

GEORGIA BAR

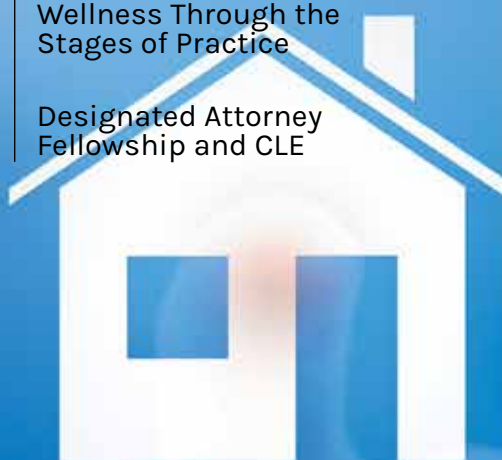
JOURNAL

2021 Commitment
to Equality Awards

State Bar Expands
Pro Bono Recognition
Program

Wellness Through the
Stages of Practice

Designated Attorney
Fellowship and CLE



THE LEGAL

Issues to Consider in Real Estate Transactions Involving Trusts and Estates



LAWPAY[®]

AN AFFINIPAY SOLUTION

“I love LawPay! I’m not sure why I waited so long to get it set up.”

– Law Firm in Ohio

Trusted by 50,000 law firms, LawPay is a simple, secure solution that allows you to easily accept credit and eCheck payments online, in person, or through your favorite practice management tools.



22% increase in cash flow with online payments



Vetted and approved by all 50 state bars, 70+ local and specialty bars, the ABA, and the ALA



62% of bills sent online are paid in 24 hours



PAYMENT RECEIVED

YOUR FIRM LOGO HERE

Trust Payment
IOLTA Deposit

New Case Reference

**** * 9995 ***

TOTAL: \$1,500.00

VISA



POWERED BY
LAWPAY

eCheck

DISCOVER

PAY ATTORNEY

Get started at

lawpay.com/gabar
866-343-2217

Data based on an average of firm accounts receivables increases using online billing solutions.

LawPay is a registered agent of Wells Fargo Bank N.A., Concord, CA, Synovus Bank, Columbus, GA., and Fifth Third Bank, N.A., Cincinnati, OH.

BEN PARKS

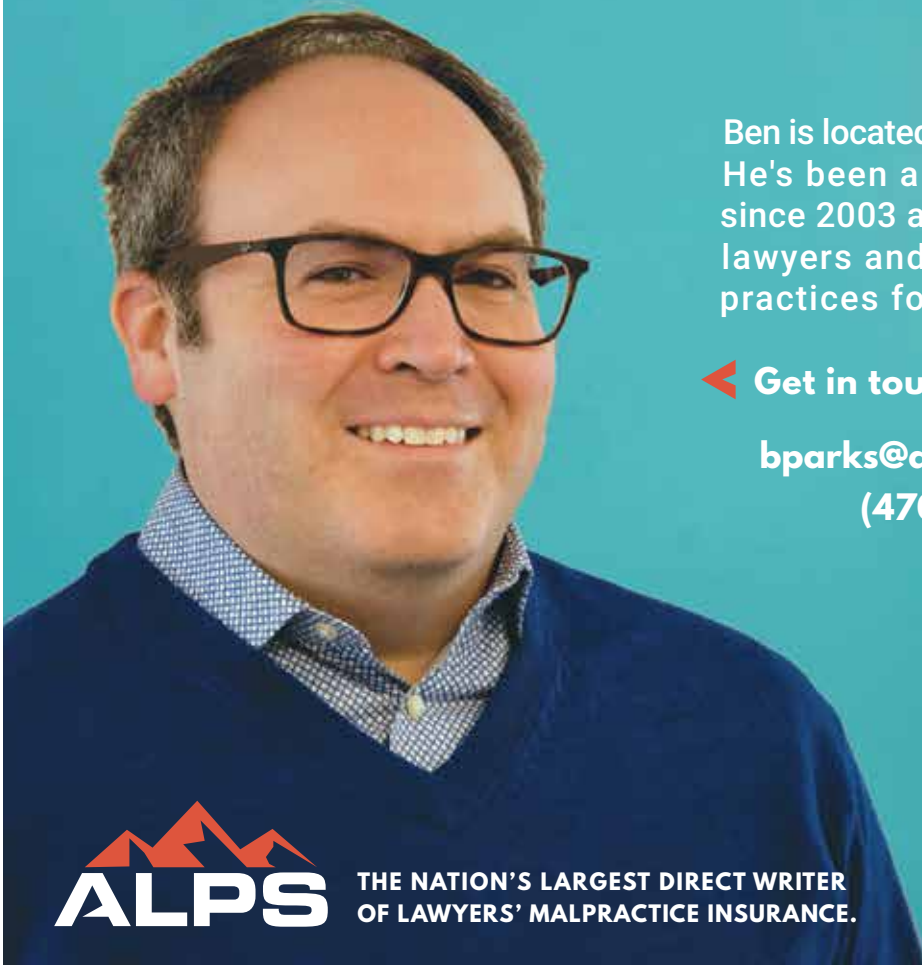
OUTSTANDING RATES & SERVICE

“ Outstanding rates and service. Even more importantly, **”**
Ben Parks is why we are with ALPS--Ben explains all to lawyers in an easy to understand manner-a fleeting art in our profession.

▶ Randall Fry, The Fry Law Firm, Atlanta, GA

Learn how ALPS can benefit your firm at:

www.alpsinsurance.com/georgia



Ben is located right here in Georgia. He's been a member of the Bar since 2003 and has been helping lawyers and firms protect their practices for the last 17 years.

