Post 3
*Christopher Donald Huskins, Eatonton*

Oconee Circuit, Post 1
*Hon. Charles Michael Johnson, Eastman*

Oconee Circuit, Post 2
*Hon. Stephanie Diane Burton, Hawkinsville*

Ogeechee Circuit, Post 1
*Daniel Brent Snipes, Statesboro*

Ogeechee Circuit, Post 2
*Susan Warren Cox, Statesboro*

Out-of-State, Post 1
*Philip Augustine, Lake Mary, Florida*

Out-of-State, Post 2
*William J. Monahan, Washington, D.C.*

Pataula Circuit
*Edward R. Collier, Dawson*

Paulding Circuit
*Martin Enrique Valbuena, Dallas*

Piedmont Circuit
*Barry E. King, Jefferson*

Rockdale Circuit
*Daniel Shelton Digby, Conyers*

Rome Circuit, Post 1
*Christopher Paul Twyman, Rome*

Rome Circuit, Post 2
*J. Anderson Davis, Rome*

South Georgia Circuit, Post 1
*Lawton Chad Heard Jr., Camilla*

South Georgia Circuit, Post 2
*Tabitha Edwina Payne, Whigham*

Southern Circuit, Post 1
*Christopher Frank West, Thomasville*

Southern Circuit, Post 2
*Robert Allen Plumb Jr., Valdosta*

Southern Circuit, Post 3
*H. Burke Sherwood, Valdosta*

Southwestern Circuit
*Hon. R. Rucker Smith, Americus*

Stone Mountain Circuit, Post 1
*Hon. Stacey K. Hydrick, Decatur*

Stone Mountain Circuit, Post 2
*William Dixon James, Decatur*

Stone Mountain Circuit, Post 3
*Hon. J. Antonio DelCampo, Atlanta*

Stone Mountain Circuit, Post 4
*Donna Coleman Stribling, Decatur*

Stone Mountain Circuit, Post 5
*Amy Viera Howell, Atlanta*

Stone Mountain Circuit, Post 6
*Claudia Susan Saari, Decatur*

Stone Mountain Circuit, Post 7
*John G. Haubenreich, Atlanta*

Stone Mountain Circuit, Post 8
*R. Javoyne Hicks, Decatur*

Stone Mountain Circuit, Post 9
*Sherry Boston, Decatur*

Stone Mountain Circuit, Post 10
*Hon. Dax Eric Lopez, Decatur*

Tallapoosa Circuit, Post 1
*Michael Douglas McRae, Cedartown*

Tallapoosa Circuit, Post 2
*Brad Joseph McFall, Cedartown*

Tifton Circuit
*Hon. Render Max Heard Jr., Tifton*

Toombs Circuit
*Dennis C. Sanders, Thomson*

Towaliga Circuit
*Curtis Stephen Jenkins, Forsyth*

Waycross Circuit, Post 1
*Douglass Kirk Farrar, Douglas*

Waycross Circuit, Post 2
*C. Deen Strickland, Waycross*

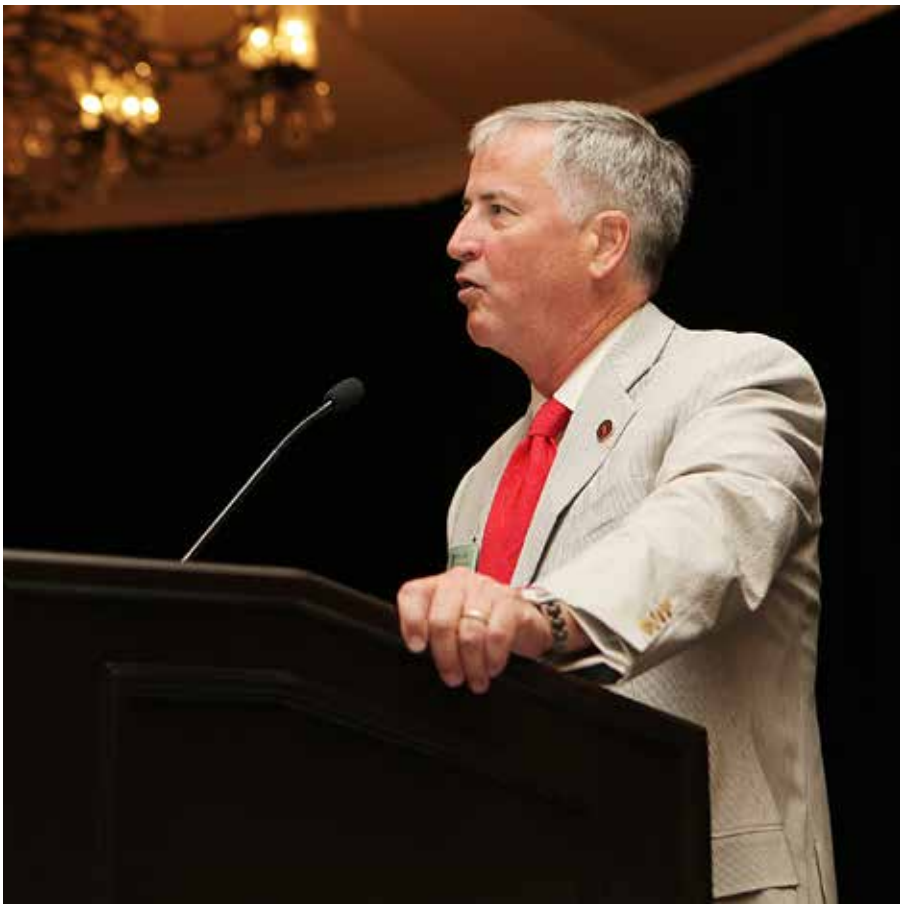
Western Circuit, Post 1
*Hon. Lawton E. Stephens, Athens*

Western Circuit, Post 2
*Edward Donald Tolley, Athens*

# Hodges' Final Remarks to the Board of Governors

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 of office and furnish a copy of the report to the Supreme Court of Georgia." Following is the report from 2018-19 President Kenneth B. Hodges III on his year, delivered June 7 at the State Bar's Annual Meeting.

BY HON. KENNETH B. HODGES III



2018-19 President Kenneth B. Hodges III presents his final remarks to the Board of Governors during the plenary session of the Annual Meeting.

PHOTO BY SARAH I. COOLE.

**Thank you, Buck. It has been an honor** following you. You have been a very good leader to follow as well, and you said a few of the things I wanted to say in my brief remarks. One of which is, that this is a great day.

Today isn't the part of the Annual Meeting where we conduct business and talk about issues and take action. Darrell Sutton will lead us ably in that tomorrow. Today is where we celebrate the profession that we're all members of, and we are members of a profession, who do the right thing for the people, the clients and the consumers of the state of Georgia. We do good things for lawyers as well in our governance, but keep in mind that we're here to serve the public. I think that's a great thing.

Those of you who were in the room last year know how excited I was to start my term as your president. While the agenda had me giving my report in the middle of the meeting, I jumped right

in with both feet at the start—before the pledge, before the invocation, before anything. It dawned on me that I was not supposed to do that when I was about halfway through, but I forged ahead. I started out fast, and as many of you would agree, I haven't slowed down.

We had a great year, and it was indeed an honor to serve as your 56th president. Margaret, Jack, Melissa and I have enjoyed these meetings, particularly the Thursday night gatherings that are more of a family-oriented event. I hope that this weekend is magical for all, whether or not Disney World is a part of it.

Our Bar provides many very good and needed services both for lawyers and the public. We are a mandatory Bar, and so we are required to belong. We are not, however, required to participate—other than the 12 hours of continuing legal education each year and compliance with the rules that are promulgated by the Supreme Court.

No one is required to be here today, making sure that Georgia lawyers and Georgia consumers and clients have the best legal system in the country. No one is required to run for or serve on the Board of Governors or as an officer or Executive Committee member, but we all do that in order to make our profession better.

As our website proclaims, "The State Bar of Georgia exists to foster among the members of the Bar of this state the principles of duty and service to the public, to improve the administration of justice and to advance the science of law." I think we do that, and we do it well.

This year has been a great year. We just finished a successful legislative session, where our entire legislative package was passed by the General Assembly and signed by Gov. Brian Kemp. This does not always happen, and it's never easy.

We have a great team of lobbyists to help with that. It is led by Christine Butcher Hayes, who works in house, and Rusty Sewell, who's been with us so long he seems in house, and the team is rounded out with Roy Robinson and Mark Middleton.

We also have three other superstars who I will recognize in a bit who help us at the General Assembly.

The General Assembly convenes each year for 40 legislative days and is made up of 56 senators and 180 representatives from all over the state, and as we have reported previously, lawyer-legislators are on the decline. This year, I invited all current and former lawyer-legislators to the Bar Center to discuss ways the Bar could best support them, and we need to continue that effort.

So I need you, as leaders of the Bar, to do one of three things:

1. Run yourself
2. Recruit another lawyer to run, or
3. Form or strengthen a relationship with your state representative or senator so that you can help us educate them on our issues when we are back next year and the years to come.

Don't wait to do this. Start next week. Call them when you get back from Orlando and set up a breakfast or lunch and get to know them or get to know them better. After that, email Christine and let her know that when we need you to talk to your representative or senator, you are ready to do that (christineh@gabar.org).

I mentioned three superstars earlier, and I want to recognize them now. Not only do they give their time to us on the Board of Governors, but they also serve us in the Georgia General Assembly. They are state Sen. Jennifer Jordan, state Sen. John Kennedy and state Sen. Zahra Karinshak.

Let's thank each of them for their service to the Bar and to the state.

Now we need someone here to run for the House!

Another set of meetings I helped facilitate during the year was bringing members of the Georgia Chamber of Commerce and the Georgia Trial Lawyers Association together. Notorious adversaries on many issues, I brought them together over Chick-fil-A biscuits and coffee to find common ground, and find it they did.

They came together to support the Business Court, which was created this legislative session, and they will continue to work with our Business Court Committee on recommendations for implementation as the rollout occurs.

The Bar is also monitoring the rollout of eFiling as it spreads out over the state. Please give us your feedback so we can work to alleviate issues. The easiest way is to send it to president@gabar.org, which will go to Darrell starting tomorrow.

We have concluded the three-year PSA campaign entitled "Who Needs Lawyers? We Do." The 10 videos that have been produced will continue to be used, aired and hosted on our website, where you can access them and use them in your communities. These award-winning videos have been featured in *The Atlanta Journal-Constitution*, and they focus on the good lawyers do.

We have fully and finally transitioned the Institute of Continuing Legal Education into the Bar. It was at first a revenue loss for us, as it was still in Athens and we had a lot of overhead there. But as we were able to integrate it fully in Atlanta, it is now generating revenue for the Bar. We are enjoying efficiencies and economies of scale that are working together to make it more efficient and better.

Bob Kauffman helped lead us through that time, and he also brought to Georgia the idea of attorney wellness. He asked me to chair that task force, which is now a standing committee, and this year, under the leadership of Javoyne Hicks, hosted the first Wellness Seminar in Carefree, Arizona, where it was 75 and sunny in January, and it was a great success. I've learned that if you want something to be a success, put Javoyne in charge.

Last month, I participated in the National High School Mock Trial Champi-

onship in Athens, Georgia. Chief Judge Stephen Dillard oversaw the judging panel volunteer orientation and served as a presiding judge throughout the competition, including the national championship round, and we had a great turnout from our Bar in Athens. I had people from all over tell me that we ran the best mock trial competition that they've ever been to. Michael Nixon put on a fabulous program, and I've asked him to join us this weekend to tell you about what we did. He and the other members of the Bar staff are what makes it easy to do what we do as officers.

Leading this group is, of course, an honor, but it's really not that difficult. And the reason is the people. At the risk of offending Bar staff who I don't specifically name, I want to talk about a few:

- Jeff Davis, our executive director, who makes it very easy to sit in this chair right here beside him and make sure that the meeting runs flawlessly and to make sure that the things that we as a group put out as a policy get implemented;
- Sharon Bryant, our chief operating officer, whose office sits right next to the president's office. She has been there for me every step of the way, and I appreciate that so much.
- Ron Turner, who has come back as our chief financial officer, does a fabulous job.
- Michelle Garner, our director of meetings, who is a godsend to a president. She plans a meeting like no other, and she gets things done and done right. Michelle, you are awesome, and I'm going to miss you.
- Paula Frederick, our general counsel, and Bill NeSmith, deputy general counsel. We've got a great Office of the General Counsel. Paula's been with us a long time, and I don't know what we would do without her sage advice. Bill is also our parliamentarian. I wanted to read Robert's Rules of Order when I became president, but I didn't have to because Bill knows it in and out.
- Sarah Coole and Jennifer Mason in communications, who are so helpful in getting our materials out.
- And all the other Bar staff members I can't call by name because of time constraints. It runs so smoothly, flawlessly and easily due to the hard work of the more than 120 fabulous employees we have working for us at the State Bar of Georgia.

I appointed two special committees this year that will continue under Darrell's administration: (1) the Unified Bar Committee and (2) the Professional Liability Insurance Committee. I wanted to get through these initiatives, one in particular, during my presidency; however, there was not time. We got the discussion started, and it will continue as we allow input from all those who want to be heard.

The Unified Bar Committee is led by Pat O'Connor. This committee is looking into what will happen if a case currently being considered holds that mandatory bars are unconstitutional. The case was remanded by the U.S. Supreme Court back to the 8th Circuit and will be argued later this month. That case is *Fleck v. Wetch*, involving the unified State Bar Association of North Dakota. We've talked about it at these meetings. I just wanted to make you aware of what's going on without going into depth on it. Pat is leading the committee, with former Chief Justice Carol Hunstein and Allegra Lawrence-Hardy and other former Bar presidents, which will monitor the *Fleck* case and make recommendations should the litigation result in any impact on unified bars. Our hope is that it won't, but we are on top of it and will be ready if it does.

The other committee is the Professional Liability Insurance Committee. I do think we need professional liability insurance for all active members of the Bar with a few exceptions, but it's a discussion that we're going to continue to have. We're going to bring it to this body when it is right, and we're going to vote on it. We had a great chair in Linley Jones, who led the charge through the year, leading the discussions and gathering the evidence. Darrell will appoint Chris Twyman, who is here, to continue that work.

We welcome and value your input. If you will email president@gabar.org, your thoughts will be circulated to the committee. I've gone around the state to talk to Bar groups and associations about it. If you've got an association or group where you want someone to come and have that discussed, just let me know.

It is a diverse committee, with people from all areas of practice: plaintiff and defense, civil and criminal, so we're trying to take in all perspectives. Darrell is going to broaden the perspective and make some additional appointments to that committee.

There are two states that already require professional liability insurance, Oregon and Idaho. You can look at those. The state of Washington is considering it right now. They've got a very thorough report out, which I invite you to read. California is also looking at it.

To me, it's kind of like a seat belt: 30 or 40 years ago, nobody wanted to be told they had to wear a seat belt. But the Legislature enacted it, although more slowly for pickup trucks, and now we all buckle up in our cars and we move forward because it's a safe thing to do. We don't give it a second thought.

I think professional liability insurance is a lot like that. The biggest complaint I get is we don't want to be told what to do, but sometimes we need to be told what to do. So let's continue that discussion.

It's been a great year. People have asked me how it feels to be going out the door. It is bittersweet. I love doing the work of the Bar. I love being a part of what the Bar does for the profession. But just like when I left the DA's office in Albany, I left it in very good hands with Greg Edwards, who's been a member of this Board over the last several years. And I know the Bar will be in very good hands with Darrell and the others up here on the podium. I leave happy, and I look forward to joining Buck and the other past presidents in coming back here for years to come. Thank you very much. ●

**Hon. Kenneth B. Hodges III**

Immediate Past President
*State Bar of Georgia*

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# Remarks of Darrell Sutton to the Board of Governors

The following is excerpted from Darrell Sutton's remarks to the Board of Governors on June 8, during the 2019 Annual Meeting in Orlando, Florida.

**BY DARRELL SUTTON**

**This moment marks a milestone on a** journey begun many years ago. My story is not necessarily unique. Like many, especially of my generation, I am the child of divorced parents. I was raised by my father, a high school drop-out, whose poor choices early forced him to do the best he could raising my brother and me with very limited resources.

What my dad lacked in resources, however, he made up for with an abiding faith, perhaps ironically, in the power and importance of an education. And he was

PHOTO BY SARAH I. COOLE

2019-20 President Darrell Sutton addresses Board of Governors members on Saturday, June 8.

teeming with an ever-present optimism, an optimism that opportunity abounds. You just have to reach out and seize it.

I suppose that my presence at this podium, standing in front of this room, delivering this message, proves positive what my dad taught: with an education and optimism, opportunity will follow. And today begins my 12-month opportunity to serve our profession and the public.

Now, what that combination of education and optimism also breeds is impatience. And those of you who know me well know I have been rather impatiently awaiting this moment. I'm not much the "waiting in the wings" kind of guy. And my tendency to chomp at the bit has shown through more than ever over the past few months.

No doubt to Ken's chagrin.

Well, Ken, before I chomp any further I want to use this opportunity to publicly acknowledge my private observation: you never let your chagrin show. Instead, you did your job, working diligently, and presiding over a year in this organization's history that was as seamless as any other. I want to thank you. And I am sure this group would like one more chance to do so, too.

I decided the best way to get myself out of Ken's hair while I was waiting my turn at this podium was to get on the road. So I have been hard at work, traveling the state, listening to the concerns of lawyers and judges alike, preparing for the journey I begin today.

Many of you facilitated these opportunities for me to listen. From Rome to Macon, Augusta to Savannah, you made it possible for me to gather with small groups of lawyers from across the state and listen to their thoughts, their ideas, their concerns. Andy Davis, Brad McFall, Chris Twyman, Ivy Cadle, Thomas Herman, John Kennedy, Thomas Burnside, Bill Keogh, Jack Long, Sam Nicholson, Sally Akins, Lester Johnson, John Manly and Jon Pannell: I want to thank you for making these opportunities for me. I am a better leader because of your efforts.

Now, this will come as no surprise to this group: lawyers are opinionated. So I did a lot of listening at these visits. But much of what I heard has shaped the initiatives—some old, some new—to be implemented over the next year.

## Professional Liability Insurance

Let's begin with an initiative not new to anyone in this room: professional liability insurance. With only a few exceptions, I heard lawyers across the state—with practices as diverse as the cities where they live and with ties to every subset of Georgia lawyers imaginable—say they believe what Ken has helped many others of us understand: this is an issue worthy of consideration.

As it is considered though, additional questions arise. Questions that need to be answered before we take action. And questions take time to answer.

So we will be giving the Professional Liability Insurance Committee just that: more time. More time to continue its good work. More time to investigate and answer the questions that the complexity of this issue inevitably generates.

Taking advantage of this opportunity of time, however, will be a committee with a slightly different makeup. To be sure, many of the hardworking Georgia lawyers who have given of their time and talents to so capably vet the issue so far will carry over to the newly constituted PLI committee.

But they will now be led by one of you: Rome's Chris Twyman. And they will be complemented by colleagues who make the committee representative of every corner of the state. From the hills of Northwest Georgia to Savannah's squares; from Atlanta, College Park and Marietta in the metro area, to Macon, Thomson, Vidalia and Moultrie outside Atlanta.

And these new members will complement the committee's existing expertise in professional liability insurance litigation with the diversity of perspectives found in a 50,000-member Bar: plaintiff's personal injury lawyers, civil defense lawyers, business lawyers, criminal defense lawyers, prosecutors, government lawyers, corporate lawyers, judges, big firm lawyers, "main street" lawyers, women lawyers, lawyers of all ethnicities, young lawyers. Each group has a seat at the table.

Over the next 12 months, this committee will run every tentacle of this issue to its end. They will come to you with a recommendation for how to proceed only after every possible voice is heard, every question is asked and answered, and the perspectives of all 50,000 of us are accounted for in the conclusions they reach.

## Personal Injury Case Runners

Personal injury "case runners" are nothing new to the legal profession. The use of these true "ambulance chasers" on the part of some personal injury lawyers has for decades been a prevalent practice.

But gone are the days when runners operate in the shadows. Even though the practice is illegal in Georgia and stands in violation of State Bar rules about client solicitation, I have listened as lawyers from Athens to Savannah to Atlanta shared first-hand accounts of lawyers boasting about their use of the practice. So brash have some of our members become that they even employ hospital personnel themselves to generate personal injury clients.

This illegal, unprofessional and unethical form of client solicitation casts a bad light on the legal profession. It makes us the worst caricature of ourselves. All the while, it operates to the detriment of the public, whose best interests we are sworn to serve.

Determining the best method to combat this insidious form of client solicitation will be a committee led by Board Member Michael Geoffroy. Comprised of plaintiff personal injury lawyers (and a few of their defense counterparts), hospital representatives, members of the judiciary, prosecutors [and an assistant attorney general], this committee will study the issue, working to develop a public awareness campaign.

Educating lawyers about permissible client solicitation is important. Even more important is the development of materials that will alert those suffering from a personal injury and their families about the practice of illegal client solicitation, how to identify it and what to do when they encounter it.

Let me be clear: the challenging circumstances for unified bars do not require the sounding of an alarm. Far from it. . . . They also present us with the unique opportunity to ensure our Bar is appropriately delivering upon its promise to serve the profession and the public.

### Consumer Program Consolidation

Both in the context of case-runners and otherwise, protection of the public is important to many of those I heard from around this state. This should come as no surprise: it is one-half of our mission. Equally unsurprising, then, is that the Bar has three programs devoted to the public protection half of our mission.

The Consumer Assistance Program, the Clients' Security Fund and the Fee Arbitration Program all serve the same essential function: protecting the interests of clients and the general public.

But each currently operates independently, even though all at one point or another overlap.

Bar leadership has an obligation to the profession to ensure the Bar's programs are conducted with efficiency, effectiveness and to the greatest benefit to Bar members. This obligation extends to the public when considering programs that exist largely, if not exclusively, to protect and benefit those who lawyers serve.

So Atlanta's Elena Kaplan and Statesboro's Sharri Edenfield will spend this year co-chairing a comprehensive review of the efficiency and effectiveness of the State Bar's consumer protection programs. Their task will be to study whether these three programs should continue to operate separately, or if it would be wiser to consolidate them into one consumer protection program, operating together rather than independently.