◀ Get in touch with Ben today!

bparks@alpsinsurance.com
(470) 946-0819



THE NATION'S LARGEST DIRECT WRITER
OF LAWYERS' MALPRACTICE INSURANCE.

★ Trustpilot



Our Policyholders Love Us!

HEADQUARTERS

104 Marietta St. NW, Suite 100
Atlanta, GA 30303
800-334-6865 | 404-527-8700
Fax 404-527-8717
www.gabar.org

COASTAL GEORGIA OFFICE

18 E. Bay St.
Savannah, GA 31401-1225
877-239-9910 | 912-239-9910
Fax 912-239-9970

SOUTH GEORGIA OFFICE

244 E. Second St. (31794)
P.O. Box 1390
Tifton, GA 31793-1390
800-330-0446 | 229-387-0446
Fax 229-382-7435

EDITORIAL BOARD

EDITOR-IN-CHIEF
Megan Turley Hodgkiss

MEMBERS

Donald P. Boyle Jr.
J. Kyle Brooks
John Clay Bush
Timothy J. Colletti
Angela Ellen Cusimano
Jacob E. Daly
Bridgette E. Eckerson
Jake Evans
Catherine Fitch
Lynn Gavin
Mary Elizabeth Gilchrist
Eric Hooper
Abbey Beth Morrow
Kerry Nicholson
Amber L. Nickell
Kevin Patrick
Kristin Poland
Derrick Alexander Pope
Roxann Sherri Smithers
Michael Steven Webb
Pamela Y. White-Colbert
Mark W. Wortham

EXECUTIVE COMMITTEE LIAISON
Shiriki Cavitt Jones

EDITORS EMERITUS

Kristin Poland (2019-21)
Bridgette E. Eckerson (2017-19)
Timothy J. Colletti (2015-17)
Bridgette E. Eckerson (2012-15)
Robert R. Stubbs (2010-12)
Donald P. Boyle Jr. (2007-10)
Marcus D. Liner (2004-07)
Rebecca Ann Hoelting (2002-04)
Marisa Anne Pagnattaro (2001-02)
D. Scott Murray (2000-01)
William Wall Sapp (1999-00)
Theodore H. Davis Jr. (1997-99)
L. Brett Lockwood (1995-97)
Stephanie B. Manis (1993-95)
William L. Bost Jr. (1991-93)
Charles R. Adams III (1989-91)
L. Dale Owens (1987-89)
Donna G. Barwick (1986-87)
James C. Gauden Jr. (1985-86)
Jerry B. Blackstock (1984-85)
Steven M. Collins (1982-84)
Walter M. Grant (1979-82)
Stephen E. Raville (1977-79)

OFFICERS OF THE STATE BAR OF GEORGIA

PRESIDENT
Elizabeth L. Fite
PRESIDENT-ELECT
Sarah B. "Sally" Akins
TREASURER
Hon. J. Antonio "Tony" DeCampo
SECRETARY
Ivy N. Cadle
IMMEDIATE PAST PRESIDENT
Dawn M. Jones
YLD PRESIDENT
Elissa B. Haynes
YLD PRESIDENT-ELECT
Ron Daniels
YLD IMMEDIATE PAST PRESIDENT
Bert Hummel

COMMUNICATIONS COMMITTEE

CHAIRPERSON
Leslie L. Cadle
VICE CHAIRPERSON
Derrick Alexander Pope

COMMUNICATIONS DEPARTMENT

DIRECTOR
Jennifer R. Mason
ASSISTANT DIRECTOR
Stephanie J. Wilson
COMMUNICATIONS COORDINATOR
Ashley G. Stollar
ADMINISTRATIVE ASSISTANT
Jada Pettus

QUICK DIAL

ATTORNEY DISCIPLINE
800-334-6865 ext. 720
404-527-8720
CLIENT ASSISTANCE PROGRAM
404-527-8759
CONFERENCE ROOM RESERVATIONS
404-419-0155
FEE ARBITRATION
404-527-8750
CLE TRANSCRIPTS
404-527-8710
DIVERSITY PROGRAM
404-527-8754
ETHICS HELPLINE
800-682-9806
404-527-8741
GEORGIA BAR FOUNDATION/IOLTA
404-588-2240
GEORGIA BAR JOURNAL
404-527-8761
GOVERNMENTAL AFFAIRS
404-526-8608
ICLE
678-529-6688
LAWYER ASSISTANCE PROGRAM
800-327-9631
LAW PRACTICE MANAGEMENT
404-527-8773
LAW-RELATED EDUCATION
404-527-8785
MEMBERSHIP
404-527-8777
MEETINGS INFORMATION
404-527-8790
PRO BONO RESOURCE CENTER
404-527-8763
PROFESSIONALISM
404-225-5040
SECTIONS
404-527-8782
TRANSITION INTO LAW PRACTICE
404-527-8704
UNLICENSED PRACTICE OF LAW
404-527-8743
YOUNG LAWYERS DIVISION
404-527-8778

MANUSCRIPT SUBMISSION

The *Georgia Bar Journal* welcomes the submission of unsolicited legal manuscripts on topics of interest to the State Bar of Georgia or written by members of the State Bar of Georgia. Submissions should be 10 to 12 pages, double-spaced (including endnotes) and on letter-size paper. Citations should conform to A UNIFORM SYSTEM OF CITATION (19th ed. 2010). Please address unsolicited articles to: Megan Hodgkiss, State Bar of Georgia, Communications Department, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303. Authors will be notified of the Editorial Board's decision regarding publication.

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: Jada Pettus, Administrative Assistant, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303; 404-527-8791; jadap@gabar.org.

DISABILITIES

If you have a disability which requires printed materials in alternate formats, please call 404-526-8627 for assistance.