### Opportunities in a Changing Environment for Unified Bars

At each stop on the listening tour, I heard member after member express concern about the circumstances facing ours and all unified bars.

These circumstances are no doubt troubling. But they also present us with the unique opportunity to ensure our Bar is appropriately delivering upon its promise to serve the profession and the public.

First, the circumstances. Across the nation unified bar membership is being challenged.

Last December, the U.S. Supreme Court ordered a federal appeals court to reconsider a First Amendment challenge to the unified bar filed by a North Dakota lawyer. The U.S. Supreme Court vacated a judgment against that lawyer, which had upheld the constitutionality of the unified bar, and the Supreme Court ordered the 8th U.S. Circuit Court of Appeals to reconsider the case.

This case, commonly referred to as Fleck, is well known to many of us here today. And it will go a long way in deciding whether the unified bar continues to exist. But a decision in that case is a year or two away.

Meanwhile, in the past six years, two unified bars have been deunified. And five other unified bars are now the subject of litigation challenging their existence. Difficult times, no doubt.

But in this difficulty lies our opportunity. It is our encouragement to engage our members and take a look inward to ensure that each of our programs and the way we operate otherwise is delivering value to the membership and to the public our membership serves. And anytime we find a program or operation that causes us to respond in a way other than the affirmative, current circumstances demand that we take a hard look at whether that program or operation should continue—in its current form, if not altogether.

### Continuing the Listening Tour

So how do we do this?

One way is to continue what I have spent the past few months doing: listening.

At this point many of you may be envisioning the caricature of 160 of us piled in a VW bus. Just imagine it: me at the wheel getting, um, encouragement about how to be a better driver from Dawn, Elizabeth and Sally. Thankfully for all of us, technology provides a better way.

Taking some lessons from Dawn's undergraduate alma mater and my wife Meredith's law school alma mater, the University of Virginia, we will leverage the Bar's website and social media outlets to create an online space for Bar members to share thoughts, comments and ideas. The goal is to inform our membership that their opinions are important to the Bar's leadership; that we are listening and willing to interact with their thoughts and opinions.

We will also leverage this technology to educate our membership: to highlight the Bar's contributions to our legal community; to inform members through graphs, infographics and drip marketing exactly what they are getting for their dues dollars; and to emphasize the benefits of a unified bar.

### Board of Governors Engagement

Let me be clear: the challenging circumstances for unified bars do not require the sounding of an alarm. Far from it.

But they do provide us an additional impetus to do the work that, as stewards

of this great organization, we should always strive to do: ensure every program we offer is operating as a benefit to our members and an appropriate function of a unified Bar.

This is an impetus creating an opportunity based in hard work, intense introspection and in-depth analysis. For far too many years the Bar's Executive Committee has been the ox that carried these yokes. Not any longer.

It is my commitment to you that this opportunity borne from challenging circumstances is this Board's opportunity. It is my commitment to you that the decisions this opportunity bears will be made by this Board. It is my commitment to you that the discussion, debate and contemplation that these decisions will require will be this Board's to have.

Now y'all know that Mercer is my first love. What you may not know is that to get to Harvard on Coleman Hill, I did a lot of hard work in the City of Seven Hills: at Berry College in Rome, Georgia.

To get onto the campus where that hard work was done, I had to drive through the Gate of Opportunity.

Yes, it's corny. And yes, it was not lost on me that, as the son of the eternal believer in opportunity I mentioned earlier, this was the gate I passed through to begin my college education. But for so many generations of students it has indeed been what it was for me: the seminal chance to transform my future. To do as my father taught: get an education, combine it with optimism and let the opportunities follow.

As I see it, the next year is our gate of opportunity. It is the threshold we will cross in order to spend the next few years on campus. Doing the hard work and making the decisions that will shape the long-term future of this organization and our profession in Georgia. It is only appropriate that this Board drive us onto that campus. Because it will be this Board doing the hard work that will ensure we seize our opportunity and transform our future. ●

**Darrell Sutton**

President
*State Bar of Georgia*
president@gabar.org

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The State Bar of Georgia continues to make lawyer wellness a priority. Visit **lawyerslivingwell.org** to view articles and resources related to wellness, and learn more about State Bar programs that help lawyers in their lives and practices. Be sure to check out the wellness resources and get discounts on gym memberships, fitness classes and more.

The Sutton family: Meredith, Wilson, Louise and Darrell.

# Sutton Sees Opportunities in Bar's Challenges

BY LINTON JOHNSON

**When Darrell Sutton was installed** as the 57th president of the State Bar of Georgia, he also became only the seventh past president of the Young Lawyers Division to ascend to the highest office in the "Big Bar."

He is the first to make that leap since 2004, when Bill Barwick, the 1985 YLD president, led the Bar. The others include Frank Jones (1957 YLD president and 1969 Bar president), Bob Brinson (1974 and 1987), James Elliott (1977 and 1989), Charlie Lester (1978 and 1992) and John Sammon (1988 and 1994). Sutton is honored to be part of such an exclusive club.

"I think it's significant," he said in a recent interview. "That list is a who's who of iconic Georgia lawyers. To even be mentioned in their category is something that a kid from my background would have never imagined possible. Those are lawyers I have admired, and in some cases idolized, and to now be in the same category as them is in many respects still surreal."

The new State Bar president, who was sworn-in June 8 during the 2019 Annual Meeting in Orlando, Florida, says he cannot pinpoint exactly when he decided he wanted to be a lawyer, but he acknowledges it was early in life. "My parents will tell you that I talked about it from the time I could utter words," he said, "but I don't know how much credence I would give that."

Sutton was born in Marietta, and his family lived there until he was 6. "My dad got transferred by the company he worked for, and we moved to a town just outside New Orleans," he said. "We lived there for four years and moved back to the Atlanta area when I was 10," settling in Henry County.

"Shortly after we moved back to Atlanta, my parents got divorced and we fell on pretty hard times financially," Sutton recalled. "Despite the disadvantages we faced, and for all my parents' faults otherwise, the importance of education was always stressed to me as a gateway to improving your life. And for whatever reason, I also saw the law and lawyers as co-equal to education. The law had been used to better people's lives. I guess the combination of understanding that education could better your life and that the law had bettered the lives of so many others, it was just something I was drawn to."

After Sutton graduated from Eagles Landing High School, his choice of colleges came down to the University of Georgia, Maryville College in Tennessee, where he had the chance to play soccer, and Berry College in Rome. "I decided that I'd get lost in a big environment like UGA, and I wasn't going to play soccer beyond college, so I shouldn't make a decision as big as where to go to college based upon that," Sutton explained. "Berry sort of offered the best of everything. It was a small environment, which I needed. It was very well regarded academically, and I had the good fortune, between the combination of scholarships and grants, to go there virtually free of charge."

It was, Sutton said, "among the top three decisions in my life. Going there opened so many doors for me and had a lasting impact on me. One significant impact was the decision on where to go to law school." During his junior and senior years at Berry, Sutton worked in the Rome law firm then known as Shaw,

PHOTO BY REBECCA ENSLEIN

Sutton, who was the 2013-14 State Bar YLD president and—due to an unexpected vacancy in the State Bar officers' ranks at the time—served simultaneously as secretary of the State Bar and president of the Cobb County Bar Association in 2016-17, has never shied away from professional leadership during his career.

Maddox, Graham, Monk & Boling, which is now McRae, Smith, Peek, Harman & Monroe LLP.

"That solidified for me that I wanted to go to law school," Sutton recalled. "Being in the environment there every day not only didn't turn me off to the everyday practice of law; it turned me on to it even more. I was fascinated by it and drawn to it. So I applied to several law schools and my decision came down to going to a school out of state, which was fairly well ranked, or staying in state and going to Mercer."

A political science professor, the late Dr. Peter Lawler, had taken Sutton under his wing at Berry and become an influential mentor. "As Professor Lawler put it to me," Sutton related, "'Do you want to practice law in Georgia?' I said yeah, and he said, 'Well, the decision should be pretty easy then. You need to go to law school here.' And Mercer it was. I can pinpoint that decision as the single most impactful of my life. I can trace back to that decision everything that is important to me now—my wife, my kids, my closest friends, my law firm, the Bar. All of it I can trace back to that. That is the root out of which the tree of my life since then has grown. I had an amazing three-year experience there."

During his second and third years at Mercer's Walter F. George School of Law, Sutton worked for the Macon firm of Stone & Baxter LLP. He had intended to remain with the firm after his graduation and admission to the State Bar in 2003. An on-campus interview and a second interview with the Marietta firm of Moore Ingram Johnson & Steele LLP (MIJS) changed that plan. "I didn't necessarily have any aspiration to return to the Atlanta area," Sutton said. "But the firm appealed to me, and the opportunity to litigate they were offering appealed to me, too."

Returning to his birthplace to begin his legal career was "a pure coincidence," but one that he appreciates. "My success professionally is directly attributable to my time there," Sutton said of his five years at MIJS. "The mentorship that I received, the lessons I learned; the lawyers at that firm taught me everything I know about practicing law. I practiced with some great lawyers, I was taught by some great lawyers, and it wasn't just learning about the practice of law. It was the lessons that I learned about service, especially service to the profession, that have had the most lasting impact on me."

Sutton's first job as a lawyer also set the course for his area of practice. "The firm had a very large insurance defense practice, and that's where they had an opening when I was coming out of law school," he said. "So that's where I landed. Coming out of law school, I knew I wanted to litigate, but I didn't have a particular area that I wanted to litigate in. They gave me the opportunity to litigate, and it just so happened to be in that particular area. So I became an insurance defense litigator there and have continued to do that ever since."

In the fall of 2008, Sutton joined three former MIJS colleagues in a new partnership. It wasn't an easy decision for Sutton, who had passed up one earlier opportunity to leave the firm. "This sounds so arrogant, but it's true," he said. "I had it made at MIJS. I was on track to make equity partner. I had a great practice. I had some good friends. Everything that you could hope for professionally I had there."

But two of his new partners had left MIJS two years earlier and were already established. "They owned a building," Sutton recalled. "All the headaches and costs and startup frustrations that come with opening a firm, they had worked through. It added an extra level of security. The risk and benefit analysis had changed. I would still be giving up a lot, but they also offered me the opportunity to leave the firm without a lot of the risk that others endure when they strike out on their own."

Although the new firm was a success, Sutton said, by two years later, "we were all at a point where we wanted different things out of the practice. So I took my portion of the practice and opened my own firm in October 2010. It's still an insurance defense law firm. As my Bar service has continued and my statewide profile has grown, we have had opportunities to do other stuff, but 85 percent of my practice is still bread-and-butter insurance defense work."

Sutton, who was the 2013-14 State Bar YLD president and—due to an unexpected vacancy in the State Bar officers' ranks at the time—served simultaneously as secretary of the State Bar and president of the Cobb County Bar Association in 2016-17, has never shied away from professional leadership during his career.

"From very early on at MIJS, we were shown that it wasn't enough just to be a good lawyer, a good practitioner," he said. "To be a well-rounded lawyer, you needed to serve and, in particular, serve the profession. Robert Ingram was president of the State Bar in 2005-06, which was bridging my second and third year at the firm. He encouraged Damon Elmore, who was president of the State Bar

PHOTO BY REBECCA ENSLEIN

Young Lawyers Division that same year, to appoint me to an open position on the Young Lawyers Division Representative Council. In other words, he gave me the nudge I needed to get involved, and I did, and I ran with it from there."

Additionally, Sutton has served as the State Bar's treasurer and president-elect, and as president of the Cobb Bar YLD. He is also a past chair of the Cobb County Board of Ethics, has served on the boards of the Georgia Legal Services Program, the Cobb Justice Foundation and Lawyers for Equal Justice, and in February will take over as chair of the Mercer Law School Alumni Association Board of Directors.

Any "spare time" Sutton might occasionally have is spent mostly with his wife Meredith and their children, Louise and Wilson. As an Atlanta Falcons season ticket holder, he says he also indulges in eight opportunities each fall to "venture over to Mercedes Benz Stadium and routinely want to bang my head against the wall. I'm also fortunate to be surrounded by good friends, so to the extent that I have time, being with them is something I very much enjoy doing." The vast majority of those friends happen to be fellow lawyers, Sutton said.

"Look at it this way," he said, "my closest friends are either folks that I went to law school with—my law school class is very close—or folks that I have practiced or served with at some point. Lawyers are genuinely good people. We have a generally negative reputation. I get that, and I think it's because people encounter us only in difficult situations. You can only identify one or two circumstances where somebody encounters a lawyer in a positive circumstance. So we as a result have a negative reputation. But the reality is that lawyers are good, kind, intelligent, caring, giving people as a whole."

Asked what he loves most about being a lawyer, Sutton responds quickly: "The challenge of it. I've obviously done nothing professionally other than being a lawyer, but there's few things I can imagine that are as challenging daily as this profession. While the word 'challenge' comes with a negative connotation, I don't mean it that way. In fact, I say it with a positive connotation. What we do day in and day out is challenging. It's challenging intellectually; it can be challenging from a stamina perspective. You are dealing on a daily basis with difficult issues, difficult subject matter and having to craft solutions from difficult circumstances. To me every bit of that is enjoyable. And in the process, hopefully you get to make a positive difference in somebody's life. It's not always the case, but you really live for those moments.

"And I think the same is true for the Bar," he added. "We're facing challenging circumstances and the challenge of crafting positive results from difficult circumstances, while hopefully at the same time making a positive difference in the lives of our members and in the lives of those who our members serve. If I can look back and say that our profession is better on June 30, 2020, than it is on July 1, 2019, and is positioned to not only endure but thrive during this time of challenge, then I will consider this year a success." ●

**Linton Johnson**

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# Meet the New Executive Director of GLSP: Rick Rufolo

Rick Rufolo brings decades of business and legal expertise to the Georgia Legal Services Program.

**BY ASHLEY G. STOLLAR**

PHOTO BY ASHLEY G. STOLLAR

GLSP Executive Director Rick Rufolo.

**Just as he was set to retire as vice** president for the Labor, Employment and Litigation Practice Group at UPS, Rick Rufolo learned of the imminent retirement of Georgia Legal Services Program Executive Director Phyllis Holmen. During his 30 years at UPS, Rufolo was involved in nonprofits including the Truancy Intervention Project, the Atlanta Legal Aid Society, and the Boys and Girls Club of Fulton County, so it was no great stretch what his next step might be. Rufolo was hired to succeed Holmen, who worked for GLSP for 40 years and had been at the helm of the nonprofit since 1990.

Rufolo followed his older brother into the law; his younger siblings are also lawyers. He always knew that a legal background would provide him with opportunities both in the legal and business field. After law school, he worked with a law firm for a year, then began working at UPS. His first 12 years at UPS were in non-legal positions; the remainder of his time Rufolo worked in the legal department in various roles, including vice president of the Labor, Employment and Litigation Practice Group.

Rufolo saw the GLSP position as a great opportunity to take his business and legal background, developed while working at UPS, and combine those with his passion for giving back to those that need it the most, the thousands of Georgians

"We already provide great legal services, but there are nearly 2 million people that live near the poverty level in Georgia. We need to find ways to reach even more people than we already do."

that, without the representation GLSP provides, might be denied access to justice.

The first month in the executive director's chair, Rufolo settled into the job, getting oriented with the work in the Atlanta office. It wasn't long before he hit the road visiting the 10 offices that GLSP maintains around the state, meeting all the members of the team and some of their clients within a span of three weeks. He spent one day with Cheryl Griffin, managing attorney in the Albany office, meeting with clients and seeing firsthand the type of work GLSP's attorneys are doing. All told, Rufolo traveled 2,100 miles on his quest to visit the offices as well as additional trips to Savannah and Columbus to speak with the Savannah and Columbus Bar Associations.

His trip around the state helped Rufolo identify how GLSP can provide better, more comprehensive services to those in need. "We need to look into the current structure of service to develop strategies which can improve processes, utilize technology to provide more effective legal services and develop our people to lead the organization in the future."

Rufolo attended Bar meetings including some local and voluntary bars which allowed him to tell GLSP's story. "We have a great story; we just don't tell it enough." He sees any chance to meet with lawyers and talk to them about the work GLSP does as an opportunity to help the state's attorneys understand the priorities of GLSP.

Asked if the state would be better served with more offices around the state, Rufolo noted that the number of offices and employees ebbs and flows throughout the years, depending on budget and funding sources. Representing clients in such a large state is daunting, especially clients in south Georgia who might have once been served by offices in Valdosta and Waycross, offices that are now closed.

When asked about his priorities, Rufolo said he was eager to identify ways GLSP could reach more clients. "We already provide great legal services," he said, "but there are nearly 2 million people that live near the poverty level in Georgia. We need to find ways to reach even more people than we already do."

Securing funding, always a challenge for nonprofits, is key to GLSP's success. Part of its budget comes from federal and state grants, but grants tend to be restrictive. It is important to find funding sources that allow GLSP more flexibility in the way they provide services. "We receive great support from the State Bar's annual 'And Justice for All' Campaign for GLSP and the Georgia Bar Foundation," Rufolo said. "Our goal is to continue to build relationships with foundations and law firms in the private sector throughout Georgia. The more funding we can raise, the more services we can offer." Rufolo wants to build capacity into the GLSP delivery system, "but we can't do that without additional funding. When people hear the great work we're doing, funding follows." The State Bar's annual campaign provides an opportunity for all Georgia lawyers to support GLSP, and Rufolo hopes to work with law firms to garner more financial support. Attorneys can also work with GLSP on pro bono matters if they want to be involved.

In his years at UPS, Rufolo says, "I only had one client. That client wasn't denied access to justice and didn't have any funding issues." So, what's an adjustment he made coming into a program that has limited resources? Rufolo pointed out that nonprofits run on passion, and bringing structure to that passion by identifying policies and processes that create efficiency in how legal services are delivered is important.

Learning leadership from both business and legal mentors, Rufolo understands the importance of knowing all aspects of the business. He spent time with Holmen to hear what she focused on during her years at GLSP. In order to get perspective from the team, Rufolo hosted a dinner in Macon with seven staff members who have been with GLSP for more than 40 years. "To hear from them was energizing," Rufolo said. "I listened more than anything. Their passion is evident, these experienced members of the team who can share the history and culture. You could see it and hear it: the issues they've dealt with and the Georgians that have been helped over the years."

The next generation of GLSP lawyers will come from the many law students who choose a career in public interest law. "They don't do it for the money. Clearly they do it because something has impacted them in their lives, and they want to give back to their communities." ●

**Ashley G. Stollar**

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# What a Year! The Transition Into Law Practice Program Looks Back

TILPP has made great strides in providing dynamic, engaging programs and mentoring experiences that have served to enrich not only new lawyers, but the profession in its entirety.

**BY MICHELLE E. WEST**

**The Transition Into Law Practice** Program (TILPP), the State Bar of Georgia's Mentoring Program, completed its 13th year of operation in June 2019. An estimated 13,148 beginning lawyers have enrolled since the program began in 2006, of whom 937 are currently enrolled. The Supreme Court of Georgia has issued 52 orders appointing 4,944 mentors since TILPP's inception, of whom 1,125 have volunteered more than once.[1]

TILPP ended the 2018-19 Bar year by honoring those who assist the program in its continued successful operation:

PHOTO BY SARAH I. COOLE

*(Left to right)* Cara Mitchell received the 2019 John T. Marshall Model Mentor Award from TILPP Director Michelle E. West and 2018-19 President Ken Hodges at the State Bar's Annual Meeting in June.

PHOTO BY JODI LIPSITZ

TILPP Mentors at the Mentoring of New Lawyers Symposium: Relationship Building in the 21st Century.
TILPP salutes, honors and thanks its mentors, speakers and mentor lunch leaders. Please visit www.gabar.org/tilpp to see a list of our 2018-19 volunteers.

TILPP mentors, speakers and supporters. Cara Mitchell, partner, Whelchel Dunlap Jarrard & Walker LLP, was honored as the recipient of TILPP's 2019 Mentor of the Year Award. Mitchell received the John T. Marshall Model Mentor Award at the State Bar of Georgia's Annual Meeting on June 7. This award was created to commemorate TILPP's 10th anniversary and to celebrate experienced lawyers who, like its namesake, are so graciously giving of their time as they willingly teach from their experiences. Mentees are given an opportunity to nominate their mentor based on how their mentor's service and commitment impacted them personally and the legal profession as a whole.

In her nomination, Mitchell's mentee, Alston E. Lyle, praised Mitchell for her brilliance, willingness to share her knowledge and time, and her ability to uplift and encourage others. Lyle said, "Cara is a wonderful example of how being great at your job is an accomplishment, but being kind and genuine with those around you makes you exceptional. All in all, while Cara is an exceptional attorney to her clients, she is an even better attorney and colleague to her peers."

She added, "It was a pleasure working with Cara, and I will forever be grateful for her mentorship and the lifelong effect it had on me.

Mitchell's practice areas include corporate law, corporate sales and acquisitions, tax law, health care regulation, and business and estate planning. She and her family live in southern Hall County where Mitchell proudly serves on the Board of Directors of the North Georgia Community Foundation.

On Nov. 15, 2018, TILPP oriented and celebrated its mentors at the Mentoring of New Lawyers Symposium: Relationship Building in the 21st Century. This program is TILPP's biennial mentor orientation program. A group of 48 mentors attended. There were presentations from Hon. Todd Ashley, judge, Fulton County Magistrate Court; Jimmonique R. S. Rodgers, deputy director, Georgia Public Defenders Council; Natalie Kelly, director, State Bar of Georgia Law Practice Management Program; Hon. Shawn E. LaGrua, judge, Fulton County Superior Court; and Michelle E. West, TILPP director.

In addition to TILPP's work in enhancing the mentor experience, TILPP continued its first year programming to enrich the new lawyers' journey as they transition into practice. In promoting the State Bar's wellness initiative, TILPP sought to address the topic of attorney well-being, and in doing so, introduced two new sessions during the Beginning Lawyers Program. The Money Matters panel was led by financial advisors Joy Gorney, Niv Persaud and Moise Piram, addressing consumer debt, student loans, saving and investing; and the Navigating Sexual Harassment in the Workplace panel featured employment lawyers Eleanor Attwood, Josh Bosin, Raquel Crump and Jay Rollins. These sessions complemented the recent past additions ESQuasi: How Non-Traditional Legal Careers Can Work for You, Marking Your Mark in a Transactional Practice and Crime, Punishment and Implications.