PUBLISHER'S STATEMENT

The *Georgia Bar Journal* (ISSN-1085-1437) is published six times per year (February, April, June, August, October, December) by the State Bar of Georgia, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303. Copyright State Bar of Georgia 2022. One copy of each issue is furnished to members as part of their State Bar license fees. Subscriptions: \$36 to non-members. Single copies: \$6. Periodicals postage paid in Atlanta, Georgia, and additional mailing offices. Advertising rate card will be furnished upon request. Publishing of an advertisement does not imply endorsement of any product or service offered. POSTMASTER: Send address changes to same address.



The Georgia Bar Journal seeks to provide a forum for the discussion of subjects pertaining to the regulation of the legal profession and improving the quality of legal services, as well as other matters of general interest to Georgia lawyers. The statements, views and opinions expressed herein are those of the authors and do not necessarily reflect those of State Bar of Georgia, its officers, Board of Governors, Sections, Committees, Editorial Board or staff. For additional guidelines regarding submissions to the Georgia Bar Journal, please visit www.gabar.org/journal.

GBJ | *The Features*

- 26 2021 Commitment to Equality Awards
KATIE DOD AND ELICIA HARGROVE
- 29 Privilege Please
HALIMA H. WHITE
- 30 Ash Tree Receives \$75,000
Emergency Grant from the
Georgia Bar Foundation
LEN HORTON



GETTYIMAGES.COM/NICOELNINO

The Legal

**ISSUES TO
CONSIDER IN
REAL ESTATE
TRANSACTIONS
INVOLVING
TRUSTS AND
ESTATES | 16**

Kathryn Baldwin Hecker,
Matthew J. Higgins and
Michael L. Van Cise



50

GETTYIMAGES.COM/SOLARSEVEN

GBJ | In Every Issue

- 5 Editor's Letter
- 6 From the President
- 10 From the YLD President
- 14 From the Executive Director
- 32 Bench & Bar
- 41 Attorney Discipline
- 44 Legal Tech Tips
- 60 In Memoriam
- 62 ICLE Calendar
- 64 Classified Resources
- 64 Advertisers Index

**40 Office of the General Counsel
Too Good to Be True?**

Paula Frederick

**46 Law Practice Management
Building a Team in 2022?**

Nkoyo-Ene R. Effiong

**48 Pro Bono
State Bar of Georgia Expands
Pro Bono Recognition Program**

Y. Soo Jo and Sharon A. Lim

**50 Member Benefits
Fight Back Against the Hack**

R. Scott Reid

**52 Attorney Wellness
Wellness Through the Stages of
Practice**

Megan Murren Rittle

**54 Writing Matters
Writing Matters to Clients**

David Hricik and Karen J. Sneddon

**56 Professionalism Page
Designated Attorney
Fellowship and CLE**

Karlise Y. Grier

The February Issue

Hello, reader! Thank you for flipping through or clicking on the February issue of the *Georgia Bar Journal*. We have a great selection of articles for you.

In her article, "The Balancing Act of Lawyer-Legislators," State Bar of Georgia President Elizabeth L. Fite writes about the current session of the Georgia General Assembly. Noting that a decreasing number of state representatives are attorneys, Fite encourages more Georgia lawyers to consider becoming candidates.

Service is the focus of the Pro Bono article, "State Bar Expands Pro Bono Recognition Program." The article discusses the expansion of the Pro Bono Honor Roll. Under the new program guidelines, attorneys who have met or exceeded their 50 hours of annual pro bono service will be spotlighted.

In their piece on the 2021 Commitment to Equality Awards, authors Katie Dod and Elicia Hargrove introduce *Georgia Bar Journal* readers to the six award winners. The Commitment to Equality 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 Georgia.

We have more good news to share, courtesy of Len Horton, executive director of the Georgia Bar Foundation. In his article, Horton writes about the Georgia Bar Foundation's grant to the Ash Tree Organization Learning Academy in Savannah.

In our legal article, "Issues to Consider in Real Estate Transactions Involving Trusts and Estates," authors Kathryn Baldwin Hecker, Matthew J. Higgins and Michael L. Van Cise discuss Georgia trust and probate law, as well as related federal tax law that real estate lawyers should consider when evaluating transactions involving a trust or a decedent's estate.

If you're looking for practice management resources, be sure to read our Legal Tech Tips, Nkoyo-Ene Effiong's article "Building a Team in 2002?" or Scott Reid's piece on how to "Fight Back Against the Hack." In our Attorney Wellness article, "Wellness Through the Stages of Practice," Megan Murren Rittle writes about Henry County Presiding Magistrate Judge Amanda Flora, and how she integrates wellness into her time on and off the bench.

Thank you again for reading our February issue, and we'll see you again in April. Take care. ●



MEGAN HODGKISS

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



ON THE COVER

GETTYIMAGES.COM/NICOELNINO

gabar.org

VIEW ONLINE

www.gabar.org/journal

FOLLOW

Twitter
@StateBarofGA
@GeorgiaYLD
@iclega

Facebook
@statebarofgeorgia
@GeorgiaYLD
@iclega

YouTube
/StateBarofGeorgia

Flickr
/statebarofgeorgia
/yld

Instagram
@statebarofga
@georgiayld

LinkedIn
/state-bar-of-georgia
/young-lawyers-division-state-bar-of-georgia

The Balancing Act of Lawyer-Legislators



PHOTO BY ZACHARY D. PORTER

ELIZABETH L. FITE

President
State Bar of Georgia
president@gabar.org

The 2022 legislative session of the Georgia General Assembly convened Jan. 10. For a maximum of 40 days in session, members of the House of Representatives and Senate introduce, debate and decide what legislative actions will benefit the state and are worthy of becoming law.