As part of the ongoing effort to provide relevant and meaningful information to new lawyers, TILPP made additions to its Group Mentoring seminars with the introduction of TILPP|TEN and TILPP|TWENTY segments, which highlight State Bar programs and committees. Recently featured committees included the Lawyer Assistance Committee with a presentation by Lynn Gar-

*(Left to right)* Karyl Davis, Valentia Alleyne, Michelle E. West, Jodi Lewis Lipsitz, Mary "Scout" Badham, LaJuana Fells, Tiffany Weatherholtz and Adrienne Nash attend Mentoring Moments at the Fox.

PHOTO PROVIDED BY THE FOX THEATRE

son of Baker Hostetler on the Georgia Lawyers Helping Lawyers Program and the Wellness Committee with a presentation by R. Javoyne Hicks, DeKalb State and Magistrate Courts.

As a means to foster dynamic engagement, TILPP increased its mentoring lunch opportunities to enhance its program offerings. The Aug. 21, 2018, Group Mentoring Seminar featured a luncheon with local bar presidents and other officers. The luncheon was created to provide a convenient forum for new lawyers to discover the benefits of the various organizations and how to become involved. TILPP was joined by the Atlanta Bar Association, DeKalb Bar Association, DeKalb Lawyers Association, Georgia Association of Black Women Attorneys, Georgia Asian Pacific American Bar Association, Georgia Association for Women Lawyers, Georgia Diversity Program, South Asian Bar Association, Stonewall Bar Association and the Young Lawyers Division (YLD) of the State Bar of Georgia.

On Feb. 26, TILPP continued its efforts by co-sponsoring, with the YLD, a mentoring lunch at the Beginning Lawyers Program. The Beginning Lawyers Program mentoring lunch afforded new attorneys at the State Bar offices in Atlanta, Savannah and Tifton additional opportunities to network with the program speakers and experienced lawyers who volunteered to mentor during the luncheon. Fifty-seven mentors participated in the luncheon, including 42 in Atlanta, seven in Savannah and eight in Tifton.

At its first Group Mentoring seminar of the calendar year on March 12, TILPP introduced a TILPP|TALKS lunch to garner live feedback about the program from the attendees.

Another noteworthy change was to TILPP's Mentoring Plan with the inclusion of well-being as it relates to emotional and financial intelligence. Additionally, with the assistance of several state and federal judges, TILPP initiated a Judicial Law Clerk Mentoring Plan.

TILPP rounded out its year by launching Mentoring Moments. Mentoring Moments provide an informal opportunity for both new and experienced attorneys to develop relationships centered around common interests. Participating in Mentoring Moments is voluntary and does not satisfy any TILPP mentoring or continuing legal education requirement. The gatherings provide supplemental opportunities for additional mentoring, networking and relationship building. The inaugural event, a viewing of "To Kill A Mockingbird" at the Fox Theater on July 14, included a pre-show mentoring meal at the Marquee Club.

Whew . . . what a year! It has been quite amazing, and I am confident the program will continue on this progressive trajectory. TILPP will welcome Kellyn McGee as its new director on Aug. 19. After more than five and a half years of leading the program, I can say that TILPP has made great strides in providing dynamic, engaging programs and mentoring experiences that have served to enrich not only new lawyers, but the profession in its entirety. TILPP will remain vibrant through the many supporters that have and will continue to breathe life into its vision: to afford Beginning Lawyers with meaningful access to experienced lawyers equipped to teach the practical skills, seasoned judgment and sensitivity to ethical and professionalism values necessary to practice law in a highly competent manner.

As I transition to my new role as the director of the Institute of Continuing Legal Education of the State Bar of Georgia, I look forward to continued work in lifelong learning and collaborating with all who are committed to the advancement of legal education. "[As] change is the end result of all true learning."—Leo Buscaglia

**Michelle E. West**

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## Endnote

1. As of June 30, 2019.

# GEORGIA LAWYERS HELPING LAWYERS

- Georgia Lawyers Helping Lawyers (LHL) is a confidential peer-to-peer program that provides colleagues who are suffering from stress, depression, addiction or other personal issues in their lives, with a fellow Bar member to be there, listen and help.

- The program is seeking not only peer volunteers who have experienced particular mental health or substance use issues, but also those who have experience helping others or just have an interest in extending a helping hand.

For more information, visit:

**www.GeorgiaLHL.org**

# Dynamic Social Justice Advocacy CLE Presented at Annual Meeting

The Georgia Association of Black Women Attorneys partnered with the Gate City Bar Association, DeKalb Lawyers Association, Georgia Alliance of African American Attorneys, Advocacy for Action, The Arc of Justice Institute, Inc., and the State Bar of Georgia Committee to Promote Inclusion in the Profession to present this well-attended CLE.

BY JACQUELINE F. BUNN AND AVARITA L. HANSON

**On June 7 at the Annual Meeting in** Orlando, Florida, a room overflowing with participants experienced living history in action at the Social Justice Advocacy in Action: Finding Your Passion CLE as attorney Howard E. Moore Jr. and Hon. Glenda Hatchett shared war stories gleaned from a tapestry of careers steeped in social justice.

Moore, an 87-year-old civil rights lawyer, currently practices in Berkeley, California, and set the stage for a spirited discussion of social justice in action. Licensed in Georgia in 1962, Moore was one of only 10 African-American attorneys in the entire state when admitted

PHOTO COURTESY OF GABWA

*(Left to right)* Yolanda K. Johnson, Derrick A. Pope, Hon. Glenda Hatchett, Howard E. Moore Jr., Jacqueline F. Bunn, Avarita L. Hanson, Tiffany Williams Roberts, Lisa Cupid and Donald P. Edwards.

to the Bar. Attendees were awed by his recall of historic cases, legal skills, ethics, professionalism, grace and wit.

Moore originally planned to be a journalist; however, his plans changed upon hearing future Supreme Court Justice Thurgood Marshall speak at an NAACP meeting one evening. Moore said, "I don't remember what he said that night, but I liked the way he said it." Marshall inspired him to attend law school. After graduating from Morehouse College, finishing law school at Boston University and then serving as a clerk to a federal judge, Moore struggled with the reality of returning to the segregated South to practice. Despite his comfort in Massachusetts, when civil rights icon Donald L. Hollowell called him to join his firm in Atlanta, he answered the call.

Moore's advice to young lawyers: "Never excuse your failure in the court because the judge is racist or discriminatory . . . . We must continuously be students of the law . . . not just the Black Letter law—but the social history that creates it." Moore's discussion was moderated by Donald P. Edwards, Edwards & Hawkins LLC, and a silent co-chair of the CLE.

The conversation with Hatchett, moderated by Avarita L. Hanson, addressed what motivated Hatchett to leave a lucrative career as Delta Airlines' senior attorney to become a juvenile court judge. While Hatchett loved her corporate job at Delta, she knew that the role she could play at the juvenile court in the lives of at risk children was her true passion.

Hatchett has pursued a career with causes that have taken her from her own television series to establishing a national law firm that represented Philando Castile's family and addressed police brutality, all the way to the halls of Congress to discuss medical inequities related to childbirth for women of color, a topic that became her passion when she tragically lost her daughter after a "routine" Cesarean section. "We must be clear about our responsibilities and why we do what we do. . . . If we don't claim the people who need to be claimed, then we have to question what we are doing."

The final segment of the CLE, A Panel Discussion on Today's Opportunities for Social Justice Advocacy and Actions, moderated by Tiffany Williams Roberts, attorney and Community Engagement and Movement Building Counsel, Southern Center for Human Rights, highlighted the social justice involvement of younger attorney advocates. Lisa Cupid, attorney and Cobb County Commissioner; Yolanda K. Johnson, director, Court and Family Services, Fulton County Juvenile Court; and Derrick Alexander Pope, attorney and managing director, The Arc of Justice Institute, Inc., each had unique experiences that propelled their involvement in social justice arenas. Cupid discussed at length concerns she raised related to her treatment during a Cobb County traffic stop. Johnson served on the Atlanta school board during the cheating scandal and fought for accountability and justice. Pope's passion project was borne out of what he saw as a lack of serious exploration of the impact of lawyers on the history of civil rights at museums on the subject. Pope said, "We have to remind people of the heroic and vital contributions lawyers have made to social justice. . . . I am passionate about preserving the record."

Since 1984, the Georgia Association of Black Women Attorneys (GABWA) has sponsored a CLE at the State Bar's Annual Meeting. Over the years, partners have joined the effort to bring impactful CLE topics that stimulate discussion, provide dynamic speakers and inspire action. This year's partners included the Gate City Bar Association, DeKalb Lawyers Association, Georgia Alliance of African American Attorneys, Advocacy for Action, The Arc of Justice Institute, Inc., and the State Bar of Georgia Committee to Promote Inclusion in the Profession.

Special thanks to the sponsors of this CLE: Gate City Bar Association; Georgia Association of Black Women Attorneys; The Davis Bozeman Law Firm; ICLE of Georgia; State Bar of Georgia; Committee to Promote Inclusion in the Profession; N. John Bey, Bey & Associates LLC; Donald P. Edwards, Edwards & Hawkins LLP; Tricia "CK" Hoffler, Hoffler Law Firm; Charles S. Johnson III; Joyce Gist Lewis; Krevolin & Horst LLC; Michael Tyler, Kilpatrick Townsend LLP; W. Ray Persons, King & Spalding LLP; Richard H. Sinkfield, Rogers & Hardin LLP; P. Andrew Patterson Jr., Smith Gambrell & Russell LLP; Antonio L. Thomas, Antonio L. Thomas Associates; and Jeffrey E. Tompkins, Thomas Kennedy Sampson & Tompkins LLP.

One of the earliest references to "social justice" is found in *The Federalist Papers*, No. 7, p. 48, written by Alexander Hamilton. Hamilton, James Madison and John Jay created *The Federalist Papers* to promote ratification of the U.S. Constitution. GABWA is committed to continuing to provide social justice topic CLEs into the future, and we welcome your input. ●

**Jacqueline F. Bunn** is a member of the Georgia State Board of Pardons and Paroles and a past president of the Georgia Association of Black Women Attorneys. She can be reached at jacqueline.bunn@pap.ga.gov.

**Avarita L. Hanson**, former executive director of the Chief Justice's Commission on Professionalism, is a past president of the Georgia Association of Black Women Attorneys and the Gate City Bar Association. She can be reached at avarita.hanson@gmail.com.

# Supreme Court of Georgia Term Clerk Program

Law students and recent law school graduates bring energy to the Supreme Court of Georgia with its new Term Clerk Program.

BY ASHLEY G. STOLLAR

**In 2018, the Supreme Court of Georgia** asked the General Assembly for funds to hire additional clerks to help with an increase in the caseload and growing complexity of cases. The state funded them but in a unique way. Rather than provide funds for traditional clerks, the governor's office suggested a term clerk program similar to what the federal judiciary uses: clerks who work for a term of one to two years to gain experience just out of law school. The Court looked at how the U.S. Court of Appeals for the Eleventh Circuit, in particular, hires its term clerks.

After the funding was made available, the Court reached out to the state's law schools to encourage their top law students to apply for the positions. Hiring began prior to the July 1, 2018, start date.

Chief Justice Harold D. Melton said of the program, "It gives recent law school graduates a quality, high-end experience which, in the long run, gives them more opportunities. The experience widens the talent pool for judicial experience as well."

While the program was in the planning stages, the Court reached out to each of the state's law schools in order to gauge their interest in helping to funnel students to the new program. The law

PHOTO BY ASHLEY G. STOLLAR

Judicial Building, home of the Supreme Court of Georgia.

When asked how the first round of term clerks fit in at the Supreme Court, Melton said, "There's a learning curve, but once they were up-to-speed with the procedures of the Supreme Court, there's really no distinction between the term clerks and the full-time clerks."

schools were enthusiastic in participating, to say the least.

University of Georgia School of Law Dean Peter B. Rutledge said, "We place great importance on clerkships and training students for the same, as part of our mission to provide first-rate legal training in service to state and society."

Associate Director of Career Development and Judicial Clerkship Laura E. Woodson, University of Georgia School of Law, said of working with the Supreme Court, "We considered this a great opportunity for our students, especially for those who plan to stay in Georgia to practice."

Woodson sees benefits to both graduating law students and the Supreme Court. "These clerkships provide recent graduates with the opportunity to hone their legal analysis, research and writing skills under the mentorship of the state's highest court," she said, while also making connections with state government officials and attorneys that appear before the court. "We expect such connections may lead to post-clerkship jobs and opportunities that will benefit these young lawyers throughout their careers."

Assistant Dean for Public Service Rita Sheffey, Emory University School of Law, is responsible for judicial clerkships. When asked how Emory determines what candidates would be a good fit for the term clerk program of the Supreme Court, Sheffey said, "I talk with them about what a state supreme court clerkship would be like compared to other opportunities. Students who have done internships or externships with the Supreme Court are strong candidates because they would already be familiar to some of the justices and have an idea of what the clerkship would entail."

Sheffey called the term clerk program an "opportunity to work with and learn from the dedicated professionals who are engaged in lifelong public service. The justices are some of the most actively involved in the Bar and community leadership. Once these students or recent graduates are members of the Bar, they may appear before the court as advocates, and they almost certainly will cross paths with the justices through local and State Bar activities." As for how the Supreme Court benefits from these clerks, "Recent graduates complement the staff attorneys (career clerks) by bringing a fresh perspective to the court," Sheffey said. "The practice of law is changing more and more rapidly every day and law schools educate students not only on the substantive law, but also on emerging areas of the law. In addition, recent graduates have a unique perspective on culture and society and are definitely equipped with effective use of the latest research and technology."

Woodson noted how valuable the term clerk program is for law students that will practice in Georgia. "Investing in the next generation of lawyers can only benefit the entire bar and raise the level of advocacy and skills within the State Bar."

Nirej Sekhon, Associate Professor of Law and co-chair of the Clerkship Committee at Georgia State University College of Law, reported that students who apply for term clerkships from Georgia State are in the top 10 percent of their class. Sekhon sees the benefits to the program in two dimensions: "First, they engage with the law deeply through research and writing at the highest level of the profession and, second, they have an opportunity to be mentored by a Supreme Court justice. The program benefits the Bar, the student and the Supreme Court."

On how the program will benefit graduates, Dean Cathy Cox of Mercer University Walter F. George School of Law said, "I've had some of Georgia's best trial lawyers tell me they make it a practice to hire lawyers who have had federal clerking experience because they know they will be exceptional writers—and writing has become that critical to law practice today. So, additional high-level clerking experiences for our graduates at the Supreme Court of Georgia is only going to enhance the long-term employment opportunities for our graduates."

When asked how the first round of term clerks fit in at the Supreme Court, Melton said, "There's a learning curve, but once they are up-to-speed with the procedures of the Supreme Court, there's really no distinction between the term clerks and the full-time clerks. The energy they bring to the Court is a plus."

Term clerk responsibilities include legal research; drafting opinions, memoranda on applications to appeal, and summaries of records and briefs; reviewing opinions and memoranda prepared and circulated by justices and the Court's central staff; and supervising law student interns.

Minimum requirements for the term clerk position include an outstanding academic performance in law school and undergraduate studies, proficiency in writing and legal analysis, and personal integrity and character.

Each justice hires his or her own term clerk for a one-year term, which can be extended to a second year. The yearly salary for term clerks was $85,737 during fiscal year 2019 and is $87,452 for fiscal year 2020. The clerkships are open to law students and recent graduates from all law schools. Term clerk opportunities can be found on the Supreme Court of Georgia's website, www.gasupreme.us/employment-opportunities. ●

**Ashley G. Stollar**

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# Serving Those Who Served: An Interview with Marshall-Tuttle Awardee Norman E. Zoller

In recognition of his extensive career in public service, we decided to ask 2019 Marshall-Tuttle Awardee Norman E. Zoller not only about his background, but his perspectives on the need for military-focused legal services.

BY CHRISTOPHER PITTS

**Every year, the Military Legal Assis**tance Program (MLAP) Committee recognizes an attorney for his or her efforts in providing legal services to deserving active duty service members and veterans. The award is named in honor of Andrew Marshall and U.S. Circuit Judge Elbert Parr Tuttle. Marshall, an Army corporal, was killed in action in Iraq in 2008. Tuttle, an Atlanta attorney who served in the Army during the First and Second World Wars and retired as a brigadier general, founded the firm Sutherland, Tuttle & Brennan (today Sutherland Asbill & Brennan), and served as a federal appellate judge for 43 years. Tuttle was remembered, among other reasons, for providing pro bono representation to a young marine, John Johnson, which led to the historical holding of *Johnson v. Zerbst* that counsel must be provided for all defendants in federal criminal trials who cannot afford to hire their own attorneys.

*(Left to right)* Military Legal Assistance Program Chair Jay Elmore and 2018-19 President Ken Hodges present Norman E. Zoller with the Marshall-Tuttle Award.

PHOTO BY SARAH I. COOLE

This year, the MLAP Committee was proud to recognize Norman Eugene Zoller. A native of Cincinnati, Ohio, Zoller served almost seven years in the Army on active duty as a field artillery officer. His service included two tours of duty in Vietnam, first with the Army Special Forces in 1964–65 and again in 1968–69 with the 82nd Airborne division as a response to the Tet Offensive.

Zoller earned his law degree from Northern Kentucky University's Chase College of Law. As a lawyer, Zoller managed the Hamilton County, Ohio, courts for a decade before accepting a position in the then-newly formed U.S. Court of Appeals for the Eleventh Circuit from 1981 to 1983 and began service immediately thereafter as circuit executive of the Eleventh Circuit until he retired in 2008.

During his career, Zoller also served as a judge advocate general officer in the National Guard and Army Reserves for 15 years. He retired in 1993 as a lieutenant colonel after 22 total years of military service.

In 2009, Zoller became the coordinating attorney of the Military Legal Assistance Program. In that position, he recruited and maintained a cadre of more than 700 volunteer attorneys who agreed to represent in-need service members and veterans on a pro bono or reduced fee basis. From 2009 to 2018, he was responsible for placing more than 2,200 eligible service members or veterans with volunteer attorneys.

Additionally, Zoller publicized and wrote articles about MLAP; helped conduct continuing legal education programs on pertinent legal issues for lawyers seeking initial or renewed VA accreditation; hosted a 15-state educational symposium in Atlanta concerning veterans' legal assistance issues; and led two State Bar-sponsored CLE programs to Belgium and France, one in 2014 that commemorated the 70th anniversary of the D-Day landings at Normandy and the other, in 2017, that commemorated the 100th anniversary of America's entry into World War I.

Zoller also frequently spoke in support of the establishment of veterans' treatment courts across Georgia, was active in producing material to be used by judges who deal with military-specific issues, and helped in the formation and perpetuation of veterans' legal clinics at VA hospitals and at three law schools in Georgia.

In recognition of his extensive career in public service, we decided to ask Zoller not only about his background, but his perspectives on the need for military-focused legal services.

***What were some of your motivations for accepting the position as the first coordinating attorney of the Military Legal Assistance Program?***

I had previously worked on several administrative matters with the late Jeff Bramlett during my tenure at the Eleventh Circuit Court of Appeals. Shortly after he completed his term as president of the State Bar, I learned about the recently approved MLAP program. I had just completed my responsibilities with the Eleventh Circuit, and helping to implement this program seemed like a logical next step in my career as I had also retired from military service that included 15 years as an Army lawyer.

I subsequently met with Buck Ruffin, who at the time was chair of the MLAP Committee (and who later became State Bar president), the late Cliff Brashier, then-State Bar executive director, and Mike Monahan, director of the Pro Bono Resource Center for Georgia Legal Services Program. Individually, all were very accomplished and respected, and it seemed like, and proved to be, a good team to join. I later learned that the idea and concept for such a program originated between Jeff and his law partner and Navy veteran, Jay Elmore, who had been on a Defense Department liaison mission in 2007 to the Middle East.

***From your time as coordinating attorney of MLAP, what were some of the main legal issues you saw facing service members and how did these issues affect their ability to serve?***

With respect to specific legal issues, the demand for assistance in family law matters has represented about half the total requests. And half the family law matters pertained to divorce. It is a sad but true reality that military service and multiple deployments abroad are difficult on families, spouses and especially on children. There have also been many cases pertaining to landlord tenant, consumer law, employment law and VA benefit matters.

***Why do you believe service members or veterans often find themselves with legal problems that they cannot afford to resolve?***

Military service members do not earn a great deal of money, and budgetary demands on normal family life are as significant for them as they are for the rest of us. Thus, when an unexpected legal problem arises, family budgets may be stretched beyond individual capacities. Although many categories of cases can be fairly easily resolved and do not consume extensive lawyer time, some are more time-consuming, especially when court appearances are necessary. Based on a lawyer's availability, however, he may be

able to take a case on a purely pro bono or on a reduced fee basis. And so a program like MLAP is valuable because lawyers are recruited to volunteer and provide their time to help this especially worthy category of client, namely service members and veterans.

***You have been involved in helping educate lawyers, judges and the public about legal issues facing service members and veterans. Why is this type of education and advocacy important?***

With the elimination of the draft in 1973, first-hand knowledge of the military experience and the issues soldiers and sailors face has diminished. Now we have an all-volunteer force in which close to 1.4 million people serve in the armed forces; that's about 0.4 percent of the American population. So, not many people appreciate or understand the military generally and the problems military personnel may face. MLAP strives to increase the legal community's knowledge of ways individual lawyers can assist service members and veterans. For example, each year MLAP lawyers conduct a CLE program for Georgia lawyers who want to assist veterans obtain the VA benefits they may be entitled to. This CLE program satisfies the VA requirement for accreditation. Comparable instruction has also been given by MLAP lawyers to Georgia judges as part of their periodic training programs.

***You have coordinated continuing legal education trips to Belgium and France to commemorate significant events in past military conflicts. What are some of the advantages in lawyers visiting these locations while fulfilling their CLE obligations?***

It can be a powerful personal experience to visit military battlefields and cemeteries. While we in America have memorial sites for important Revolutionary War and Civil War battle sites, our nation was blessed in not having battles of the First and the Second World Wars fought on our shores. However, there is value in paying tribute to those Americans who fought and sacrificed abroad on our behalf.