Those are not 40 consecutive days, of course. After adding on weekends, holidays and built-in days necessary for the various House and Senate committees to consider proposed legislation, the session does not customarily adjourn before the last week in March.

While that seems a short period of time for the General Assembly to review and vote on hundreds of bills and resolutions—not to mention write and approve a \$27 billion annual state budget—for the representatives and senators who are also active members of the State Bar of Georgia, a quarter of the year can seem an eternity to divide their time between their law practices and doing the people’s business at the State Capitol.

For many years, my predecessors have lamented the declining number of lawyers in the Legislature. While some of the public remains under the impression that the legal profession dominates the makeup of the General Assembly, we are in fact now down to 24 Bar members out of 180 in the House and eight out of 56 in the Senate.

To get an idea of the importance of encouraging more Georgia lawyers to con-

sider becoming a candidate and serving in the state House or Senate, we spoke to two current lawyer-legislators, one from each side of the political aisle who are both sole practitioners, and one former House member who was and is a partner in a big Atlanta firm.

Their answers to our questions provide first-hand insight into the merits of legislative service by attorneys, some of the reasons why the number of lawyer-legislators has declined and a few secrets to keeping a law practice running during the January-to-March legislative session.

Rep. Mary Margaret Oliver (D-Decatur), who chairs the MARTA oversight committee in the House and sits on the Judiciary, Juvenile Justice and Special Civil Justice System Access committees, is in her 32nd year of service in the Legislature, including 26 years in the House (1987-92 and 2003-present) and six in the Senate (1993-98). She says experience in practicing law provides many benefits in the art and science of lawmaking.

“We’re used to conflict management, and we pay attention to the significance of the written word,” Oliver said. “We have an ability to look at details and consequences based on our training. Also a law practice gives you an in-depth analysis of problems or conflicts in a wide variety of issues.” For example, she said her experience in family and juvenile law practice has helped with drafting laws dealing with domestic violence and stalking. “I

OFFICERS' BLOCK

In this issue of the Georgia Bar Journal, we asked our State Bar of Georgia officers, "What's one movie you could watch over and over, and why?"

had a lot of experience in my law practice with stalking, and how you get temporary restraining orders to protect someone from a stalker was not an adequate remedy. We needed a criminal statute."

Rep. Rob Leverett (R-Elberton), who is in the second year of his first term in the House and also serves on the Judiciary Committee, agrees. "Legislation is a legal process to start with," Leverett said. "At its core, it's governed by legal rules and we're drafting these statutes that will be interpreted by courts. Being a lawyer gives you a little bit of a leg up on that skill set, in terms of how to draft and how to see drafting concerns that may be present in legislation. Being a lawyer who does a lot of different things and has been in litigation, you're used to looking at something with the eye of someone who doesn't like your idea. So I think that helps you be a little more exhaustive about making sure you're stating your concept clearly and in a way that will be so construed by a court."

BJay Pak was a litigation partner at Alston & Bird in Atlanta during his tenure as a Republican House lawmaker from 2011 to 2017. After serving as U.S. attorney for the Northern District of Georgia, he returned to his previous position at Alston & Bird last year. He also said a lawyer's ability to look at legislation "with a skeptical eye to make sure that the definitions are precise to avoid unintended consequences" is one benefit, and another is "a general understanding of how con-



ELIZABETH L. FITE
President

The original "Alien." For a movie about space, it's held up relatively well over the decades with a few notable exceptions (e.g., smoking in space and that computers need a button for every function). It's got action, a few scares, a strong female lead, corporate moral responsibility and so many blinking buttons all over the ship.



SARAH B. "SALLY" AKINS
President-Elect

I'd watch "The Shawshank Redemption," because its message is about friendship and hope even though it is very bleak at times.



HON. J. ANTONIO "TONY" DELCAMPO
Treasurer

"The Shawshank Redemption." It is a story of hope and friendship that begins in a dreary place. Lots of good lessons to be learned with this wonderful film.



IVY N. CADLE
Secretary

"Groundhog Day!" A fun and engaging story with a hidden lesson. Be like Phil and change your outlook on life. Your actions will follow. With a positive attitude, we wake each day to the same opportunity to make small choices to make the world—and ourselves—more fun and rewarding.



DAWN M. JONES
Immediate Past President

I have several favs, but some, like "12 Years a Slave," are difficult to watch over and over. So I'd have to say it's a tie between "Open Range" (thanks to my dad, I grew up watching a LOT of westerns) and "Steel Magnolias" (great movie about relationships/friendships). Both are highly entertaining!

THANK YOU TO THE LAWYER-LEGISLATORS SERVING IN THE 2021-22 GEORGIA GENERAL ASSEMBLY

SENATE

Sen. Bill Cowsert (R-Athens)
Sen. Bo Hatchett (R-Cornelia)
Sen. Jen Jordan (D-Atlanta)
Sen. Harold Jones (D-Augusta)
Sen. John Kennedy (R-Macon)
Sen. Elena Parent (D-Decatur)
Sen. Brian Strickland (R-McDonough)
Sen. Blake Tillery (R-Vidalia)

HOUSE OF REPRESENTATIVES

House Speaker David Ralston (R-Blue Ridge)
Rep. William Boddie (D-East Point)
Rep. James Burchett (R-Waycross)
Rep. David Dreyer (D-Atlanta)
Rep. Chuck Efstrotation (R-Dacula)
Rep. Stacey Evans (D-Atlanta)
Rep. Barry Fleming (R-Harlem)

Rep. Stan Gunter (R-Blairsville)
Rep. Scott Holcomb (D-Atlanta)
Rep. Trey Kelley (R-Cedartown)
Rep. Dar'shun Kendrick (D-Lithonia)
Rep. Todd Jones (R-Cumming)
Rep. Rob Leverett (R-Elberton)
Rep. Marvin Lim (D-Norcross)
Rep. Zulma Lopez (D-Atlanta)
Rep. Josh McLaurin (D-Sandy Springs)
Rep. Beth Moore (D-Peachtree Corners)
Rep. Mary Margaret Oliver (D-Decatur)
Rep. Sam Park (D-Lawrenceville)
Rep. Bonnie Rich (R-Suwanee)
Rep. Shea Roberts (D-Atlanta)
Rep. Tyler Paul Smith (R-Bremen)
Rep. Mike Wilensky (D-Dunwoody)
Rep. Matt Wilson (D-Brookhaven)

stitutional law may apply or influence certain policy initiatives and helps kind of guide our fellow colleagues.