And so MLAP members and their guests have made such personal journeys. In addition, CLE opportunities were also provided during those trips, especially relating to elements of international practice and mediation/arbitration, which may prove useful even for attorneys whose practices and clientele are principally based in the United States

***You also coordinated a national, educational symposium on state-level military legal assistance programs back in 2015. What have been some benefits or fruits of that effort to host such a symposium?***

The national symposium held in Georgia in 2015 was useful in that it provided the opportunity for attendees to learn from one another about programs being offered in other states. Representatives from some states already had operational programs in varying degrees. Others who came to the symposium wanted to learn what types of assistance might be possible in order for them to offer and how programs offered elsewhere might be tailored to their needs and resources. So information was broadly shared. One significant aspect of this symposium was that Georgia attorney, Linda Klein, who was about to become president of the American Bar Association, shared part of her forthcoming plans that encouraged development of programs to assist veterans and their families. The program she initiated is ongoing and expanding because the need remains significant.

***Many attorneys find it difficult to balance the demands of their clients and their personal lives. What are some easy ways in which attorneys can volunteer time to help service members and veterans?***

Attorneys are always going to be pressed to balance their time: time is our most important stock in trade. In Georgia, lawyers are asked to provide 50 hours of pro bono legal support annually, but it is not mandated, as in some states. In Georgia, it is aspirational.

One easy way to do this is to contact legal assistance coordinators at existing programs which already are doing this work: at VA facilities in Augusta, Decatur, Carrollton, Columbus, Fort McPherson and Rome (principal contact is Cary King, 404-920-4490); at Georgia law schools: Emory University (404-727-1044), the University of Georgia (Alex Scherr, 706-542-6510); Georgia State University (Patricia Shewmaker, 770-939-1939); and MLAP Director Christopher Pitts, 404-527-8765.

***What question did I not ask that you believe ought to be asked? Alternatively, what is something lawyers should know about the experience of service members or veterans that they may not understand?***

Most people don't realize just how large Georgia's population of service members and veterans is: more than 100,000 active duty, reservists and National Guard members and about 690,000 veterans live here. That means roughly one person out of every 10 of Georgia's population of 9 million is either in the military now or used to be. With Georgia's 10 military installations, the many ongoing deployments of the service members who live here, and an aging population of veterans, the need for legal help for this special category of our citizens is not going away. I hope that our Georgia lawyers will continue to find ways to allocate a portion of their work year, every year, to assist with this need. While the need is great, so is the satisfaction.

As with other circumstances, when lawyers do something to help others, it pays back many times over. In a biblical reference, we learn that when you save the life of one person, it is as though you have saved the life of the entire world. ●

**Christopher Pitts**

Director
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# "And Justice for All"

## State Bar Campaign for the Georgia Legal Services Program® (GLSP)

# You Can Help Close the Justice Gap in Georgia.

Mr. Samuel Smith is a 68-year-old Vietnam veteran living alone in his apartment. He contacted the Georgia Legal Services Program (GLSP) to seek assistance with an eviction court action filed against him by his landlord. Mr. Smith was receiving hospice services for cancer with a limited time to live. His landlord filed an eviction stating that Mr. Smith keeps allowing residents in his neighborhood to wash clothes. Mr. Smith said that he permitted one couple who help him use his dryer, not the washing machine. The parties did not have a written lease, so under Georgia law the landlord was required to provide Mr. Smith 60 days notice before filing the court action. A GLSP attorney filed an answer and counterclaim for repairs, intentional infliction of emotional distress, attorney's fees, and stubborn litigation. The counterclaim was denied, but the complaint was dismissed for failure to provide the 60 days notice. Mr. Smith was able to live out his last days in his home.

**Give to the Georgia Legal Services Program at www.glsp.org.**
**Thank you for your generosity and support!**

## 2019 "And Justice for All" State Bar Campaign for the Georgia Legal Services Program®

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 name does not necessarily represent the actual client.

**Ten (10) GLSP offices outside metro Atlanta serve 154 of Georgia's 159 counties. Your gift makes a difference!**

**TO PLACE AN ANNOUNCEMENT**
Contact Amber Rikard | amberr@gabar.org | 404-527-8736

## Kudos

Boyd Collar Nolen Tuggle & Roddenbery announced that shareholder Tina Roddenbery was named president of the Georgia chapter of the American Academy of Matrimonial Lawyers (AAML). AAML serves to provide leadership that promotes the highest degree of professionalism and excellence in the practice of family law.

Carlton Fields announced that shareholder Gail Podolsky received the 2019 Volunteer Leadership Award from the American Civil Liberties Union of Georgia. Podolsky was recognized for her pro bono contributions at the organization's annual membership meeting in May.

The Georgia Public Defender Council announced the appointment of Jennifer L. "Jen" Lewis as the circuit public defender of the Flint Judicial Circuit. A public defender for the past 12 years, Lewis has served in the Flint Circuit for 10 years and as chief assistant from 2018-19.

Bouhan Falligant LLP announced that partner J. Daniel Falligant was recognized as a member of the "Top One Percent" of attorneys in the United States by the National Association of Distinguished Counsel (NADC), an organization that promotes high standards of legal excellence. The award is given to attorneys who have demonstrated the highest ideals of the legal profession, according to the NADC.

Davis Bozeman Law Firm, PC, announced that attorney Mawuli Davis received the Ben F. Johnson Jr. Public Service Award, which is presented annually to a living Georgia attorney whose overall accomplishments reflect the tradition of public service exemplified by Ben F. Johnson, the founding dean of Georgia State College of Law. It is the highest award extended by Georgia State College of Law.

Taylor English Duma LLP announced that partner Eric Fisher received the 2019 Daniel R. Ginsberg Leadership Award by the Anti-Defamation League. This award honors outstanding young professionals for their leadership in the fight against anti-Semitism, racism and all forms of prejudice.

Drew Eckl & Farnham, LLP, announced that partner John P. "Jack" Reale served as presenter for Champ Bailey, retired NFL Denver Broncos defensive back, at Bailey's induction into the Pro Football Hall of Fame in August. Reale has served as Bailey's attorney for the past 20 years, practiced law for 43 years and represented numerous professional football players in the negotiation and drafting of playing contacts and commercial endorsements.

Adams and Reese announced that the firm was named an official honoree in the Law Websites category in the 23rd Annual Webby Awards in April. The Webby Awards are presented by the International Academy of Digital Arts and Sciences, a leading international awards organization honoring excellence on the Internet.

Fisher & Phillips LLP announced the election of Christine E. Howard to a three-year term on the firm's management committee. Howard is the first woman to serve on the three-member management committee, the equivalent of the board of directors for the 34-office, more than 400-lawyer firm. She has been with Fisher Phillips since 1990 and is the regional managing partner of the firm's Tampa office.

NELSON

WARD

HALL

MEADOWS

KYLE

KARABINOS

Georgia Defense Lawyers Association (GDLA) announced the installation of David N. Nelson, Chambless, Higdon, Richardson, Katz & Griggs LLP, Macon, as president during its 52nd Annual Meeting in June. Other officers elected include President-Elect Jeffrey S. Ward, Drew Eckl & Farnham LLP, Brunswick; Treasurer George R. Hall, Hull Barrett, PC, Augusta; and Secretary James D. "Dart" Meadows, Balch & Bingham LLP, Atlanta. Past President Steven J. Kyle, Bovis Kyle Burch & Medlin, LLC, Atlanta, was honored with the GDLA Distinguished Service Award. Karen K. Karabinos, Drew Eckl & Farnham LLP, Atlanta, received the GDLA President's Award for her visionary leadership in creating and chairing the GDLA Women Litigators Section. GDLA is committed

to advancing the civil defense bar by providing training and resources, facilitating communication and offering networking to more than 950 members.

The Fulton Law Week Committee 2019, chaired by Fulton County Superior Court Judge Gail S. Tusan, announced that five high school students received the annual "Future Leaders of America" scholarship in May: Nichelle Haley, The Lovett School, Ortho Sport & Spine Scholarship; Camila Del Bosque, Holy Spirit Preparatory School, Montlick and Associates Scholarship; Seth Cullen, Grady High School, Comprehensive Spine & Pain Scholarship; Alan Goldsmith, North Springs Charter High School, Roy Barnes/Parag Shah Scholarship; and Chandler McCleskey, Riverwood International Charter High School, Malone Law Scholarship. The scholarships covered the recipients' round trip airfare, tuition, room and board, and local transportation to attend the Washington Workshops' Congressional Seminar to study national politics and government over the summer.

## On the Move

### IN ATLANTA

KERR

WYSS

Boyd Collar Nolen Tuggle & Roddenbery announced the addition of Caitlyn Kerr and Megan Pownall Wyss as associates. Kerr focuses her practice on family law matters, including high net worth divorce and child custody issues, modifications and contempt issues. Wyss focuses her practice on family law matters, including high-asset divorce, annulment, contested child custody and modification of child support. The firm is located at 3330 Cumberland Blvd., 100 City View, Suite 999, Atlanta, GA 30339; 770-766-4015; Fax 770-953-4700; www.bcntrlaw.com.

Stites & Harbison, PLLC, announced that William M. "Bill" Joseph joined the firm as a partner. Joseph focuses his practice on transactional tax matters, counseling clients on domestic and international corporate mergers and acquisitions, partnerships and joint ventures. The firm is located at 303 Peachtree St. NE, Suite 2800, Atlanta, GA 30308; 404-739-8800; Fax 404-739-8870; www.stites.com.

JAMS Mediation, Arbitration and ADR Services announced the addition of Hon. Gail S. Tusan to its panel. Tusan will serve as an arbitrator, mediator and special master in a variety of practice areas, including business/commercial, construction, employment, family law, insurance, medical malpractice, personal injury, products liability and premises liability. The organization is located at 1 Atlantic Center, 1201 W. Peachtree St. NW, Atlanta, GA 30309; 404-588-0900; Fax 404-588-0905; www.jamsadr.com.

# 16th Annual Commitment to Equality Awards

*(Left to right)* Shaton C. Menzie (co-chair), Melford W. Walker Jr., Pamela Peynado Stewart, Jamala S. McFadden, Joshua I. Bosin (program chair), Phyllis J. Holmen, Ana María Martinez, Gwendolyn Fortson Waring, Anthony Baldwin, Hon. Kimberly M. Esmond Adams and Jana J. Edmondson-Cooper (co-chair).

The Committee to Promote Inclusion in the Profession presented the 2019 Annual Commitment to Equality Awards at a special ceremony in May at Georgia State University College of Law.

The Randolph W. Thrower Lifetime Achievement Award, which recognizes an outstanding individual who has dedicated his or her career to these causes, to Phyllis J. Holmen, former executive director, Georgia Legal Services Program.

Commitment to Equality Awards were presented to: Hon. Kimberly M. Esmond Adams, judge, Fulton County Superior Court; Anthony Baldwin, professor of law, Mercer University Walter F. George School of Law; Ana María Martinez, staff attorney, DeKalb County State Court; Jamala S. McFadden, attorney/partner, McFadden Davis, LLC; Melford W. Walker Jr., vice president and senior counsel, Wells Fargo & Company; and Gwendolyn Fortson Waring, attorney, Waring Law Firm. The awards recognize the efforts of individuals, companies 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. They 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 committee also presented the inaugural One to Watch Award, which recognizes the efforts of young lawyers to promote diversity in the profession, to Pamela Peynado Stewart, attorney/partner, Lee & Peynado Immigration Law Group. ●

GUPTA

RUSSELL

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, announced the addition of Suneel C. "Neel" Gupta as shareholder and Susan A. Russell as of counsel. Gupta focuses his practice on transportation litigation, including various types of liability defense and litigation. Russell focuses her practice on intellectual property and trademark, copyright and trade secret transactions, prosecution, enforcement and litigation. The firm is located at Monarch Plaza, 3414 Peachtree Road NE, Suite 1600, Atlanta, GA 30326; 404-577-6000; Fax 404-221-6501; www.bakerdonelson.com.

CLARK

HANKS

LEASENDALE

MILLER

Drew Eckl & Farnham LLP announced the addition of Lara Ortega Clark, Taylor T. Hanks, Jeffrey F. Leasendale and Manning E. Miller as attorneys. Clark focuses her practice on general liability. Hanks' practice focuses on commercial transportation, construction litigation and general liability. Leasendale focuses his practice on general liability. Miller focuses his practice on workers' compensation. The firm is located at 303 Peachtree St. NE, Suite 3500, Atlanta, GA 30308; 404-885-1400; Fax 404-876-0992; www.deflaw.com.

Fox Rothschild LLP announced the addition of F. Beaumont "Beau" Howard as partner. Howard focuses his practice on labor and employment, employment class actions, privacy and data security, and unfair competition and trade secrets. The firm is located at 1180 W. Peachtree St. NW, Suite 2300, Atlanta, GA 30309; 404-962-1000; Fax 404-962-1200; www.foxrothschild.com.

IDE

LEECH

Akerman LLP announced its expansion into Atlanta with the addition of corporate mergers and acquisitions partners R. William "Bill" Ide and Amanda Leech. Ide focuses his practice on structuring mergers and acquisitions transactions, risk management reviews, corporate governance, special investigations, crisis management and ethics and strategic projects. Leech's practice focuses on general corporate counseling of both privately held and public companies, including mergers, acquisitions, divestures, joint ventures and strategic alliances. The firm is located at 999 Peachtree St. NE, Suite 540, Atlanta, GA 30309; 404-733-9800; Fax 404-733-9898; www.akerman.com.

Freeman Mathis & Gary, LLP, announced that Bert Reeves joined the firm as of counsel. Reeves focuses his practice on business litigation and regulatory and compliance matters. The firm is located at 100 Galleria Parkway, Suite 1600, Atlanta, GA 30339; 770-818-0000; www.fmglaw.com.

Wilson Elser Moskowitz Edelman & Dicker LLP announced the relocation of its Atlanta office. The firm is now located at 3348 Peachtree Road NE, Suite 1400, Atlanta, GA 30326; 470-419-6650; Fax 470-419-6651; www.wilsonelser.com.

Squire Patton Boggs announced that M. Brandon Howard joined the firm as an associate. Howard focuses his practice on litigation, insurance coverage and bad faith matters. The firm is located at 1230 Peachtree St. NE, Atlanta, GA 30309; 678-272-3200; www.squirepattonboggs.com.

### IN AUGUSTA

Balch & Bingham LLP announced the opening of an office in August and the addition of Benjamin H. "Ben" Brewton as partner. Brewton focuses his practice on commercial dispute litigation, professional negligence, casualty claims and insurance coverage. The firm is located at 801 Broad St., Suite 800, Augusta, GA 30901; 404-261-6020; www.balch.com.

### IN MACON

Clark & Smith LLC announced the firm name has changed to Clark, Smith & Sizemore LLC with the addition of Richard "Rick" Sizemore as partner. Sizemore's practice focuses on negligence and business litigation, including catastrophic injuries, insurance subrogation, defective products and medical negligence. The firm is located at 150 College St., Macon, GA 31201; 478-254-5040; Fax 478-254-5041; www.clarksmithsizemore.com.

### IN TUCKER

J. PALUMBO

D. PALUMBO

Palumbo Law, LLC, founder Jessica Palumbo announced that Donato Palumbo joined the firm. Donato "Dan" Palumbo focuses his practice on divorce, family law and DUI defense. The firm is located at 2323 Brockett Road, Tucker, GA 30084; 678-365-3596; www.palumbolawga.com.

*(Left to right)* Child Protection & Advocacy Section Executive Committee Members Ira Foster, Leslie Gresham and Laurie Thomas; Helen Hines; Section Chair Nicki Vaughan; State Bar General Counsel and Georgia Appleseed Board Member Paula Frederick; Section Treasurer Randee Waldman; 2018-19 State Bar President Ken Hodges; and 2018-19 State Bar Secretary Dawn Jones.

# Child Protection & Advocacy Section Honored by Georgia Appleseed

The 535-member Child Protection & Advocacy Section concluded its seventh year of operation this spring. The membership of the section represents the broad spectrum of lawyers who practice and judges who preside in juvenile courts, as well as lawyers who are involved in child advocacy outside the courtroom in school tribunals, IEP meetings and other venues throughout Georgia, helping qualify children and families for available services.

In April, the section was honored with a prestigious Good Apple Award from the Georgia Appleseed Center for Law and Justice. The award was presented at Georgia Appleseed's Annual Fundraiser for Justice, which honors those who are "creating a more resilient Georgia," and specifically recognized the section's "leadership in all aspects of juvenile court advocacy and dedication to the well-being of children" in Georgia. Many section board members, as well as State Bar officers, were in attendance, and Helen Hines, widow of Chief Justice Harris Hines, was present to acknowledge how Justice Hines supported the section's formation and advocated for children during his tenure on the Supreme Court of Georgia.

In addition to the section's award, Nicki Vaughan, one of the section's founders and the chair since its inception, was given a Good Apple Award for her leadership and dedication to the well-being of children in Georgia, including her role in establishing the Child Protection & Advocacy Section. Among her lifetime achievements, she co-founded the Georgia Court-Appointed Special Advocate Program, as well as CHRIS 180, a recognized multi-faceted residential and community-based children's treatment program. She is a past recipient of the Governor's Volunteer Award and the Justice Robert Benham Award for Community Service, and currently serves on the State Bar's, Executive Committee, Children and the Courts Committee and the Indigent Defense Committee (chair), and the Chief Justice's Commission on Professionalism, where she is a member of the Access to Justice Committee. ●

# Do I Have to Share My Doughnut?

BY PAULA FREDERICK

**"I'm drafting the settlement state**ment for the Johnson case," your new paralegal reports.

"Don't forget she had another lawyer for a few months before she hired us," you respond. "We have to honor his lien, so be sure to indicate his share on the settlement statement."

"Ms. Johnson had a one-third contingency fee agreement with Lawyer #1, same as with us," your paralegal replies. "Once we subtract two-thirds for the lawyers and add up all her costs, she isn't going to have anything left!"

"I hate to break it to you, but both lawyers don't get a one-third contingency fee," you respond.

"Why not?" your paralegal asks. "You both have agreements to be paid one-third of the recovery, right?"

"I like your logic, but that's not how it works," you explain. "Since Lawyer #1 did not complete the case, he is not entitled to the entire contingency fee. We aren't entitled to the entire fee either, because we did not do 100 percent of the work."

"Well, that stinks!" your paralegal opines.

What are a successor lawyer's obligations to predecessor counsel when the case settles?

To answer that question, the American Bar Association recently issued Formal Opinion 487, "Fee Division with Client's Prior Counsel." The opinion discusses the obligations of a lawyer who takes on representation after the client has parted ways with a previous lawyer. Generally, it points out that the second representation requires its own written contingency fee agreement which should include a reminder to the client that she will likely owe a portion of the fee to Lawyer #1.

Many times lawyers rely on quantum meruit to claim payment for work that ends before the contingency is realized. Opinion 487 confirms that Lawyer #2 can ethically help the client determine the appropriateness of the amount claimed as quantum meruit. Where the client and Lawyer #1 do not agree about the amount of the fee, the opinion suggests that successor counsel may help negotiate a resolution. If the parties are not able to reach a resolution, successor counsel should hold the disputed funds in escrow, in accordance with Rule 1.15 (I).

The opinion also dispels confusion about the applicability of Rule 1.5 (e) on fee division between lawyers who are not in the same firm. Some jurisdictions have found that lawyers must comply with Rule 1.5 (e) when handling successive representation. Among other things, the rule requires joint responsibility for representation where the fee division is not based on the proportionate work that the lawyers have done; it also allows the client to object to the share that each lawyer is to receive. The ABA opinion finds that Rule 1.5 (e) only applies when lawyers undertake joint representation, and there is no requirement that lawyers handling a case in succession assume joint responsibility for the representation.

Finally, the opinion is limited to situations where the lawyer is not fired for cause, because in those cases Lawyer #1 may not be entitled to the whole fee. ●

**Paula Frederick**

General Counsel
*State Bar of Georgia*

paulaf@gabar.org

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# Attorney Discipline Summaries

May 11, 2019 through July 12, 2019

BY JESSICA OGLESBY

## Disbarment

**Richard Scott Thompson**
5500 Frederica Road, Suite 2213
Saint Simons Island, GA 31522

On May 20, 2019, the Supreme Court of Georgia accepted the petition for voluntary surrender of license of attorney Richard Scott Thompson (State Bar No. 709338). In his petition, Thompson stated that on Feb. 15, 2019, he was convicted of two counts of aggravated stalking in violation of O.C.G.A § 16-5-91. Thompson admitted he violated Rule 8.4 (a) (2) of the Georgia Rules of Professional Conduct, the maximum sanction for which is disbarment.

**Johnnie Mae Graham**
P.O. Box 2303
Albany, GA 31702-2303

On June 3, 2019, the Supreme Court of Georgia disbarred Johnnie Mae Graham (State Bar No. 304625) from the practice of law. Graham failed to acknowledge service of the Notice of Discipline mailed to her at the post office box address on file with the State Bar's Membership Department. The State Bar then properly served Graham by publication pursuant to Bar Rule 4-203.1 (b) (3) (ii), but she failed to file a Notice of Rejection. The facts, as deemed admitted by virtue of Graham's default, are as follows.

In 2013, a client retained Graham to represent him in connection with a car accident, and she filed a lawsuit on the client's behalf in December 2013. However, after the lawsuit was filed, Graham failed to respond to the client who attempted to contact her on numerous occasions regarding the lawsuit. In August 2015, the defendants filed a motion to dismiss the client's case. Graham did not file a response, and the court dismissed the client's case due to Graham's failure to appear at a hearing. The State Disciplinary Board found that Graham failed to perform work on the client's behalf, abandoned the legal matter the client entrusted to her to the client's detriment, failed to return the client's file and failed to provide information requested by the State Bar during the investigation of this disciplinary matter. Graham violated Rules 1.3, 1.4, 1.16 (d) and 3.2 of the Georgia Rules of Professional Conduct. The maximum sanction for a violation of Rule 1.3 is disbarment, while the maximum sanction for a violation of Rules 1.3, 1.16 and 3.2 is a public reprimand. In aggravation, the State Disciplinary Board found that Graham had extensive experience in the practice of law, having been admitted to the Bar in 1981, and that she has previous disciplinary history, having received a Review Panel reprimand in 2013.

**Alexander Kahn**
3977 St. Clair Court
Atlanta, GA 30319

On June 10, 2019, the Supreme Court of Georgia disbarred Alexander E. Kahn (State Bar No. 405797) from the practice of law. On Feb. 26, 2019, a Notice of Discipline for Kahn's gross misconduct was issued, and the State Bar personally served Kahn, but he failed to file a Notice of Rejection. The facts, as deemed admitted by virtue of Kahn's default, are as follows.

In 2011, Kahn began providing legal and financial advice to a client. He formed Troy Holdings, LLC, and encouraged the client to invest money in the company. Between 2012 and 2018, the client delivered more than $300,000 to Kahn for investment in Troy Holdings. Kahn misrepresented to the client that she owned 75 percent of Troy Holdings and that her investment was achieving a 10 percent rate of return. The client repeatedly asked Kahn for a copy of Troy Holdings' operating agreement, financial statements and investment records, but he failed to provide the requested documents; she also asked for a return of her investment, but Kahn failed to return any money. Additionally, in Kahn's representation of the client in tax matters, he represented that he was preparing her tax returns but failed to provide her copies of the returns; he failed

to provide documentation related to his representation of the client in connection with a penalty assessed with regard to her 2013 taxes; and he failed to file her 2015 return after he had prepared it and she had signed it. Finally, although Kahn agreed to prepare a will for the client, he failed to deliver it despite her repeated requests.

Kahn willfully abandoned the legal matters entrusted to him; he failed to keep his client reasonably informed about the status of her legal matters; and he collected unreasonable fees, since he did not do the work he was paid to do. With regard to the business transactions, Kahn failed to disclose the terms of the transactions, failed to obtain the client's written consent to the essential terms of the transactions and failed to advise her of the desirability of seeking the advice of independent counsel. Kahn further failed to hold the client's funds separate from his own, failed to deliver her funds to her and failed to render a full accounting when she requested one. Finally, Kahn failed to submit a sworn, written response to the Notice of Investigation. The client obtained a judgment against him, but he failed to appear at post judgment discovery depositions.

Kahn violated Rules 1.3, 1.4, 1.5, 1.8 (a), 1.15 (I), 1.16, and 8.4 (a) (4) of the Georgia Rules of Professional Conduct. The maximum sanction for a violation of Rules 1.3, 1.15 (I) and 8.4 (a) (4) is disbarment, and the maximum sanction for a violation of Rules 1.4, 1.5, 1.8 (a) and 1.16 is a public reprimand.

In aggravation, Kahn acted willfully and dishonestly, acted with a selfish motive, engaged in multiple violations of the Rules of Professional Conduct, failed to comply with the rules of the disciplinary process and was indifferent to making restitution.

**Lesley Annis**
1401 Peachtree St. NE, Suite 500
Atlanta, GA 30309

On June 10, 2019, the Supreme Court of Georgia disbarred Lesley Annis (State Bar No. 019780) from the practice of law for several rules violations related to her abandonment of two clients. The State Bar attempted to serve Annis personally at the address she listed with the State Bar's Membership Department, but the State Bar investigator executed an entry of service non est inventus. The State Bar then properly served Annis by publication pursuant to Bar Rule 4-203.1 (b) (3)(ii), but she failed to file a Notice of Rejection. The facts, as deemed admitted by virtue of Annis's default, are as follows.

In 2015, Annis agreed to represent a client in a Chapter 13 bankruptcy action in the U.S. Bankruptcy Court for the Northern District of Georgia. One of the client's creditors filed a motion for relief from the stay, and the motion came before the bankruptcy court on two occasions. The client and counsel for the creditor appeared at both hearings, but Annis did not. The bankruptcy court then scheduled a hearing to consider whether Annis was in contempt of court, but Annis failed to appear at that hearing as well. Accordingly, the bankruptcy court found that Annis had abandoned her client and barred Annis from further practice in the bankruptcy court until she addressed her failure to appear at the hearing as ordered in the client's case.

In 2016, Annis agreed to represent another client in a Chapter 13 bankruptcy action in the Northern District of Georgia, and the client paid Annis $5,000 in legal fees. However, the client was unable to reach her after Jan. 17, 2017, to discuss his case, despite the fact that he called, sent texts and emails, and visited her office. The client then notified the bankruptcy court that he was unable to reach his lawyer. In addition, the client sent Annis termination letters in May 2017, but she failed to respond, and the bankruptcy court terminated Annis as the client's counsel of record by order in June 2017.

In both matters, Annis willfully abandoned the legal matters entrusted to her, to her clients' detriment; failed to abide by the clients' decisions concerning the scope and objectives of representation; failed to communicate with the clients and to keep them reasonably informed about the status of their bankruptcy cases; and charged the clients an unreasonable fee, as she took a fee to file both Chapter 13 bankruptcy cases, but did not complete either one. Annis violated Rules 1.2 (a), 1.3, 1.4, 1.5 and 9.3 of the Georgia Rules of Professional Conduct. The maximum sanction for a violation of Rules 1.2 and 1.3 is disbarment, and the maximum sanction for a violation of Rules 1.4, 1.5 and 9.3 is a public reprimand.

In aggravation, Annis acted dishonestly in collecting fees and abandoning her clients' cases; failed to respond to the Notice of Investigation in this matter (resulting in an interim suspension); violated multiple rules of professional conduct; and had substantial experience in the practice of law, having been admitted to the State Bar in 2000.

**Clarence A. Sydnor IV**
100 Peachtree St. NW, Suite 2095
Atlanta, GA 30303

On July 1, 2019, the Supreme Court of Georgia disbarred Clarence A. Sydnor IV (State Bar No. 627173) from the practice of law. After efforts to serve Sydnor personally with the Notice of Discipline proved unsuccessful, the State Bar properly served Sydnor by publication pursuant to Bar Rule 4-203.1 (b) (3) (ii). Sydnor failed to file a Notice of Rejection. The facts, as deemed admitted by virtue of Sydnor's default, are as follows.

In February 2018, Sydnor was retained by a client to represent her in a claim arising out of an automobile accident. Sydnor settled the client's claim on May 2, 2018, Geico Indemnity Company issued a settlement check in the amount of $8,300 payable to Sydnor and the client on May 3, 2018, and on May 8, 2018, the client executed a release and settlement agreement. Sydnor received the settlement check, forged the client's signature on the check and deposited it into his operating account instead of his IOLTA account. Sydnor failed to inform the client that he received the settlement check or that he deposited the check into his operating account, and failed to disburse the settlement funds to the client. The client attempted to contact Sydnor on numerous occasions about the status of her settlement, but Sydnor failed to respond. Sydnor violated Rules 1.2, 1.3, 1.4, 1.15 (I), 1.15 (II) and 8.4 of the Georgia Rules of Professional Conduct. The maximum sanction for a violation of Rules 1.4, 1.15 (II) (c) is a public reprimand, while the maximum sanction

for a violation of Rules 1.2, 1.3, 1.15 (I), 1.15 (II) (a) and (b) and 8.4 in the present case is disbarment.

In aggravation, the State Disciplinary Board found that Sydnor acted with a dishonest and selfish motive.

## Suspension

**Preston Kunda**
7 Glynn Ave.
Brunswick, GA 31520

On June 3, 2019, the Supreme Court of Georgia accepted the petition for voluntary discipline for attorney Preston B. Kunda (State Bar No. 430210) and imposed a 12-month suspension.

In his petition, Kunda admitted that in 2014 he was retained to prepare a client's will, in the course of which he agreed to act as the estate's executor without having first obtained the client's written informed consent to the potential conflict of interest. While claiming he did not know so at the time, he now admits that this conduct violated Rule 1.7.

Kunda admitted further that, in connection with the sale of a gun collection for the same client, he accepted on the client's behalf a cash payment through a firearm broker for the $130,000 balance due, but did not count the cash upon its delivery, and the following morning deposited $117,000 into his trust account, thereby leaving $13,000 unaccounted for. Kunda maintains that this $13,000 was part of the payment ultimately owed for the broker's services and that he thereafter made arrangements to satisfy the debt with $13,000 worth of legal services and payments to the broker. Kunda admitted, however, that in failing to safeguard the money while it was in his possession, he violated Rule 1.15 (I) (a) and (c).

Finally, Kunda admitted that, in connection with the firearm sale and on the advice of a federal agency official, Kunda prepared a codicil to the client's will that was to take effect only if the client died prior to consummation of the gun sale. The codicil provided that Kunda was to inherit the gun collection and thereafter sell it, with the proceeds being paid to the will's beneficiary. Kunda admitted that, by preparing this codicil, he violated Rule 1.8 (c). The maximum penalty for a violation of Rule 1.7 or Rule 1.15 (I) is disbarment; the maximum penalty for a violation of Rule 1.8 (c) is a public reprimand.

In mitigation, Kunda maintains that he has never previously been the subject of any disciplinary proceeding; that he has cooperated fully and in good faith with the State Bar in this matter; and that he is remorseful and will never again conduct himself in such manner. The State Bar, while noting the serious nature of the violations, agreed that a suspension is proper, due to Kunda's remorse, cooperation and lack of disciplinary history. The State Bar recommended a suspension for a period of between 12 and 24 months.

## Public Reprimand

**Edward Neal Davis**
111 S. Broad St.
Butler, GA 31006

On July 1, 2019, the Supreme Court of Georgia imposed a public reprimand against attorney Edward Neal Davis (State Bar No. 208220). Earlier, the Court rejected Davis's petition for voluntary discipline that sought a Review Panel reprimand. Following a hearing, the special master issued a report recommending a 90-day suspension for Davis's misconduct in notarizing a signature that he did not witness, and for a technical violation of rules governing trust accounts. But given the mitigating factors present, the Court concluded that a less severe punishment, a public reprimand, is the appropriate sanction.

Davis represented a client in a 2009 purchase of real estate jointly owned by a husband and wife. Davis knew the couple and previously had represented them in real estate transactions. For the 2009 transaction, Davis prepared the Warranty Deed and Owners' Affidavit in the couple's names as grantors. At closing, Davis notarized the signatures of both the husband and wife on the Warranty Deed and Owners' Affidavit; the wife was not present, but the husband was. It later became apparent (in the couple's 2012 divorce proceedings) that the wife had not signed either document. Davis admitted that he failed to take any independent steps to verify that the wife had signed the documents and that he relied on the husband's representations. Although it is not known who signed the wife's name, there is no evidence in the record that Davis forged her signature. When the wife learned of the sale for the first time in divorce proceedings, she retained counsel, and filed a quiet title action against Davis's client that had purchased the property. She ultimately entered into a settlement agreement with Davis's client in which she ratified the sale and dismissed all claims to the property, but did not receive any compensation.

The trust account violation arose out of a $15,000 loan Davis obtained from a former client in 2011. In 2012, Davis obtained a loan from a third party to repay the loan from the former client with interest. Davis deposited the proceeds from the third party into his trust account, thus mingling personal and trust funds. Davis then repaid the former client with a check drawn on the trust account for the amount he had just deposited, thus using the trust account for personal use. The

*"He who is his own lawyer has a fool for a client."*

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special master found that the improper use of the trust account was negligent, but unintentional, noting that Davis maintained his trust account at the same bank as his personal account. Davis violated Rules 8.4 (a) (4), 4.1 (a), 1.15 (I) (a) and 1.15 (II) (b) of the Georgia Rules of Professional Conduct.

In mitigation, Davis had no prior disciplinary history; he lacked an intent to cause harm; there was no dishonest or selfish motive; he has accepted responsibility for his actions; he has expressed remorse; and he has cooperated in the disciplinary process. The special master's report did not identify any aggravating factors, but we note that Davis has substantial experience in the practice of law, as he has been a member of the Bar since 1990.

**Cheryl Joyce Braziel**
6116 Mableton Parkway, Suite 136
Mableton, GA 30126

On July 1, 2019, the Supreme Court of Georgia accepted a renewed petition for voluntary discipline filed by Cheryl Joyce Braziel (State Bar No. 275115) and imposed a public reprimand. The amended renewed petition sought a Review Panel reprimand or a public reprimand for Braziel's admitted violations of Rule 5.3 (a), (b) and (c) (2). The State Bar supported the petition.

In her petition, Braziel states she settled a client's personal-injury claim with the liability insurer, and the client executed a limited liability release to enable pursuit of a claim against her own uninsured motorist (UM) carrier. The client's UM policy provided reduced-limits coverage, meaning the amount of coverage was reduced by available liability insurance limits, but coverage could be restored to the extent that certain federal liens, such as a Medicaid lien, were satisfied from the liability settlement proceeds. Braziel's client had been treated at Grady Hospital, incurring charges of $24,384.77, and Braziel believed that the client was eligible to receive Medicaid and that the hospital charges should have resulted in the filing of a Medicaid lien, which would have allowed recovery under the UM policy. However, Braziel had been unable to document the existence of a Medicaid lien.

Braziel testified that, while she was traveling outside of Georgia to obtain medical treatment, she called her assistant to ask her to pull the lien letter from the prior client's file, duplicate it and place it in the new client's file, so that she could contact Grady's lawyer for assistance. Braziel made the call to her assistant while driving in rural Mississippi, and due to poor reception for the call, poor instructions and poor training of the assistant, the assistant misunderstood her instructions. The assistant created a new lien letter patterned after the old one, but with the information for the new client and the expected amount of the lien. The result was a letter purportedly from Grady's lawyer to Braziel about a lien held by Grady in connection with Braziel's representation of her current client. Braziel arrived at her office later that evening and saw the letter that had been created. She admonished her assistant and gave her additional instructions in her duties as a legal assistant.

Rather than destroying the letter, however, Braziel faxed it that evening to Felecia Morris, an administrative service provider who has a law degree but is not a member of the State Bar of Georgia, and asked her to confirm the existence of the lien. Braziel testified that she explained the nature of the document to Morris and sent her the letter for internal, informational purposes only, as it contained the information Morris would need to track down the lien information. Six days later, Morris emailed the letter to the new client's UM carrier, which then forwarded the letter to Grady's lawyer. When Grady's lawyer contacted Braziel, she promptly admitted what had occurred, took responsibility for the matter and attempted to explain how the situation occurred. Braziel also severed her ties with Morris.

In mitigation, the Court considered Braziel's lack of prior disciplinary history, her lack of selfish motive or an intent to deceive, the existence of personal health problems that may have impacted the misconduct, her efforts to rectify the consequences of the misconduct, her acceptance of responsibility and demonstration of remorse for what occurred, and her demonstration of a cooperative attitude in the disciplinary proceedings. Braziel's only aggravating factor was her substantial experience in the practice of law.

## Review Board Reprimand

**Hakeem Bertrand Brock**
One West Court Square, Suite 750
Decatur, GA 30030

On July 1, 2019, the Supreme Court of Georgia accepted the petition for voluntary discipline for attorney Hakeem Bertrand Brock (State Bar No. 705137) and issued a Review Board Reprimand for his misconduct related to the handling of his trust account and the failure to properly supervise a nonlawyer employee.

In his petition, Brock made the following admissions. Brock employed a paralegal to assist him with his personal injury cases. In May 2017, he discovered that the paralegal had written checks on his trust account and forged his signature, improperly withdrawing approximately $21,000 in trust account funds, and also discovered that she was purporting to handle legal matters on her own, without his knowledge or participation. Some of the checks were payable to the paralegal's family and friends, but some checks were payable to individuals who were her purported clients. This scheme came to light when she wrote four checks that bounced, and Brock was notified by his bank about the insufficient funds in his trust account. The reason he was unaware of his paralegal's activities was that he did not keep a ledger or other records showing the balance in his trust account belonging to each client or the lawyer's fees debited against the account of a specific client. As a result of learning of the paralegal's actions, he fired her, implemented new oversight policies and reinstated all missing client and third-party funds using personal funds; he also notified the Rockdale County sheriff's office about the thefts.

Three instances of Brock's own misuse of the trust account came to light during the State Disciplinary Board's investigation into this matter. Specifically, in March 2017, Brock made one personal student loan payment from his trust account, and in March and April 2017, he made two mortgage payments from this trust account on behalf of a former client. During its investigation, the State Bar confirmed Brock's assertions that the student loan payment was made from earned attorney fees that he had improperly retained in his trust account and that the mortgage payments were made from the client's funds that Brock had failed to promptly deliver to the client. Brock admitted that his conduct violated Rules 1.15 (I) (a) and (c), 1.15 (II) (a) and (b), and 5.3 (a) and (b), of the Georgia Rules of Professional Conduct. Though Brock did not know of or approve or ratify the paralegal's actions, he admits that because of his failure to supervise her use of the trust account, he was responsible for conduct that would constitute a violation of the Rules of Professional Conduct if a lawyer had engaged in such actions.

In mitigation, Brock lacked prior disciplinary record and dishonest or selfish motive. He made a timely, good-faith effort to make restitution and to rectify the consequences of the misconduct; had a cooperative attitude toward the disciplinary proceedings; and was remorseful for his misconduct. These mitigating factors outweigh the aggravating factors of Brock's substantial experience in the practice of law and the presence of multiple offenses. The discipline requested was a result of negotiations between the State Bar and Brock. ●

## Reinstatement

**John Dennis Duncan**
106 Crepe Myrtle Court
Easley, SC 29640

On May 20, 2019, the Supreme Court of Georgia determined that attorney John Dennis Duncan (State Bar No. 311056) had complied with all of the conditions for reinstatement following his suspension, and reinstated him to the practice of law.

**Jessica Oglesby**

Clerk, State Disciplinary Boards
*State Bar of Georgia*

jessicao@gabar.org

# Legal Tech TIPS

BY NATALIE R. KELLY
AND MIKE MONAHAN

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## 1 Lawyer Life Hack

Try a walking meeting. If you and other colleagues need to meet, take a long walk. Get some fresh air and some exercise while being productive. Bring a phone along to take minutes or record notes. #LawyersLivingWell

## 2 Best Podcast Microphones

If you are new to recording podcasts or just want to know what the best options are for microphones, take a look at the Samson Go Mic Portable USB Condenser ($30+); the Blue YETI USB Microphone ($120+); or the Heil PR-40 Dynamic Studio Recording Microphone ($225+). When shopping for microphones, look for the mic's recording method and the directional capability (directions from where the mic can pick up sounds). You should also focus on an impedance rating of 600 Ohms or lower, and a mic with a mid- or high-frequency response for recording vocals.

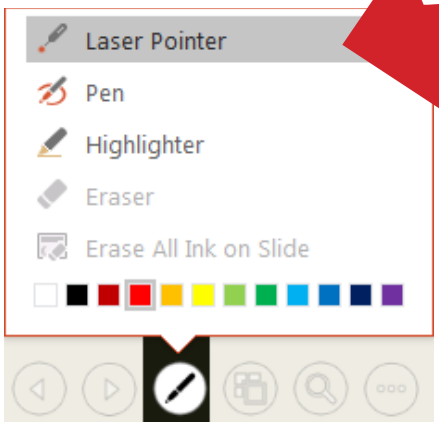
## 3 Use Outlook Rules

Don't lose track of eFiling confirmations and notifications. Use an Outlook Rule to manage your eFiling emails. If you need step-by-step instructions on how to set up an Outlook Rule, go to https://bit.ly/2HpmowB.

## 4 Use Google Alerts

www.google.com/alerts

Use Google Alerts to monitor the Internet for issues that affect your practice or that interest you personally. Go to www.google.com/alerts and "Create an Alert." For example, if you want to track what's new on the web on the subject of Qualified Immunity, type "Qualified Immunity"—and be sure to use the quotation marks to ensure your search pulls up the phrase, not the individual words. You'll get alerts related to articles, CLEs, news and more.




## 5 Built-in Virtual Laser Pointer

Have you noticed that there is a built-in virtual laser pointer in PowerPoint 2016? Start up your presentation. Look down at the tool bar below the presentation. You're welcome.

## 6 Send a Video Instead of Words

www.loom.com

If you need to show a colleague or your paralegal how to do something, use Loom rather than back-and-forth emails. Capture your screen, record with your front-facing camera and narrate it all at once, then instantly share with a simple link. No switching apps or upload required.

## 7 Receipt by Wave App

www.waveapps.com/receipts

If you hoard receipts in hopes of making your life easier for business expense tracking, then you'll likely benefit from using this app for tracking your receipts. Receipts can be recorded by simply scanning them with your phone or emailing your receipts to the Wave account you set up for using the service.

### Testimonial

Tim Santelli
*Law Offices of Timothy J. Santelli PC*

**WhatsApp**
www.whatsapp.com

Social media allows us to find and locate witnesses and defendants without the expense of hiring a private investigator. WhatsApp allows lawyers to depose experts anywhere in the world without having the expense of travel, conference room reservations, etc.

## 8 Fuze

www.fuze.com

An app for online meetings is available with a subscription to Fuze. The service allows users to access a group online meeting from anywhere and using almost any device via its apps using Fuze Desktop, Fuze Web or Fuze Mobile. The service unifies voice, video and messaging into a single application.

## 9 Deliveries App

junecloud.com/software/iphone/deliveries.html

Tracking packages from various services can take up a good deal of time. To lessen time with tracking down packages, use Deliveries for tracking across multiple delivery sources like UPS, FEDEX, Amazon, DHL and more (iOS). The full app costs $4.99. If you are an Amazon user with an Android, you can also download a Deliveries Package Tracker app at https://deliveries.orrs.de (free for Amazon deliveries).

## 10 TapeACall Pro

www.tapeacall.com

If you are an iPhone user, you can use this app to record your calls to other phone numbers. This might come in handy for time tracking and information reprisal when you need to remember conversations with others. Be sure to give recording notice where required.

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# Planning to Take Charge: Getting Ready for Georgia's Solo & Small Firm Institute

Georgia's Solo & Small Firm Institute has become the go-to event of the year, where lawyers can earn a full year's worth of CLE credit as they fine-tune the business side of their practices. See what's new in 2019.

BY NATALIE R. KELLY

**Each year the Law Practice Management** Program spends several months strategizing and organizing a CLE Institute designed just for solo and small firm practitioners. Despite its small law focus, the institute really has programming suitable for attorneys from firms of any size. With this year's event planned for Thursday and Friday, Sept. 26 and 27, the Solo & Small Firm Institute has a lot to offer Bar members. (Yes, we moved it from Friday-Saturday to Thursday-Friday!) Attendees will also find some new things in which to engage in 2019.

**Small Law Firm Retreat:** A four-session workshop track for the

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# Take Charge!