I've had experience where they would ask me, 'What do you think about this bill?' I would give them some guidelines on certain things, such as 'I think this might run into some constitutional issues.' That doesn't mean I was successful in convincing them, and ultimately it would pass and then get held up in court. But being a voice there to at least look at it in a more objective manner certainly results in a better piece of legislation and less uncertainty in the general public."

Seeking election to a state House or Senate seat, which requires months of fundraising, producing and distributing campaign materials and advertising, personal campaigning, town hall meetings and debates, and intensive get-out-the-vote efforts, is not for everyone. If,

after all that, you happen to get elected to the Legislature, your reward includes an even greater sacrifice of time and, oh yes, another election every two years. It's no wonder that fewer and fewer lawyers, whose most precious commodity is time, are throwing their hats in the ring.

"Serving in the General Assembly takes a lot of time," Pak said. "When you're a practicing lawyer, you always have to sacrifice in terms of job obligations to the clients, but you also have an obligation to your constituents you serve. As the pressure of more and more billable time becomes important in our profession, it takes less and less away for public service. Time challenges are the No. 1 thing that's causing a lot of lawyers not to serve."

Leverett elaborated, "It does take a lot of work because the demands of the job are more than a lot of people realize. It's not just going to session. It's constituent

calls, trying to help constituents with problems with their unemployment or their food stamps or whatever it may be ... and just working a lot of hours. I was in the office in Atlanta late at night frequently working on my day job, trying to keep matters moving, and sometimes I was there late at night working on my legislative job. Nobody made me do this. I signed up for it. I knew it was going to be a lot of work, so I can't complain about that."

Oliver said she uses a formula to balance the hours she devotes each week to her law practice and to her legislative duties. "When I'm not in session, I try to have 35 hours of law practice and 15 hours of political work," she said. "When I am in session, it's reversed. It's more like 35 hours of my political job and 15 hours of law practice. I really separate my law practice from my political job.

When I'm in the law office, nobody's interested in talking to me about politics. A client is not interested in the politics of Georgia when they come to see me and they're in some litigation or conflict situation. They're paying me to help them with a conflict, not to pontificate about politics."

When a scheduled court proceeding coincides with her mandatory presence at the Capitol, Oliver said she is often able to work out arrangements with judges and/or court clerks to manage those conflicts. She cited an agreement with the DeKalb County probate judge "that I would not ask for a legislative exemption, but she would schedule the hearings on Friday afternoons" when the House typically adjourns for the week.

A Gwinnett County resident who worked in Midtown Atlanta when he was a legislator, Pak said he was fortunate to have been able to drive a short distance to his office after each daily legislative session. "So at least I was able to partially keep my practice going during the session," he said. "I went home every day because that's like a normal commute for me. But people who are from rural areas, although you may be able to work remotely, you will not be able to fully manage your practices. We have legislators writing briefs on the floor in order to pay their bills. You've got to do it. A lot of times during the session as you're sitting around, people take time to return phone calls or tap out emails. Thank God for technology, because you couldn't do it otherwise."

Living two hours from the Capitol, Leverett rarely sees his law office during the session. He agrees with Pak about technology and uses his laptop and well-charged cellphone as lifelines to his prac-

tice. "My secretaries insisted I do that," he said, "and it has been so helpful because you've got to stay connected with your email accounts and have to try to be responsive because clients don't want to wait three months to hear from you."

The COVID-19 pandemic has accelerated and expanded the frequent use of technology, Oliver said, helping save time when she is being pulled in different directions. "I'm asking clients, and I'm asking lobbyists and constituents who want to meet with me on political matters," she said, "would you rather meet in person or would you rather meet by Zoom? They're going to tell me what they prefer, and I'm going to do what they prefer, and obviously many of them say Zoom is fine."

Also helping with time management, according to Oliver, is turning down most of the 300 or so invitations a year from lobbyists to receptions, dinners and conferences. "I don't think going to a reception at a hotel is ever a good use of my time," she said. "There are probably people in the General Assembly who are more social than I am. They like the conferences. They like the cocktail parties. Maybe I've gotten to be a hermit, but I just like the work."

Compartmentalizing her work hours at the Capitol and those at her law firm have also helped Oliver adhere to a piece of advice she received at the beginning of her political career from a late DeKalb County Government CEO and famous tavern owner. "Manuel Maloof told me when I first got elected, 'Don't go broke.' He said one of the biggest mistakes that people in politics make is they allow themselves to go broke by not paying attention to their income. He was right. That was good, practical advice." ●



BAR BENEFITS

Legislative Program

DID YOU KNOW?

The State Bar's legislative team serves as eyes and ears for the profession at the Gold Dome and connects specialized attorneys from the State Bar's sections with legislators seeking advice on complex areas of the law. The Bar has also been responsible for spearheading critical bills that affect lawyers.