## Georgia's Solo & Small Firm Institute

entire law firm. Lawyers can register themselves and their staff and attend workshops to help develop workable policies and procedures for their practices. Designed to mimic a live "law firm retreat" experience, the special sessions are broken into workshops for all firm members, with separate and complimentary programs for law firm staff members. Facilitators are CLE experts who focus on everything from firm finances to technology and marketing. The retreat sessions only occur on Friday, Sept. 27, but registrants can attend the entire conference and take advantage of early-bird retreat registration rates through Aug. 31.

**Attorney Wellness Track:** The Attorney Wellness Fair introduced in last year's institute has been transformed into a complete educational track. Exhibitors of health and wellness products and services will join the other conference exhibitors in our new exhibit space, and all attendees can select programming to help them focus on wellness concerns. For those afraid of missing a wellness program, you will not have to worry. Everyone can participate in the wellness plenary, Attorney Wellness: Views from the Bench, featuring a panel of Court of Appeals judges.

**New Exhibit Hall Location:** The Exhibit Hall had previously been set up in the Conference Center Auditorium, but this year a new space (Room A) will be utilized to create an even more engaged audience and experience. Attendees will be able to visit more than 20 exhibitors and learn about the latest products and services for their practices. There is even a new prize delivery schedule so attendees have more opportunities to take a prize home.

**Special Guest Speaker TED Talks and Town Hall Meeting:** Five special guest speakers will deliver TED Talks on hot-button topics for today's law firms, and there will be an open mic town hall meeting for attendees to ask questions and see if they can "stump the experts." Special guest speakers include Robert "Bob" Ambrogi, world-renowned legal media writer and blogger, whose LawSites blog is known as an authority in legal information and news; and Andrew Arruda, president and CEO of Ross Intelligence, and a leading expert in artificial intelligence (AI). Arruda's company built a "robot" lawyer service based on AI technology and the IBM Watson computer platform.

**Local Speakers:** The audience will also hear from local speakers including Paula Frederick, State Bar of Georgia general counsel, and the organizers of Legal Tech Meetup in Atlanta, Erin Gerstenzang, ELG Law; Kimberly Bennett, K. Bennett Law; and Jennifer Downs, Downs Law, LLC. These speakers will be joined by more than 50 other legal experts, workshop facilitators and law office technologists covering 10 educational tracks: practice management, technology, substantive law, attorney wellness, how to, solo small success, vendor showcase, hands-on tech, small law firm workshops and small law staff learning sessions.

Based on feedback from past attendees, the institute seeks to provide lawyers with the exact programming they need for their particular practice situations. New lawyers who are looking to complete their required CLE credit for the Transition into Law Practice Program will find the agenda is outlined in such a way as to indicate which sessions satisfy this required credit.

The institute has become the go-to event of the year, where lawyers can earn a full year's worth of CLE credit as they fine-tune the business side of their practices. The event's practice management track and plenary session programs will be streamed via video conference to the State Bar's Coastal and South Georgia offices.

Registration is open now, and you can take advantage of the early-bird price of $250 through Aug. 31. And if you are signing up for the retreat, don't forget this programming is designed for the entire law firm; be sure to sign up your staff, too. Review the conference agenda, speakers, exhibitors and all things "Take Charge" online at www.gabarsolo.org. Register today, and we look forward to seeing you there. ●

**Natalie R. Kelly**

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*State Bar of Georgia*

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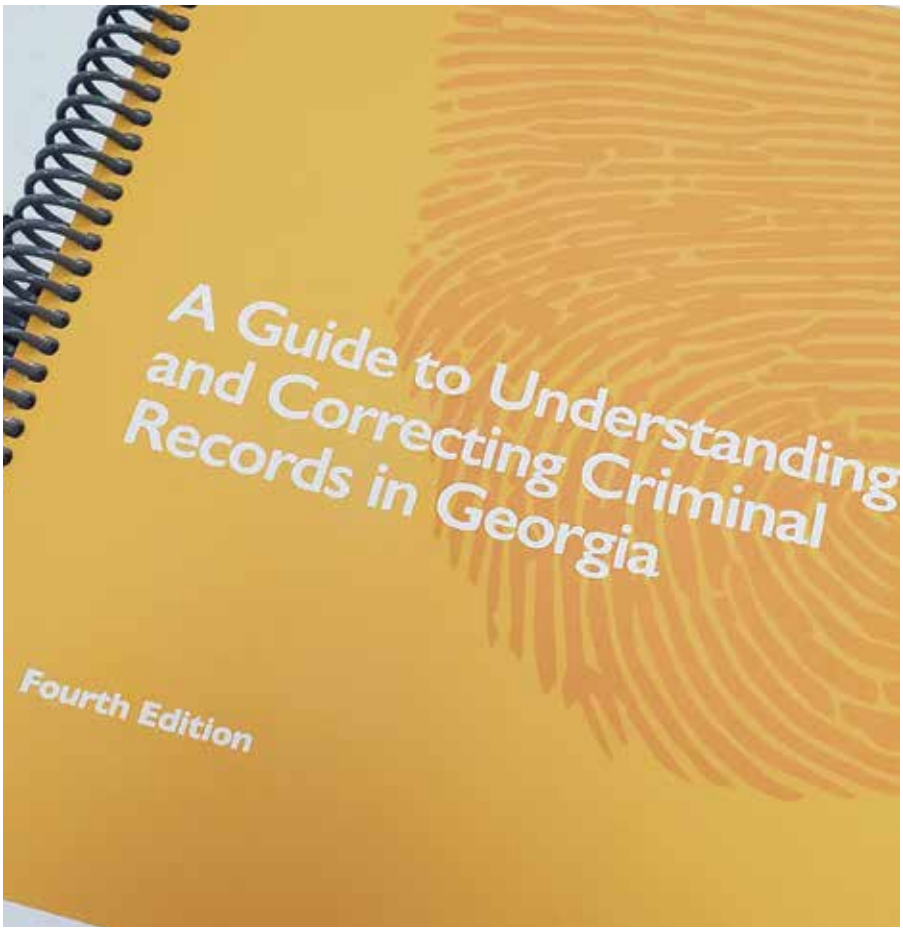
# Pro Bono Record Restriction Clinics Get People Back to Work

"The hallmark in expungement is the salvageability of our society. While we must always hold people accountable for their actions, we must also find a way to restore them to a sense of responsibility and participation in society."—Justice Robert Benham

BY MIKE MONAHAN




**The Judicial Council of Georgia's** Access to Justice Committee has developed a series of pro bono criminal record restriction clinics to be held in small cities and rural areas of the state. The Judicial Council is partnering with the Georgia Justice Project (GJP) and the State Bar of Georgia Pro Bono Resource Center.

This four-part series of free legal clinics is open to Georgia residents who have charges eligible for restriction under existing Georgia law. Attorneys assisting at the events provide their services on a pro bono basis. Access to Justice record restriction clinics have been held in Albany and Valdosta, with both clinics eliciting unsurpassed levels of participation. The Albany legal clinic was attended by 287 local citizens with 73 receiving record restriction services. The Valdosta clinic hosted nearly 200 people, with more than 90 assisted with record restrictions. Clinic services are provided by volunteer attorneys, the Southwest Georgia Legal Self-Help Center and GJP staff. The clinics also integrate the Georgia Legal Services Program and georgia.freelegalanswers.org to provide attendees access to brief services and advice on other legal matters. Social service agencies including the Georgia Department of Labor provide attendees with information on employment, housing and child care.

The Georgia Justice Project—the critical partner in our pro bono efforts—represents and supports Georgians in the criminal justice system and works to reduce barriers to reentry. The Georgia Justice Project reports Georgia's old law used the term "expungement," which implied that criminal records information was deleted or destroyed. In reality, criminal records were not deleted or destroyed; the term "expungement" simply meant that the information was unavailable to

be viewed for all purposes except law enforcement and criminal justice.

Georgia's new law, effective July 1, 2013, does not use the word "expungement." Instead, the process is now referred to as "record restriction." Only the name of the process has changed. Record restriction means that eligible records on your official criminal history report are restricted from public view and are only accessible to law enforcement for criminal justice purposes.

*(Front row, left to right)* Hon. Vernita Lee Bender; Hon. Robert Benham; Hon. James G. Tunison Jr.; and Roy W. Copeland; *(back row, left to right)* Mike Monahan; Tabitha Ponder; Jeremy K. Baker, Southern Circuit District Attorney's Office; Justo Cabral III, Lowndes County Solicitor General's Office; Laureen Alford, Southwest Georgia Law Library Self-Help Center; Karla L. Walker, Copeland Haugabrook & Walker; Brenda Smeeton, legal director, Georgia Justice Project; and Doug Ammar, executive director, Georgia Justice Project.

An expungement restricts from public records a person's arrest, conviction or non-adjudication so that those records do not appear during criminal background investigations conducted as part of an employment, licensing or other application process. Records restriction allows a person to be eligible for employment, military service, school enrollment and housing, and other critical social activities. Benefits flow to communities in Georgia from increased employment and public revenue, reduced recidivism and improved public safety.

"The hallmark in expungement is the salvageability of our society. While we must always hold people accountable for their actions, we must also find a way to restore them to a sense of responsibility and participation in society," Justice Robert Benhman said in his remarks to the attendees.

As a volunteer attorney at the record restriction clinic, you meet with clients to explain their record and the law to them, and assist in preparing applications for restriction (expungement) of their criminal records. Pro bono representation beyond the limited-scope activity at the clinic might include filing-related motions and petitions if you as a volunteer choose to work for the client after the clinic has ended. Work can also include making corrections to criminal histories and applying for pardons. Cases are prescreened. Work can range from administrative paperwork to court appearances. GJP has created a comprehensive training manual and template documents to assist in representing clients.

The work flow for the record restriction clinic includes the client obtaining his criminal arrest history and the current disposition/status of his case(s) from the court clerk. The clinic model now includes onsite participation from the local clerks of court, making the process more efficient for the client and the court. Volunteer lawyers are trained before the clinic starts and GJP staff assess the client's records and an onsite team of solicitors and prosecutors give their assent with onsite judges signing the orders.

"It was an honor and privilege for me to be able to partner with Justice Benham, the Access to Justice Committee of the Judicial Council of Georgia, State Bar Pro Bono Resource Center, Georgia Justice Project and other local judges and attorneys in my community and volunteer my time," says Hon. Vernita Lee Bender, municipal court judge, city of Valdosta. "One of the missions of the collaboration was to bring the courts and resources to rural communities. The mission was met in Valdosta. I saw first-hand how the collaboration changed lives. One young lady, in tears, hugged my neck and told me how attending the clinic changed her life. That young lady had not been able to work in her chosen profession because of a youthful offender matter that was unrestricted and unsealed on her criminal history. Thanks to the hard work and dedication of the volunteers that young lady will hopefully now be able to obtain gainful employment in her chosen profession."

Pro bono lawyers will often say that adoptions bring out joy and tears for the volunteers and clients. Record restrictions do that, too. Ask the woman who couldn't sit for her state-licensing exam for her dream job. Ask the young man who wants to join the military.

To learn more about the record restriction and social and legal aid services clinics, contact Tabitha Ponder, contract attorney for Judicial Council/AOC Committee on Access to Justice at tabitha.ponder@georgiacourts.gov or Mike Monahan, director of the Pro Bono Resource Center at probono@gabar.org. ●

**Mike Monahan**

Director
Pro Bono Resource Center
*State Bar of Georgia*

probono@gabar.org

# Making Sure You Know Your Member Benefits

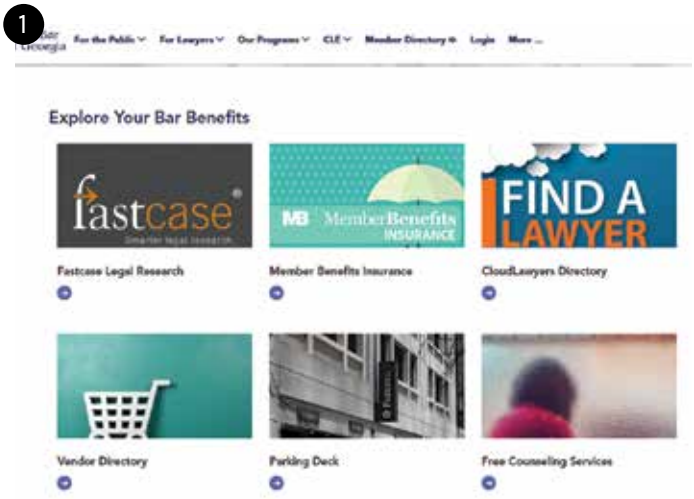
As a member of the State Bar, there are many benefits available to you, from hotel discounts to free parking at the Bar Center in Atlanta.

**BY SHEILA BALDWIN**

**It's been more than a year since the** State Bar of Georgia website was updated with an emphasis on providing a more useful experience for Bar members and the public. The modernized site highlights additional and easier-to-use features created to help our members navigate the substantial amount of information residing there, providing greater accessibility to the benefits and resources offered by the State Bar. In this article, I'll point out some hidden gems you may have missed that could serve to help your business, and even your life, become a bit more manageable.

You can access information about our most utilized available benefits from the homepage. Place your mouse over the "For Lawyers" drop-down tab and then navigate to "Member Benefits & Discounts." This page links 15 squares to various resources, programs and benefits available to you (see fig 1). Just click on the one that meets your immediate need, or one that piques your interest, for more information.

1

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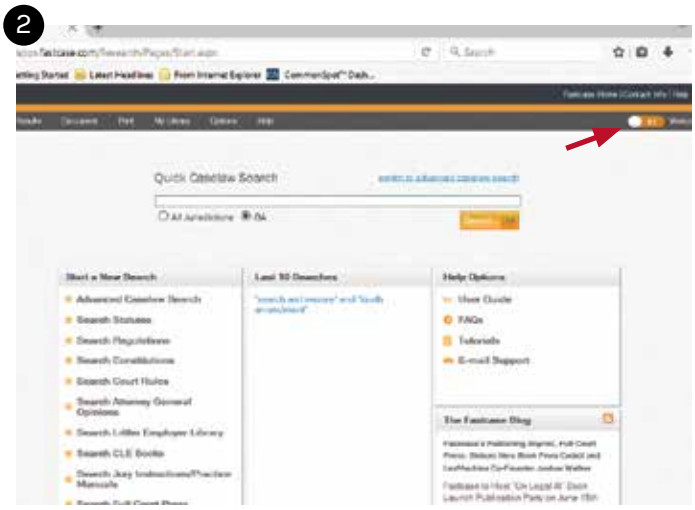


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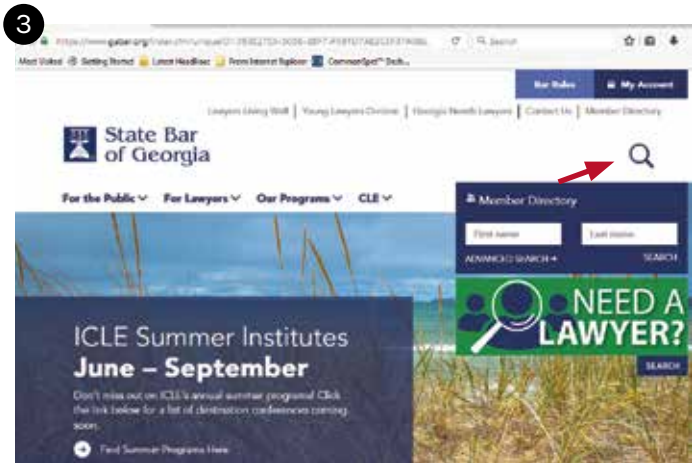

## Fastcase

One of our most popular member benefits is Fastcase, the free online legal research tool available to Bar members 24-hours/7-days a week. More than half of our membership has taken advantage of this service, having conducted Fastcase research at least once since its introduction.

Fastcase provides access to a combination of state and federal material, and includes primary law from all 50 states. State Bar members are able to take advantage of a Premium Plan that includes all federal cases and all state cases back to at least 1950. The Georgia Code and other research libraries make the Georgia database a comprehensive and reliable legal research tool for Bar members. The latest version, Fastcase 7, allows searching in multiple databases and within a variety of jurisdictions. Currently this version is accessed by an orange switch at the top right of the home screen (see fig. 2), but by the end of the year, Fastcase 7 will be the default version when you log in to your account. To learn how to navigate the new platform, sign up for a CLE approved Fastcase class held each month at the Bar Center. You can also receive CLE credit for participating in webinars hosted by Fastcase. Find these classes and other help at www.gabar.org/fastcase.

## Member Benefits Insurance

Member Benefits, Inc., the Bar's recommended broker for members' health, dental and vision plans as well as disability, long term care, life, travel insurance and services, and lawyers professional liability insurance plans, has been advising and researching the best plans for our members since 2009, taking no fees or commissions. The Private Health Insurance Exchange is available to State Bar of Georgia members, spouses, employees, paralegals and law students. Their business plans are designed to help firms manage group health and employee benefits. Cyber security, professional liability and 401(k) retirement plans for law firms have become increasingly popular. The customer service representatives are trained to help our members so don't hesitate in asking for help with any related needs.

PRO BONO STAR STORY

## ALINA LEE

**BY LAURA COATS**

Alina Lee
*Attorney*
*SouthStar Energy Services LLC*

Alina Lee began her work with Pro Bono Partnership of Atlanta (PBPA) as an associate at Rogers & Hardin. PBPA connects a network of volunteer attorneys with nonprofits in need of pro bono business legal services. Lee currently works at Southern Company Gas as senior counsel. Throughout her career, she has enjoyed the transactional pro bono opportunities that PBPA offers. In fact, she has enjoyed the opportunity to work with her husband, a labor and employment attorney at Seyfarth Shaw, on several matters.

Lee serves on SpringBoard, PBPA's Young Professional's Committee, and leads the House Calls program in which SpringBoard members train PBPA nonprofit clients' board of directors on their legal responsibilities. She also serves as the board chair of We Love BuHi, a nonprofit creating connection and belonging within Buford Highway's multicultural community through storytelling and design, which has allowed her to experience PBPA's work from both sides of the table as a client and an attorney. Lee and those like her are to be commended for their service to the profession.

### CloudLawyers for Members

This service enhances our standard membership directory by providing you with the ability to manage your online presence. At no cost, members can add a photo, practice areas, education and contact information along with basic information about your practice, including payment options and fixed packages you offer. A CloudLawyer profile can also serve as a website by purchasing a domain name and forwarding the traffic to your Bar profile. Members of the public use Find a Lawyer from the "For the Public" link on the Bar website to find attorneys.

### Vendor Directory

Visit this one-stop shop that helps members easily locate vendors providing legal services and goods. Companies purchase a listing on our directory so they can proactively offer their products and services to our members, often with a discount. If you are looking for a court reporter, process server or even a hotel, you can use the Vendor Directory on the State Bar's website to locate one in your area. Please note, inclusion on this list is not intended to be a recommendation of any vendor. Members are advised to use their own due diligence prior to using the services of these or any other vendors.

### Law Practice Management Program

The Law Practice Management Program exists to offer access to resources and products that assist Georgia lawyers in all phases of practice. Whether you need advice on technology, firm finances, organization or library materials, we have the resources and training to assist you. Browse our online forms and articles collection, check out a book or video from our library, or contact us to learn more about our onsite management consultations and training sessions. If you have questions about the program, contact Director Natalie Kelly at nataliek@gabar.org or 404-527-8770.

### Conference Center

Members and law-related groups may reserve meeting rooms free of charge for client-related or Bar-related affiliate meetings on a first-come, first-served basis. Depending on individual needs, the third floor can accommodate two to 200 people. Contact Faye First at fayef@gabar.org with questions, requests and reservations. And here's something you might not be aware of: full video conferencing solutions are available at the Bar Center in Atlanta, as well as both the Coastal Georgia and South Georgia offices. If you have video conferencing needs, contact AV Manager Kyle Gause at kyleg@gabar.org.

### Parking Deck

Free parking (another of our most popular member benefits) is available to members during business hours when visiting the Bar Center. Free parking is also available on nights and weekends when the deck is open early for special events by showing a Bar card to the deck attendant. Tickets can be validated by State Bar security on the first or third floor of the Bar Center. Bar members also have the option of parking at the Bar Center when the deck is closed. Press the button on the kiosk to communicate with Bar security, give them your Bar number and they will give you access into the deck. To have your ticket validated, enter the Bar Center, proceed to the first floor security station and show your Bar card. Overnight parking is also available following the same procedure for parking when the deck is closed. Just be sure to inform security that you will be there overnight. For more detailed information about the parking deck, including a list of special events and answers to frequently asked questions, visit www.gabar.org/parking.

The other resources on the Member Benefits & Discounts page are equally as valuable. Free Counseling Services, Suicide Awareness, Wellness Program and Peer Support Program are a few of the programs that address wellness and quality of life for attorneys. Click on the corresponding image to learn more. And if all else fails, use the website's search function to track down what you are looking for, just click on the magnifying glass above the member login (see fig. 3) and enter your search term. If you have any other needs that are not addressed in this article, please contact me at sheilab@gabar.org or 404-526-8618. ●

**Sheila Baldwin**

Member Benefits Coordinator
*State Bar of Georgia*

sheilab@gabar.org

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# The Loneliness Crisis

"The greatest disease in the West today is not TB or leprosy; it is being unwanted, unloved and uncared for. We can cure physical diseases with medicine, but the only cure for loneliness, despair and hopelessness is love."
—Mother Teresa

BY LAKEISHA R. RANDALL

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**Connected, yet disconnected. In spite** of our society's pervasive connectedness via social media, email and other technological advances, recent studies have revealed that Americans are dangerously lonely; lawyers are not an exception.

*Sage Journals* examined loneliness and social isolation as risk factors and concluded that "loneliness has the same impact on mortality as smoking 15 cigarettes a day, making it even more dangerous than obesity."[1] While loneliness has been defined in several ways, common definitions include: 1) a state of solitude or being alone; 2) the perception of being alone and isolated; 3) a feeling of disconnectedness or isolation.

In 2018, Cigna surveyed more than 20,000 American adults and it revealed a similar crisis.[2] The evaluation of loneliness was measured by a score of 43 or higher on the UCLA Loneliness Scale,[3] a 20-item questionnaire developed to assess subjective feelings of loneliness, as well as social isolation. The UCLA Loneliness Scale is a frequently referenced and acknowledged academic measure used to gauge loneliness.