CONTACT

Christine Butcher Hayes
Director of Governmental Affairs
404.526.8608
christineh@gabar.org



Don't Lose Sight of the Golden Rule



ELISSA B. HAYNES

YLD President
State Bar of Georgia
haynese@deflaw.com

“Do unto others as you would have them do unto you.” “Treat others the way you would want to be treated.” “If you don’t have anything nice to say, don’t say anything at all.” We’ve all inevitably heard some version of the “Golden Rule” growing up and have likely taught it to our own children as well. Now, more than ever, I still find it necessary to reiterate the importance of the Golden Rule in both our everyday life and in our legal practice.

Take a moment and think about how many times you have been on the receiving end of an unnecessarily aggressive email from opposing counsel. Or, for my fellow young lawyers, the number of times you have heard some rendition of the “I’ve been practicing law since before you were born” line (which, in my experience, is even more delightful when it is uttered by your opposing counsel in open court). How many of you have witnessed a lawyer treat staff members or court personnel disrespectfully? If you are a female attorney, how many times have you been called “sweetheart” or “darling” in a condescending tone by one of your male counterparts? I would be willing to go out on a limb and bet most of us have witnessed or experienced more than our fair share of these scenarios.

Before the pandemic, we would interact with each other in the courtroom and take each other out for coffee, lunch or post-work drinks. We would go to each other’s offices for depositions and engage

with the deponent, court reporters and videographers. But when the world shut down due to COVID-19, our in-person exchanges were replaced by constant emails, phone calls, and hours of Zoom or Microsoft Teams sessions. We started firing off terse emails while hiding behind our computer screens, not worrying about having to see the person on the receiving end of that email anytime soon. Our stress levels were off the charts as we were working from home without in-person learning or childcare for our kids. The extroverts desperately longed for human interaction and experienced an increase in anxiety and depression. We were angry about being unable to visit with loved ones and live our normal lives; and with all these heightened feelings came the unfortunate decline of kindness and professionalism, at home and at work.

As a millennial, I readily concede that I gravitate toward a quick text or email over a phone call. I will also concede that until recently, I was an “emotional responder.” If I received a frustrating work email or read my opposing counsel’s reply brief which took one too many liberties with the facts or application of the law, I would begin furiously typing up a response and click “send” without a second thought. I knew, of course, that this was not the ideal way to handle things, but I let emotion drive my actions as many of us have the habit of doing. I will not sit

OFFICERS' BLOCK

In this issue of the Georgia Bar Journal, we asked our YLD officers, "What's one movie you could watch over and over, and why?"

here and proclaim that I have never added a snarky footnote to one of my briefs or that I have never instigated an argument with my opposing counsel. But as a young lawyer—and more specifically, as a young lawyer in a leadership role within our State Bar—I have made a conscious effort to be respectful to others and to form genuine friendships with all who I encounter in my practice.

As a new member of the Chief Justice's Commission on Professionalism, I have taken the time to read, and re-read, the Commission's Mission Statement, as well as the Lawyer's Creed and Aspirational Statement on Professionalism.¹ The Chief Justice's Commission on Professionalism's mission statement is "to support and encourage lawyers to exercise the highest levels of professional integrity in their relationships with their clients, other lawyers, the courts, and the public and to fulfill their obligations to improve the law and the legal system and to ensure access to that system."² As the State Bar's website notes, "[t]he purpose of the Lawyer's Creed and Aspirational Statement on Professionalism is to serve as encouragement, guidance and assistance to individual lawyers, law firms, and bar associations as they recognize the special obligations that attach to their calling and their responsibility to serve others." While each of the obligations in the creed are equally important, for purposes of this article, I focus on our obligations



ELISSA B. HAYNES | YLD President

The one movie I could watch over and over again has it all. The brilliantly cast high school "Brat Pack," an honest portrayal of the teenage high school struggle, and one of the most iconic endings with Simple Minds' "Don't You Forget About Me." Sincerely yours, "The Breakfast Club."



RON DANIELS | YLD President-Elect

I would watch "Ghostbusters II" on repeat. "Give me a break, we're both lawyers!"



BRITTANIE D. BROWNING | YLD Treasurer

My favorite is "My Cousin Vinny," because it is a funny movie that withstood the tests of law school.



KENNETH MITCHELL JR. | YLD Secretary

I don't have one specific movie, but I can watch any "Spike Lee Joint" over and over. I love the cinematography, the stories and the messages. He does a great job of presenting culture on the big screen.



BERT HUMMEL | YLD Immediate Past President

"Forrest Gump." It draws me in every time I come across it. There are some really underappreciated one liners and comedic banter on top of the great storytelling. Plus some of the scenes were filmed in and around Savannah, so it's an optimal win-win-win.



ASHLEY AKINS | YLD Newsletter Co-Editor

"Star Wars: The Empire Strikes Back." It's my favorite movie of all time, and I love the big reveal at the end when Luke finds out that Darth Vader is his father.



LAKEISHA R. RANDALL | YLD Newsletter Co-Editor

While I can't choose one, I love laughing and stand-up comedy! I could watch the live specials of Dave Chappelle, Chris Rock or Richard Pryor anytime.



Always stay
connected.

@statebarofgeorgia
@GeorgiaYLD
@iclega



to opposing parties, their counsel and to our colleagues.

For our obligations to opposing parties and their counsel, the Lawyer's Creed encourages us to "offer fairness, integrity and civility" and provides that we "will seek reconciliation and, if we fail, [we] will strive to make our dispute a dignified one." To our colleagues in the practice of law, the creed encourages us to "offer concern for [our colleague's] welfare" and to "strive to make our association a professional friendship." These aspirations seem so obvious and elementary, yet we continuously see less civility and friendship, and more aggression and competitiveness in our profession.

Before I began writing this article, I had been speaking at length with one of my law partners about the times we felt disrespected by our colleagues or opposing counsel. Ironically, this law partner and I also disliked each other when I first started at our firm and we spoke negatively behind each other's back. This law partner ultimately became one of my closest and most treasured friends after our paralegal (and dear friend) encouraged us to interact as adults and helped us recognize just how similar we are. We often joke about how our previous behavior is the very thing we now complain about. I also think back to one of my former colleagues who received an "apology plant" from an older attorney of the opposite sex after his disrespectful behavior while litigating one of their cases. Was all of this happening because of our (relatively) young age, our gender, our position as non-equity partners as opposed to equity partners or a combination of these things? Regardless of the answer, we can, and we must, do better.

As lawyers, we are always being watched by our colleagues, clients, opposing counsel, the Court and members of our community. Despite the bad law-

yer jokes and what people see on TV, when we are sworn into the practice of law, we are placed in positions of trust, power, and leadership and have an ethical obligation to use our legal talent and knowledge to better our profession and the justice system. But to do that, we need to act like professionals and treat each other with dignity and respect, regardless of our age, experience, race, gender or beliefs. As easy as it can be to fall victim to the "emotional response," take a moment to think before you speak or type. Pick up the phone instead of battling back and forth with opposing counsel via email. Cut the young lawyer some slack and remember how you felt and how little you knew when you first started to learn the ropes. Be the professional we are each expected to be.

On a final note, I wanted to extend a special thank you to the opposing counsel who I may have started off on the wrong foot with, but who later became some of my closest friends; those who have granted me extensions of time without hesitation; my mentors who never failed to demonstrate the utmost professionalism; my law partners who taught me the importance of playing the "long game" and treating others with dignity and respect; my clients who continue to place their trust in me; the Young Lawyers Division; and the State Bar of Georgia for teaching me what it means to be a leader in our profession, and all of those who taught me not to lose sight of the Golden Rule and the simple notions of kindness and professionalism. ●

Endnotes

1. <https://www.gabar.org/aboutthebar/lawrelatedorganizations/cjcp/lawyers-creed.cfm>.
2. <https://www.gabar.org/aboutthebar/lawrelatedorganizations/cjcp/mission-statement.cfm>.

Wherever you are,
stay updated at gabar.org.



Visit gabar.org for the most up-to-date information
on committees, members, courts and rules.



Take Care of Yourselves

PHOTO BY EVAN BARTLESON PHOTOGRAPHY



DAMON ELMORE

Executive Director
State Bar of Georgia
damone@gabar.org

That is how an email to me closed not too long ago. The message shared the news of the recent passing of a member of our Bar. The cause of death was by suicide. The most difficult part was that it was not the first notice this year. Sadly, it also was not the last news of a lawyer's passing between then and publication of this edition. Sure, COVID-19 has played a part. The generic "natural causes" description plays a part. Whatever the cause, hearing and processing that news—or stories of struggle and hardship that our friends and members face—is without question the most difficult part of this job.

From time to time, we are called upon to assist with certain administrative matters. It is why succession planning proves essential, particularly for lawyers in smaller firms. Those things we can deal with. Where I believe the greatest impact is made for our members is through our various programs, including our wellness offerings. Undoubtedly, our Lawyer Assistance Program (LAP) is the most valuable resource.

This is not the first time you have heard us promote, celebrate or encourage use of the LAP. A State Bar program for more than 20 years, the LAP is a confidential service provided through the Bar to help our members with life's difficulties. In order to help meet the needs of our members and ensure confidentiality, a core tenet of the service, we have contracted with CorpCare Associates to manage the offerings and provide the

professional services. Here's a bit of foreshadowing: this won't be the last time you hear me promote the LAP.

Through its work, helping members who are seeking assistance, I would argue with confidence that the LAP is designed to support our mission, and the work improves the quality of legal services. A good lawyer is a healthy and well lawyer. He or she is responsive, serves a client's needs effectively, protects a client's resources or defends their liberties, and in doing so advances the science of the law. Sometimes all at the same time.

Through our work, ensuring the program is providing the best service, we have learned that it is not just Georgia lawyers that feel certain occupational pressures. The Illinois Lawyers Assistance Program reminds "that the inherently competitive and demanding nature of the practice of law makes lawyers particularly vulnerable to stress, anxiety, depression, divorce, alcohol and drug use and compulsive behaviors." I am not embarrassed to admit that some of those very struggles have affected me personally at points throughout my career. So I know how struggles aren't a struggle, until they are a struggle.

Our feedback and research also mirrors what Illinois also highlights when it reminds that "lawyers are frequently reluctant to seek help because of fear, denial, embarrassment—even hopelessness. Above all, we are concerned about our problems becoming known and negative-

Point of Personal Privilege:

We recently provided an update to the Board of Governors on our operations. As we have done throughout, we always want to keep you updated, too. We shared with the BOG that we are ready for 2022 and the second half of this Bar year. We are ready because we have built necessary and incremental changes into the way we work since the beginning of this Bar year. In spite of our recent, necessary pause, we are ready and have been ready with resuming programming and in-person meetings, with a keen eye toward being flexible, safe and smart. We are ready from a financial perspective as our managers and volunteer leaders continue to keep the use and management of our resources top of mind. Like all other organizations, we are bracing for the impact of rising costs and increases in certain categories of expense. But we will evaluate all of our options thoroughly, and accommodate appropriately. More important than all that, we are ready because of our people: grateful to faces we have said goodbye to, excited for the way familiar faces will support our work in different places and pleased to welcome new faces to the team. Come by and see us sometime or contact me at damone@gabar.org with your questions or feedback. DEE

ly influencing our status and reputation,” or even jeopardizing our license. Yes, I get that part, too. But the one thing I have learned is that the confidentiality is solid, and retaliation does not exist.