- Nearly half reported sometimes or always feeling alone (46 percent) or left out (47 percent).
- One in four reported (27 percent) they rarely or never feel as though there are people who really understand them.
- Only approximately half of Americans (53 percent) have meaningful in-person social interactions, such as having an extended conversation with a friend or spending quality time with family, on a daily basis.
- Two in five reported sometimes or always feeling that their relationships are not meaningful (43 percent) and that they are isolated from others (43 percent).
- One in five reported they rarely or never feel close to people (20 per-

cent) or feel like there are people they can talk to (18 percent).

- Generation Z (adults ages 18-22) and Millennials (adults ages 23-37) are lonelier and claim to be in worse health than older generations.
- There was no major difference between men and women, and no major difference between races when it came to average loneliness scores.
- Americans who live with others are less likely to be lonely (43.5 percent) compared to those who live alone (46.4 percent). However, this does not apply to single parents/guardians (48.2 percent)—even though they live with children, they are most lonely.

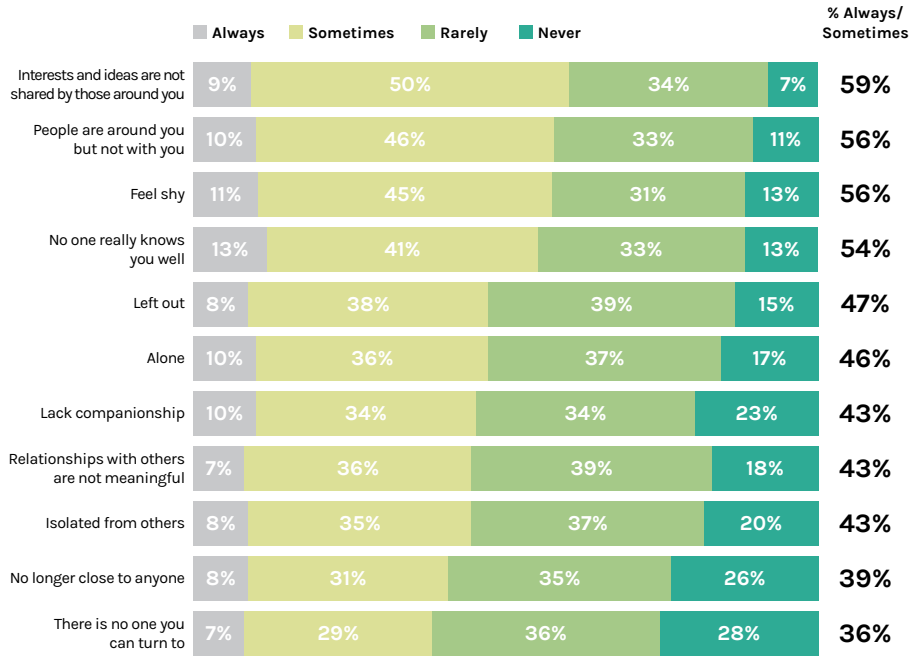
While these studies have not examined the rate of loneliness specific to the legal community, wellness reports have consistently shown that attorneys are at a higher risk of depression, anxiety, suicide and substance use. Awareness regarding the loneliness crisis is imperative because one's mental, physical and social well-being are inextricably connected.

Absent intentionality, practicing law can be lonely—we spend long hours working in isolation and often fail to invest time into our most meaningful relationships.

Correspondingly, the Cigna survey also revealed positive findings about individuals who were less lonely. First, people who were less lonely were more likely to have regular, meaningful, in-person interactions. And those who had healthy amounts of sleep, socialized with friends and family, and practiced self-care or allotted "me time" experienced lower loneliness scores.

"The greatest disease in the West today is not TB or leprosy; it is being unwanted, unloved and uncared for. We can cure physical diseases with medicine, but the only cure for loneliness, despair and hopelessness is love."—Mother Teresa

If you are feeling lonely or isolated, here are some quick suggestions:




*Where individual figures do not sum to 100, this is due to the effects of rounding. Where total always/sometimes summaries do not sum to total of percentages as listed in this chart, this is also due to the effects of rounding.*

According to a Cigna survey in 2018 of more than 20,000 American adults, at least a third experience feelings associated with loneliness, such as feeling isolated or unknown.

- Call a friend instead of emailing or sending a text message
- Consider sharing office space and/or joining groups for more social interaction
- Invite a colleague out for a walk
- Speak to a therapist

For more information regarding social well-being and ways to meaningfully connect with peers visit gabar.org/wellness. #LawyersLivingWell ●

**LaKeisha R. Randall** is a litigation associate at the Atlanta office of Bey & Associates, LLC, and specializes in personal injury law. Randall is also a recognized attorney wellness expert and frequently teaches CLEs regarding lawyer wellness, ethics and professional responsibility.

## Endnotes

1. Julianne Holt-Lunstad, et al., Loneliness and Social Isolation as Risk Factors for Mortality: A Meta-Analytic Review, Vol. 10: Is. 2, Sage Journals 227 (2015).
2. https://www.cigna.com/newsroom/news-releases/2018/new-cigna-study-reveals-loneliness-at-epidemic-levels-in-america (Last accessed July 24, 2019).
3. Russell, D , Peplau, L. A.., & Cutrona, C. E. (1980). The Revised UCLA Loneliness Scale: Concurrent and discriminate validity evidence. Journal of Personality and Social Psychology, 39, 472-480; https://fetzer.org/sites/default/files/images/stories/pdf/selfmeasures/Self_Measures_for_Loneliness_and_Interpersonal_Problems_UCLA_LONELINESS.pdf (Last accessed: July 24, 2019).

# Voice and Tone in Legal Writing

This installment of "Writing Matters" examines the concepts of voice and tone to help you better understand why the tone and sound of legal writing matters.

BY DAVID HRICIK AND KAREN J. SNEDDON

**Writing is a system of symbols used to** convey meaning. When you think of how good legal writing conveys meaning, you may think of the following traits: professional, structured, credible and formal. Those words do accurately describe good legal writing. Many of our "Writing Matters" columns have been directed to help your writing meet those criteria.

But writing also has a sound—including a voice and a tone. The sound of legal writing is more complicated—and more varied—than describing it as professional, structured, credible and formal might allow. For instance, a letter to a long-time client advising how to resolve a dispute sounds different from a letter sent to opposing counsel seeking compliance with a demand. But what accounts for the difference? This installment of "Writing Matters" examines the concepts of voice and tone to help you better understand why the tone and sound of legal writing matters.

In this context, "voice" is a metaphor for the sense of the person who authored the writing. Just like we each have our own speaking voice, our writing has its own voice as well. Voice includes the pitch of the text that gives a sense of the person—or really personality—of the author. Style markers, such as sentence constructions, use of headings and turns of phrase, are often noted in the context of voice to distinguish the writing of one person's from another.

In this context, "tone" refers to the attitude and emotion underlying the text. Think of the difference between the following two sentences.

*We need to talk in my office.*

*Let's chat in my office.*

The tone of the first sentence is ominous, as though bad news will be delivered. The second sentence reads more casually and presents the topic of the discussion in a neutral way.

The appropriate sound for legal documents varies with its purpose and audience. Even within a type of document, such as email, voice and tone may vary. An email to an associate at the law firm checking in on the status of a project will have a different sound than an email responding to a client's request for information. Even the latter email will vary depending on the sophistication of the client and the tone of the request.

Above all, the voice of legal writing should be authentic and professional. But that still leaves a lot of room for the development of the appropriate voice and tone for a particular text. Becoming more aware of the sound of a written

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text will make you a better writer. Below are some ways to alter voice and tone to ensure your legal writing resonates with the reader.

## 1 Word Choice

An important part of legal writing is using the legally needed words for the context. But the choice of words also creates a voice and injects a tone. Using contractions or even slang can conjure a more causal interaction. For instance, the following may appear in an inter-office memo about the strategy as to which arguments to include in a trial brief.

> *The court won't see the connection between the arguments unless we paint the complete picture of why we need this discovery.*

The contractions, personification of the court with the word "see," and the phrase "paint the complete picture," make the text informal and conversational. Other tools, such as slang or colloquialisms, can also make a text more conversational, but they can also lose the reader. For instance, not everyone knows the meaning of the phrase "batting a thousand."

The tone of the sentence above, however, wouldn't sound appropriate in the trial brief. It requires a more formal tone, such as: "So this Court can understand the three reasons why plaintiff needs this discovery, plaintiff begins with a detailed explanation of the events that led to this dispute." Stating in the brief "Because the Court won't see the connection between the three reasons why we need the discovery without the complete picture" does not sound right—at all.

## 2 Sentence Constructions

Think about how you speak. What is the average length of your sentences? Do you have interrupters and internal clauses? Writing that mimics our speech patterns can sound more authentic. We can also alter the voice and tone by altering the sentence constructions. Short declarative sentences have a choppy, staccato sound. Longer sentences may increase the flow. Sentences of similar length give rise to a monotone voice.

Repetition can also increase power of the voice.

> *The defendant suggested the deal. The defendant negotiated the contract's terms.*
>
> *The defendant signed the contract. The defendant then breached the contract.*

The repetition of "the defendant" at the beginning of each sentence adds weight to make the tone pointed.

## 3 Pronouns

Depending upon the context, legal writing can use first or second person. The use of first person singular "I" helps the audience identify with the writer.

> *I want to outline the options to consider how best to resolve this issue.*

Likewise, the first-person plural "we" brings the reader into the role of acting with writer. The second person "you" talks directly to the reader.

> *We should discuss what you would like to do next.*

Too many uses of "you" can make the text read dictatorial. But used selectively, the pronouns "we" and "you" foster a connection between writer and reader.

At times, first person and second person sound too casual. A brief should never use "you" to refer to "the Court." Likewise, a brief should never use "I" to refer to a party the author represents. Pronouns can affect the sound of legal writing.

## 4 Jargon and Legal Terminology

Legal jargon can make text sound authoritative or convoluted. Depending on the audience, a writer may need to use specific legal terminology, such as when writing to a court or writing to in-house counsel about a client's matter. In contrast, when writing to a non-lawyer client, the use of the same amount of legal terminology will sound formal and dense. Using legal terminology selectively can lighten the voice and soften the tone.

## 5 Punctuation

Punctuation creates pauses and alters the cadence of text. Punctuation helps the writer create short sentences and allows drafting long sentences that can be followed and understood. Punctuation also helps create a rhythm to the text by using commas, colons and semicolons. In other words, punctuation can be used to alter both voice and tone.

Even at its simplest, punctuation can radically change tone. Consider the difference punctuation makes in how these two words sound:

> *Thanks.*
>
> *Thanks!*

## Takeaways

When you are writing your next document, whether contract, complaint or letter, think about sound, and maybe even read the text aloud. What does it sound like? Is that sound appropriate for the document and its audience?

Voice and tone will influence how the reader engages with the text and what the reader recalls from the text. Varying voice and tone is not a gimmick, but rather a technique that can enhance the goal of a document. ●

**David Hricik** is a professor of law at Mercer University School of Law who has written several books and more than a dozen articles. The Legal Writing Program at Mercer continues to be recognized as one of the nation's top legal writing programs.

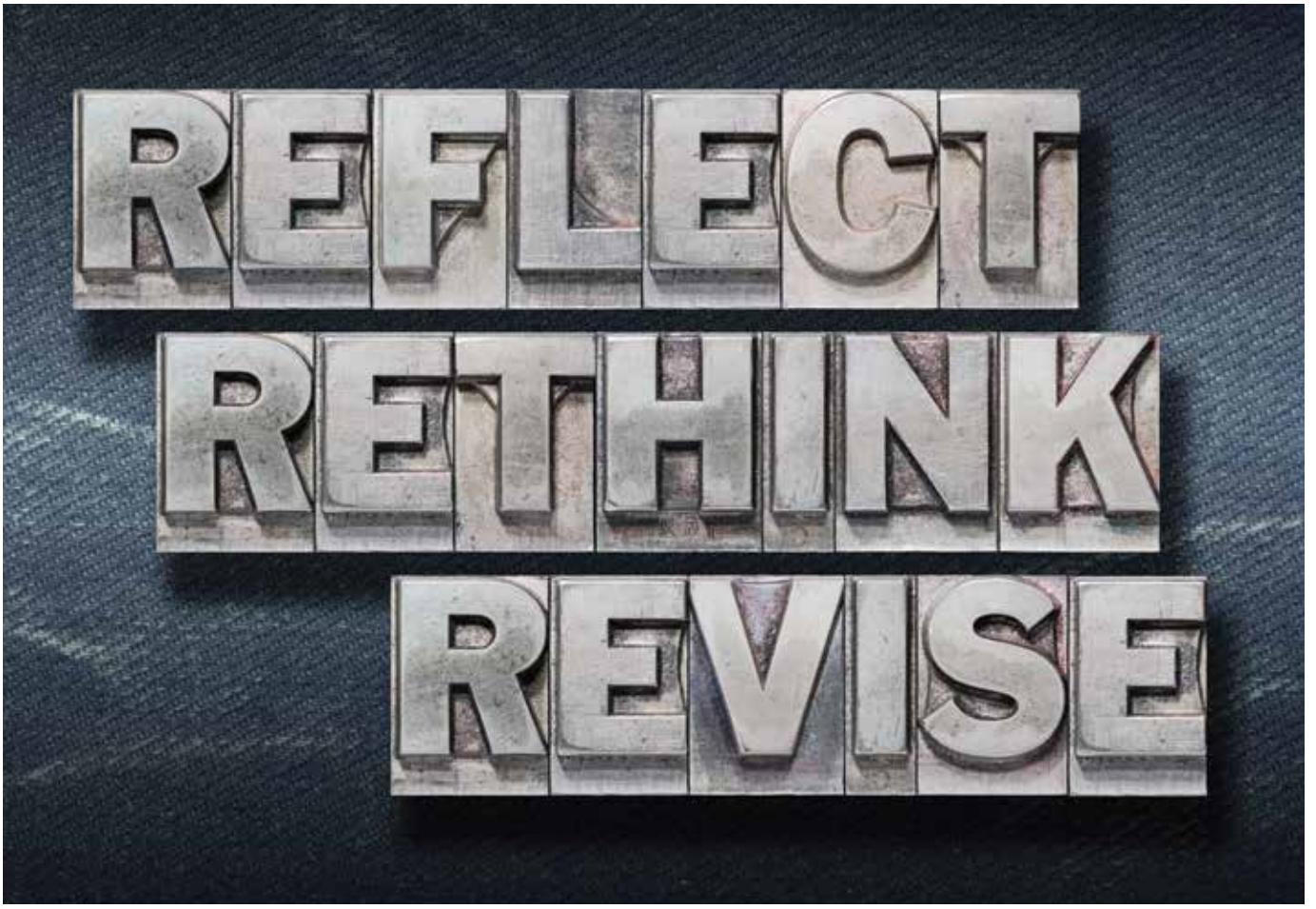
**Karen J. Sneddon** is a professor of law at Mercer University School of Law.

# Chief Justice's Commission on Professionalism Issues Revised Professionalism CLE Guidelines

Applying for professionalism CLE credit is now easier, simpler and faster as a result of the revised Professionalism CLE Guidelines and online portal.

BY KARLISE Y. GRIER AND LESLIE E. STEWART

**In 1988, under the leadership of Jus**tice Thomas O. Marshall and Justice Harold G. Clark, Georgia was the first state to consider the issue of attorney professionalism in a systemic manner. Many states then followed suit. In 1989, the Supreme Court of Georgia created Georgia's Chief Justice's Commission on Professionalism (the Commission). Its purpose was then, and is now, to ensure that the practice of law in Georgia remains a high calling, enlisted in the service not only of the client, but of the public good as well. *A Lawyer's Creed* and the *Aspirational Statements on Professionalism* were created to encourage Georgia lawyers to engage in self-reflection about the justifications of the practice

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of law in our society and to consider the implications of those justifications for their conduct.[1] To that end, the mandatory continuing legal education (CLE) rules require all active Georgia lawyers to complete one hour of professionalism CLE each year.

From the inception of the program until June 30, 2019, the former professionalism CLE guidelines remained in force with only minor modifications; those guidelines, along with appendices, consisted of 86 pages. In 2018, a CLE working group of the Commission undertook the project of reviewing and revising the guidelines. Numerous meetings of the working group took place under the leadership of Commission Member Rebecca Grist, solicitor general, Macon-Bibb County, who served as the chair. Prof. Patrick E. Longan, William Augustus Bootle Chair in Professionalism and Ethics, Mercer University School of Law, served as the scribe. Longan, who has written extensively about legal professionalism, was instrumental in taking a fresh look at the guidelines. His scholarly viewpoint enabled him to radically condense and simplify the guidelines into a six-page written document. During the process, Longan graciously provided several drafts of the proposed guidelines until the Commission reached a final consensus on the language of the guidelines. Supreme Court of Georgia Justice Sarah Hawkins Warren's thoughtful comments and help in building consensus were invaluable contributions to the work. Additional members included Adwoa Ghartey-Tagoe Seymour, assistant general counsel, Cox Enterprises, Inc., and R. Kyle Williams, partner, Williams Teusink, LLC. Both Seymour and Williams added constructive feedback based on their perspective as busy practicing lawyers who have helped plan and who have attended professionalism programs. In addition, Chief Justice Harold D. Melton generously provided invaluable feedback and guidance when needed.

Countless versions of proposed guidelines were exchanged between the working group and Commission members. After discussions at Commission meetings and thoughtful reflection about comments from stakeholders on various drafts of the proposed guidelines, the Commission approved the revised Professionalism CLE Guidelines at its May 3 meeting. As a result, the Commission believes that CLE sponsors and individual attorneys now have a set of guidelines that provide clarity to everyone seeking professionalism CLE credit. The revised Professionalism CLE Guidelines took effect on July 1 and are available on the CJCP website.[2]

One of the most noteworthy additions to the revised Professionalism CLE Guidelines is found in Rule 6, which creates a narrow exception for CLE trainings on substantive law. Under Rule 6, if a substantive law CLE presentation is held for the purpose of training lawyers to enable those lawyers to perform pro bono services, professionalism CLE credit may be available. This addition responds to the Commission's charge to examine ways of making the system of justice more accessible to the public.[3]

The application process for professionalism CLE credit is also in the midst of change. The former procedure required sponsors to apply twice: once to the Commission on Continuing Lawyer Competency (CCLC) and again to the Commission. Understandably, confusion ensued, but technology has come to the rescue. Going forward, CLE sponsors will apply just once for all types of credit through an online portal developed by CCLC under the leadership of Director DeeDee Worley.[4, 5]

In creating the Commission, the Supreme Court of Georgia recognized professionalism as the "ultimate hallmark of the practice of law."[6] Applying for professionalism CLE credit to ensure that this "ultimate hallmark" is nurtured and encouraged is now easier, simpler and faster as a result of the revised Professionalism CLE Guidelines and online portal. For more information on the revised guidelines and the new portal, please visit cjcpga.org/professionalism-cle-guidelines or contact the Commission at 404-225-5040. It is our hope that the changes will assist both CLE sponsors and individual attorneys who are seeking professionalism CLE credit. ●

**Karlise Y. Grier**

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*Chief Justice's Commission on Professionalism*
kygrier@cjcpga.org

**Leslie E. Stewart**

Contract Attorney
*Chief Justice's Commission on Professionalism*


## Endnotes

1. *See* Chief Justice's Commission on Professionalism, *Lawyer's Creed* at Lines 43-44, http://cjcpga.org/wp-content/uploads/2018/08/2-Lawyers-CreedAspStatement-v-2013-Line-Number-v6-5-18.pdf (last visited July 12, 2019).
2. *See* Chief Justice's Commission on Professionalism, Professionalism CLE Guidelines, http://cjcpga.org/professionalism-cle-guidelines (last visited July 12, 2019).
3. *See* Bar Rule 9-102 (B) (2).
4. *See* State Bar of Georgia, CCLC Forms and Fees, CLE Sponsor Information, http://www.georgiabar.org/CLEPortal (last visited July 12, 2019).
5. The Commission will next work with the CCLC on a portal for individual attorneys seeking credit, including professionalism credit, for a CLE activity.
6. *See* Bar Rule 9-101.

**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.

**RUPERT M. BARKOFF**
Atlanta, Georgia
University of Michigan Law School (1973)
Admitted 1973
Died June 2019

**JOHN F. BEASLEY SR.**
Fair Play, South Carolina
Emory University School of Law (1963)
Admitted 1963
Died April 2019

**KAREN B. BRAGMAN**
Atlanta, Georgia
Wayne State University Law School (1979)
Admitted 1983
Died May 2019

**PRICE HUGH CARROLL**
Carrollton, Georgia
Emory University School of Law (2003)
Admitted 2003
Died December 2018

**CATHERINE BARBARA CHAPMAN**
Tallahassee, Florida
Florida State University College of Law (1998)
Admitted 2001
Died May 2019

**SAM W. CHAWKIN**
Atlanta, Georgia
Emory University School of Law (1974)
Admitted 1974
Died May 2019

**JAMES J. FASON III**
Kennesaw, Georgia
Mercer University Walter F. George School of Law (1986)
Admitted 1986
Died May 2019

**WILLIAM M. FLEMING JR.**
Augusta, Georgia
University of Georgia School of Law (1950)
Admitted 1950
Died March 2019

**FRANCIS N. FORD**
Eatonton, Georgia
University of Georgia School of Law (1989)
Admitted 1989
Died June 2019

**W. RUSSELL HAMILTON III**
Port Saint Lucie, Florida
Mercer University Walter F. George School of Law (1975)
Admitted 1975
Died November 2018

**MICHAEL R. HORTEN**
Smyrna, Georgia
Columbia University Law School (1971)
Admitted 1975
Died March 2019

**ROLF ANTHONY JONES**
Jonesboro, Georgia
North Carolina Central University School of Law (1996)
Admitted 1996
Died May 2019

**RICHARD T. KLINGLER**
Chattanooga, Tennessee
Southern Illinois University School of Law (1978)
Admitted 1982
Died February 2019

**JAMES R. MCKAY**
Rossville, Georgia
Woodrow Wilson College of Law (1984)
Admitted 1984
Died April 2019

**JOCELYN MARIE MOORE**
Athens, Georgia
Tulane University School of Law (2010)
Admitted 2010
Died June 2019

**G. CAREY NELSON III**
Cartersville, Georgia
Stetson University College of Law (1977)
Admitted 1977
Died March 2019

**JOHN ALFRED ROBERTS**
Gainesville, Georgia
Atlanta's John Marshall Law School (1991)
Admitted 1991
Died June 2019

**ROBERT T. RUSSELL**
Roswell, Georgia
Woodrow Wilson College of Law (1956)
Admitted 1956
Died May 2019

**RAYMOND MONROE SCHWARTZ**
Atlanta, Georgia
Emory University School of Law (1953)
Admitted 1952
Died March 2019

**BARRY L. STEINBERG**
Augusta, Georgia
University of Georgia School of Law (1977)
Admitted 1977
Died June 2019

**J. DOUGLAS STEWART**
Gainesville, Georgia
Emory University School of Law (1962)
Admitted 1962
Died May 2019

**CARL H. SWICKERATH**
Gulfport, Mississippi
Chicago's John Marshall Law School (1979)
Admitted 1984
Died June 2019

**KARA LYNN THOMPSON**
Atlanta, Georgia
Georgetown University Law Center (1999)
Admitted 1999
Died June 2019

**JAMES B. WALL**
Augusta, Georgia
University of Georgia School of Law (1974)
Admitted 1974
Died May 2019

**THOMAS RAY BLACO WARDELL**
Atlanta, Georgia
Harvard Law School (1966)
Admitted 1995
Died June 2019

**DONALD E. WILKES JR.**
Athens, Georgia
University of Florida Levin College of Law (1969)
Admitted 1972
Died June 2019

**BARRY HOPKINS WOOD**
Douglasville, Georgia
Woodrow Wilson College of Law (1987)
Admitted 1988
Died March 2019

**JAMES M. WOOTAN**
Macon, Georgia
Mercer University Walter F. George School of Law (1969)
Admitted 1969
Died April 2019

**RICHARD L. WYATT JR.**
Washington, D.C.
Emory University School of Law (1979)
Admitted 1979
Died November 2018

## OBITUARIES

**Jon Douglas Stewart, 80, passed away in May. He** was born in Chicopee, Georgia, on Sept. 8, 1938. He received his B.A. from Emory University in 1960 and his LL.B. from Emory University School of Law in 1962.

After his admission to the bar in 1962, Stewart was an active partner for 50 years in the firm of Stewart, Melvin & Frost in Gainesville, Georgia. His excellence as an advocate for his clients earned him the honor of "Georgia Super Lawyer."

Stewart's vast involvement and service to the both the State Bar of Georgia and the American Bar Association exhibited a commitment to professionalism and service. Stewart served as the president of the State Bar of Georgia (1981-82) and as president and vice-president for the Board of Trustees of the Georgia Bar Foundation (1983-93). In 1992, in recognition of his service, professionalism and integrity, Stewart received one of the State Bar's highest accolades, the Distinguished Service Award, and in 2018, he was awarded the Thomas O. Marshall Professionalism Award.

Stewart served in the House of Delegates of the American Bar Association for many years, as well as serving a three-year term representing the Sixth District on the Board of Governors of that organization. He is Life Fellow of the American Bar Foundation.

As a member of the Gainesville Kiwanis Club, Stewart was awarded the Workhorse Award. He was a regular and active participant in local theater and musical productions and was actively involved in the First United Methodist Church of Gainesville, teaching various Sunday School classes, singing in the choir and serving as chairman of the church's administrative board and a member of the building committee. In addition, Stewart was one of the primary reasons for the success of the Georgia Court-Appointed Special Advocate Program, both statewide and local. He was also a member of the Chattahoochee Country Club. ●

**Donald Eugene Wilkes Jr., 74, passed away in** June in Olympia, Washington. Wilkes was born in Daytona Beach, Florida, the son of Donald Eugene Wilkes Sr. and Betty Frances Verdi DeSimone.

Wilkes received his B.A. in history from the University of Florida in 1965 and his J.D. from the University of Florida Levin College of Law in 1969. Following law school, Wilkes clerked for Hon. Ben Krentzman, U.S. District Judge in the Tampa Division of the U.S. District Court for the Middle District of Florida. In one of Wilkes' greatest achievements, he assisted Judge Krentzman in researching and writing orders in a nationally-renowned case that would desegregate the public schools in and around Tampa, and would see the governor of Florida held in contempt for defying the court.

Beginning in 1971, at the age of 27, Wilkes became a law professor at the University of Georgia School of Law in Athens and taught for more than 40 years. In 2013, he was made a Professor of Law Emeritus and remained so until his death.

In addition to teaching, Wilkes authored more than 325 published works, including books, law review articles, historical accounts, book reviews and, most significantly, two treatises on habeus corpus, in which he remains one of the world's leading authorities. He also conducted extensive research and was published on other topics of historical and legal significance, including the trials at Nuremburg, the Dreyfus Affair, the Leo Frank case, the Glorious Revolution, 4th Amendment protections against illegal searches and seizures, the John F. Kennedy assassination and the evils of fascism and the Nazis.

Outside of the law school, Wilkes was an advocate for human rights in the community and marched in protest against war, corruption, inequality, police brutality and the death penalty. He wrote articles for local papers to challenge abuses of power by the state, and he was a regular speaker at the Athens Human Rights Festival. ●

### In Memoriam Contributions to the Georgia Bar Foundation

*Unless otherwise directed by the donor, In Memoriam contributions will be used for the Fellows program of the Georgia Bar Foundation.

In Memory of Chief Justice P. Harris Hines
*Robert and Maggie Brinson*

In Memory of C. Truitt Martin Jr.
*Dunn Stapleton*

In Memory of Samuel A. Murray Jr.
*Mr. and Mrs. Wade H. Coleman*

In Memory of Marvin "M.T." Simmons
*Robert and Maggie Brinson*

In Memory of J. Douglas Stewart
*Tanya and Stanley Applebaum*
*Robert and Maggie Brinson*
*Kristine Brown*
*Paula Frederick*
*Denny C. Galis*
*Charles Lester Jr.*
*Thomas and Alice Ann Mundy*
*Patrick T. O'Connor*
*The State Bar of Georgia*
*Donna C. Willard*

## AUGUST

**15** ICLE: **Green Lights and Red Flags: Rules of the Road for Business**
Atlanta, Ga. | 6 CLE

**16** ICLE: **Nuts and Bolts of Family Law**
Savannah, Ga. | 6 CLE

**16** ICLE: **Administrative Law for Attorneys**
Atlanta, Ga. | 6 CLE

**20** ICLE: **Group Mentoring**
Atlanta, Ga. | 0 CLE

**23** ICLE: **Jury Trials in Divorce**
Atlanta, Ga. | 7.5 CLE

**29** ICLE: **Trial of Leo Frank**
Marietta, Ga. | 2.5 CLE

**30–31** ICLE: **Urgent Legal Matters**
Jekyll Island, Ga. | 12 CLE

## SEPTEMBER

**5** ICLE: **Nursing Home Litigation**
Atlanta, Ga. | 6 CLE

**5-6** ICLE: **Truck Wreck Cases**
Atlanta, Ga. | 12 CLE

**5–7** ICLE: **Intellectual Property Institute**
Amelia Island, Fla. | 6 CLE

**6** ICLE: **Punitive Damages**
Atlanta, Ga. | 6 CLE

**12** ICLE: **RICO (Racketeer Influenced and Corrupt Organization Act)**
Atlanta, Ga. | 6 CLE

**12** ICLE: **Secrets to a Successful Plaintiff's Personal Injury Practice**
Atlanta, Ga. | 6.5 CLE

**13** ICLE: **Georgia Appellate Practice**
Atlanta, Ga. | 6 CLE

**13** ICLE: **Social Media and the Law**
Atlanta, Ga. | 6 CLE

**18** ICLE: **Advanced Storytelling and Persuasion Skills for Lawyers**
Atlanta, Ga. | 6 CLE

**19** ICLE: **Nuts and Bolts of Family Law**
Atlanta, Ga., and via satellite in Savannah and Tifton, Ga.| 6 CLE

**20** ICLE: **Fighting the Good Fight**
Atlanta, Ga. | 6 CLE

**20** ICLE: **Medical Malpractice Bootcamp**
Atlanta, Ga. | 6 CLE

**26–27** ICLE: **Solo and Small Firm Institute**
Atlanta, Ga., and via satellite in Savannah and Tifton, Ga. | 12 CLE

## OCTOBER

**3** ICLE: **Zoning Law**
Atlanta, Ga. | 6 CLE

**3–5** ICLE: **Workers' Compensation Law Institute**
Jekyll Island, Ga. | 12 CLE

**4** ICLE: **Class Action**
Atlanta, Ga. | 6 CLE

**4** ICLE: **Premises Liability**
Atlanta, Ga. | 6 CLE

**10** ICLE: **Title Standards**
Atlanta, Ga. | 6 CLE

**10** ICLE: **VA Accreditation**
Atlanta, Ga. | 6 CLE

**11** ICLE: **15th Annual Family Law Seminar**
Augusta, Ga. | 6 CLE

*Note: To verify a course that you do not see listed, please call the CLE Department at 404-527-8710. Also, ICLE seminars only list total CLE hours. For a breakdown, call 678-529-6688. For ICLE seminar locations, please visit www.gabar.org.*

**11** ICLE: **Advanced Health Law**
Atlanta, Ga. | 6 CLE

**17** ICLE: **5th Annual Not Your Everyday Custody Case**
Atlanta, Ga. | 6 CLE

**17** ICLE: **U.S. Supreme Court Update**
Atlanta, Ga. | 6 CLE

**18** ICLE: **34th Privacy and Technology Law Institute**
Atlanta, Ga. | 8 CLE

**22** ICLE: **Beginning Lawyers Program Replay**
Atlanta, Ga., and via satellite in Savannah and Tifton, Ga. | 6 CLE

**23** ICLE: **Family Immigration Law**
Atlanta, Ga. | 6 CLE

**24** ICLE: **Succeeding in Family Law Hearings and Trials**
Atlanta, Ga. | 6 CLE

**25** ICLE: **Securities Litigation and Regulatory Practice**
Atlanta, Ga. | 6 CLE

**25** ICLE: **Basic Fiduciary Law 101**
Macon, Ga. | 6 CLE

**25** ICLE: **Civil Prosecutions of DUI and Dram Shop Cases in Georgia**
Atlanta, Ga. | 6 CLE

**31** ICLE: **Expert Testimony in Georgia**
Atlanta, Ga. | 6 CLE

## LABOR DAY WEEKEND INSTITUTE

**Aug. 30-31 | Urgent Legal Matters | 12/1/2/6**

Attorneys in attendance will earn 12 CLE hours including 1 ethics hour, 2 professionalism hours and 6 trial hours.

For information and to register, visit **www.gabar.org/ICLEcourses**.

# Notice of Motion to Amend the Rules and Regulations of the State Bar of Georgia

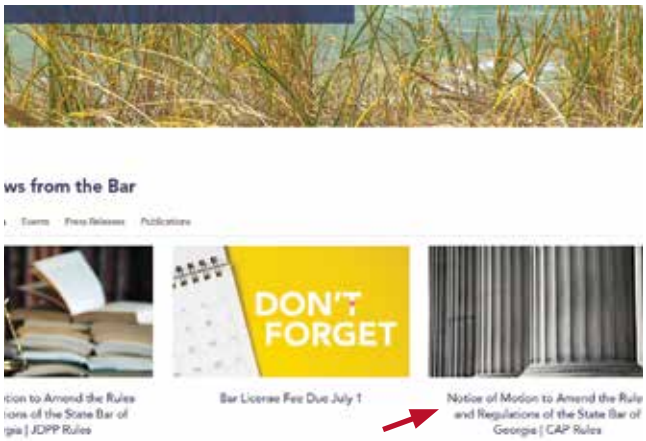
No earlier than 30 days after June 13, 2019, the publication date of this Notice, the State Bar of Georgia will file a Motion to Amend the Rules and Regulations for the Organization and Government of the State Bar of Georgia (Motion 2019-2) pursuant to the order of the Supreme Court of Georgia dated December 6, 1963, (219 Ga. 873) and amended by subsequent orders, and published in the State Bar of Georgia Handbook (www.gabar.org/barrules/).

The exact text of the proposed amendments can be found on the State Bar of Georgia's website at www.gabar.org/motiontoamend/CAP. Any member of the State Bar of Georgia who wishes to obtain a printed copy of these proposed amendments may do so by sending such request to the following address:

Betty Derrickson
Office of the General Counsel
State Bar of Georgia
104 Marietta St. NW, Suite 100
Atlanta, Georgia 30303

I hereby certify that the following is the verbatim text of the proposed amendments as approved by the Board of Governors of the State Bar of Georgia. Any member in good standing of the State Bar of Georgia who desires to object to part or all of these proposed amendments to the Rules is reminded that he or she may only do so in the manner provided by Rule 5-102 (www.gabar.org/barrules/). This statement and the verbatim text of the proposed amendments are intended to comply with the notice requirements of Rule 5-101 (www.gabar.org/barrules/).

Jeffrey R. Davis
Executive Director
State Bar of Georgia



# Notice of and Opportunity for Comment on Amendments to the Rules of the United States 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 United States Court of Appeals for the Eleventh Circuit. The public comment period is from Aug. 6 to Sept. 6, 2019.

A copy of the proposed amendments may be obtained on and after Aug. 6, 2019, from the court's website at http://www.ca11.uscourts.gov/rules/proposed-revisions. 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, or electronically at http://www.ca11.uscourts.gov/rules/proposed-revisions, by 5 p.m. Eastern Time on Sept. 6, 2019.

# Notice of Motion to Amend the Rules and Regulations of the State Bar of Georgia

No earlier than Aug. 12, 2019, 30 days after the publication date of this Notice, the State Bar of Georgia will file Motion to Amend the Rules and Regulations for the Organization and Government of the State Bar of Georgia (Motion 2019-3) pursuant to the order of the Supreme Court of Georgia dated December 6, 1963 (219 Ga. 873) and amended by subsequent orders, and published in the State Bar of Georgia Handbook (www.gabar.org/barrules/).

The exact text of the proposed amendments can be found on the State Bar of Georgia's website at www.gabar.org/motiontoamend/JDPP. Any member of the State Bar of Georgia who wishes to obtain a printed copy of these proposed amendments may do so by sending such request to the following address:

Betty Derrickson
Office of the General Counsel
State Bar of Georgia
104 Marietta St. NW, Suite 100
Atlanta, Georgia 30303

I hereby certify that the following is the verbatim text of the proposed amendments as approved by the Board of Governors of the State Bar of Georgia. Any member in good standing of the State Bar of Georgia who desires to object to part or all of these proposed amendments to the Rules is reminded that he or she may only do so in the manner provided by Rule 5-102 (www.gabar.org/barrules/). This statement and the verbatim text of the proposed amendments are intended to comply with the notice requirements of Rule 5-101 (www.gabar.org/barrules/).

Jeffrey R. Davis
Executive Director
State Bar of Georgia

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***— Alexandria Reyes, Esq.,***
***Volunteer with Kids in Need of Defense (KIND);***
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***Rule 6.1 Voluntary Pro Bono Public Service**: A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year... In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means. No reporting rules or requirements may be imposed without specific permission of the Supreme Court granted through amendments to these Rules. There is no disciplinary penalty for a violation of this Rule.*

# SUICIDE AWARENESS & PREVENTION

The State Bar of Georgia's suicide awareness campaign has a dual purpose, directed toward lawyers and judges 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 our colleagues.

LEARN MORE AT:
**www.gabar.org/suicideawareness**

State Bar of Georgia

## ATTORNEY COACHES ARE NEEDED FOR HIGH SCHOOL TEAMS THROUGHOUT GEORGIA

**Serve as a mentor to a team in your area and make a positive impact in your community.**

*CLE credit is available for coaching a mock trial team!*

*For more information on coaching a team, contact the mock trial office before Sept. 27 at 404-527-8779 or mocktrial@gabar.org | www.georgiamocktrial.org*

Volunteer forms and a list of teams statewide who are in need of coaching assistance may be found under the Volunteer section of the mock trial website.

State Bar of Georgia

GEORGIA MOCK TRIAL COMPETITION

YOUNG LAWYERS DIVISION STATE BAR OF GEORGIA

### Property/Rentals/Office Space

**Individual 159 sq. ft. office for rent-Downtown Decatur.** $975/Mo. 150 yards from DeKalb Courthouse. Shared suite w/ attorneys. Free shared Wi Fi, kitchen, furniture, conference room, receptionist. Free parking. 24/7 access. 1 year min term. Full service lease. Janitorial incl. Contact: gwest@westrealestateadvisors.com

**Has Georgia's Department of Behavioral Health and Developmental Disabilities or Department of Community Health** through the GMCF denied your client IDD waiver funding due to diagnostic ineligibility? The denial decision may be erroneous. Perhaps consultation is worth seeking from a licensed psychologist with specialized expertise and decades of experience involving thousands of IDD eligibility determinations. IDD waiver funding supports those with specific severe developmental disabilities: intellectual disability, autism, cerebral palsy, epilepsy, TBI, and some others. Contact Dr. Joseph Dix at 470-307-6784 or joedix66@gmail.com. Initial discussion of your case is free.

### Position Wanted

PI Associate Attorney-Personal Injury Law Firm is seeking junior associates and experienced associates in the Jacksonville and Gainesville, FL area with 0-5 years of PI experience for entry level personal injury position. Energetic self-starters with great written and verbal communication skills is a must. Military Veterans given preference but not required. If you are highly motivated to do great lawyering for your clients, aren't afraid to pay your dues and want excellent professional development and earnings potential, then send detailed cover letter (explaining your desire to represent the injured and your willingness to pay your dues) along with resume AND references to nina@youhurtwefight.com. Compensation commensurate with experience. If you are not serious about your legal career and willing to pay your dues, then do not apply.

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Advertisers are discovering a fact well known to Georgia lawyers. If you have something to communicate to the lawyers in the state, be sure that it is published in the *Georgia Bar Journal*.

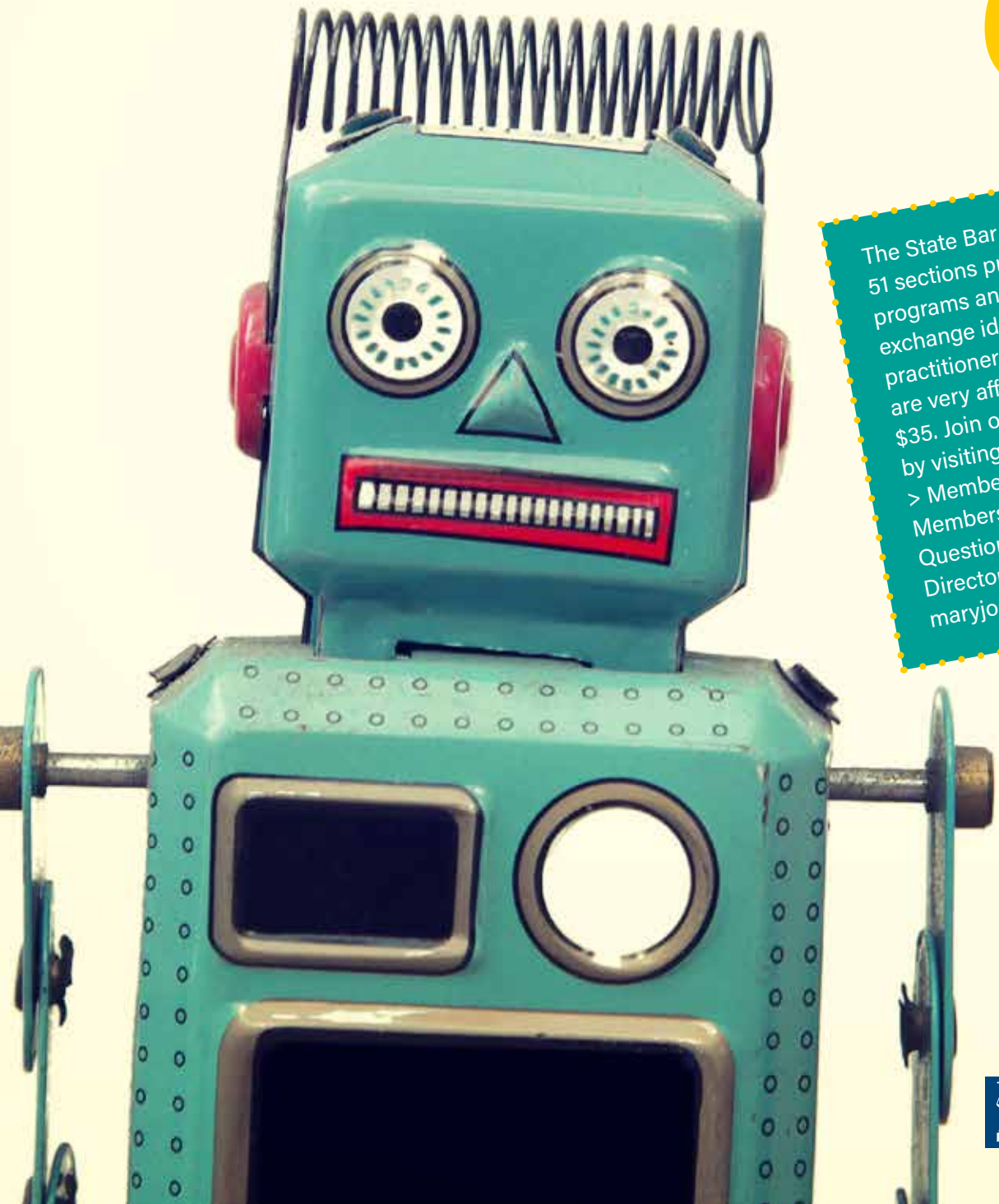
Contact Ashley Stollar at 404-527-8792 or ashleys@gabar.org.

## ETHICS DILEMMA?

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

it's time to

# JOIN A STATE BAR SECTION



The State Bar of Georgia's 51 sections provide newsletters, programs and the chance to exchange ideas with other practitioners. Section dues are very affordable, from $10-$35. Join one {or more} today by visiting www.gabar.org > Member Login > Section Membership > Join Sections. Questions? Email Sections Director Mary Jo Sullivan at maryjos@gabar.org.

State Bar of Georgia

# #SHAPETHEBAR

We want to hear from you.

What are your thoughts about the legal profession in Georgia?

What's one thing the Bar could do to make the practice of law easier for you?

**Let us know what you think.** Email president@gabar.org with #ShapeTheBar as the subject line, or send us feedback via social media with the tag #ShapeTheBar.