We are particularly proud of the LAP program. Not only is it beneficial to our members, but as we have been with some of our other programs and member benefits, including our Fastcase research tool, the State Bar of Georgia was at the forefront of providing critical benefits and services offered through the LAP.

Unrelated to the touching news but coincidentally, we recently met with the volunteer leaders who support our LAP program and the senior staff of our CorpCare partners. We wanted to ensure that we are continuing to provide value for our members and share feedback for potential change or improvement. We remain confident that the program is a practical and valuable investment, and it is crystal clear that the committee, made up of volunteer lawyers, is personally invested in the success of our members.

The utilization statistics that could be shared provoked a series of mixed emotions. Utilization of the tools and services provided, especially the #UseYourSix clinical counseling sessions has trended higher. In fact, it has nearly tripled over the past eight years. We are relieved more members are taking advantage of the service offerings.

But that means just that: more members are finding themselves ready and needing to use the benefit. Whatever works, I am here for it. But here is the additional, complicated layer: utiliza-

tion rates, as compared to our overall membership base, is extremely low, less than 2%. On top of that, many members do not take full advantage of the full six sessions offered.

We hear little concern related to the program. Members who have been willing to share about their experiences tell us that they are pleased with the access and feedback. We know that privacy and confidentiality remain a top concern. Similarly, we know that many members want a more diverse group of counselors who can relate to the unique issues that affect them individually. Also, some members face a limited quantity or selection of providers, often in smaller areas, and that can renew the challenges of confidentiality. CorpCare has taken all of those concerns back with them, and it will remain an area ripe for improvement.

I am not a therapist, counselor, your spiritual adviser or one with any ability to shape your decisions or will. But I do love

Georgia lawyers. Our work is designed to help and provide value for Bar members. This is here for you.

I appreciate all of the people who are vulnerable and share their stories in this *Journal*, through the podcast and advanced focus on wellness, wherever. Those stories are heroic, and I am grateful because they help me. I know some of you can relate. I know that a program like the LAP can put you on a path at an early point in your career that will help you stay in that lane. It will allow you the chance to remain focused on all of your personal goals while being your complete self and making meaningful impact with your friends, your family, pets, your community—whatever it looks like. However, like Sy Sperling, I can also say that I know that services provided by the LAP can also help you get back on track, no matter what phase of your career or condition that you may think you are in. #UseYourSix

Take care of yourselves. DEE ●



Issues to Consider in Real Estate Transactions Involving Trusts and Estates

This article discusses Georgia trust and probate law and related federal tax law that real estate lawyers should consider when evaluating transactions involving a trust or a decedent's estate.

BY KATHRYN BALDWIN HECKER,
MATTHEW J. HIGGINS AND MICHAEL L. VAN CISE

The seller's authority to convey is a threshold question in any real estate transaction. Real estate transactions in which a trust or the estate of a deceased individual is the seller present unique issues relating to the seller's authority to convey and potential liens and encumbrances that affect marketability of title to the property. These issues present traps for real estate attorneys who are unaware of the interplay between trust and probate law and real estate conveyances.

This article discusses Georgia trust and probate law and related federal tax law that real estate lawyers should consider when evaluating transactions involving a trust or a decedent's estate. Several provisions of Georgia trust and probate law and related federal tax law can affect a seller's authority to convey real estate and the quality of the seller's title. As such, real estate lawyers should be aware of certain sections of the Georgia Code and Internal Revenue Code that may present issues in a transaction involving a trust or estate seller.

This article first gives an overview of the Georgia Probate Code, which provides procedures for probate, intestate succession and ancillary probate in Georgia. It then highlights certain provisions of Georgia law and federal tax law relating to trusts and estates that real estate practitioners will likely consider relevant, given the potential of these laws to cause issues in the context of a real estate transaction.

Overview of the Georgia Probate Code

A person can die either with or without a valid will. A decedent who died with a valid will¹ is said to have died testate. A decedent who died without a valid will is said to have died intestate.² Different chapters of the Probate Code govern the estates of testate and intestate decedents. In a testate estate, the person appointed by the Probate Court to administer the estate is called the executor.³ In an intestate estate in Georgia, the person appointed is called the administrator. Georgia law refers to administrators, executors and other possible fiduciaries of an estate as “personal representatives.”⁴

Testate Decedents

If a person dies with a will, the will must be probated (from the Latin word for “proven”) before the executor is granted the power to carry out the terms of the will. Probate is a process to determine

that the will satisfies the requirements of Georgia law. Georgia has two methods to probate a will: solemn form and common form.⁵ Both methods are described in detail below. Solemn form is by far the most routinely used, as common form provides little protection to the executor and therefore carries with it significant limitations. However, there are occasions where common form may be used or when both may be used. If presented with common form letters testamentary as evidence of an executor’s authority in a real estate transaction, one should exercise particular caution. Although there may be protection for bona fide purchasers without notice,⁶ a party who knows the executor only probated the will in common form is probably on notice that the executor has limited authority.

Sections 53-5-20 through 53-5-22 of the Georgia Code set forth the procedure to probate a will in solemn form. Probate in solemn form is conclusive upon all parties notified and upon all beneficiaries under the will who are represented by the executor.⁷ In certain circumstances, such as when another will has been offered for probate, others must be given notice of probate in solemn form.⁸ Further, solemn form probate is conclusive even as to the decedent’s heirs who are not effectively served with notice “as if probate had been in common form,”⁹ which is generally four years after the court admits the will to probate. Solemn form probate is conclusive to all others six months from the date the order admitting the will to probate in solemn form is entered by the court.¹⁰

Typically, the named executor will offer the will for probate in solemn form. A will is proven in solemn form if, after the notice described below, the witnesses testify as to the validity “of their signatures and that of the testator.”¹¹ If no caveat (challenge to the will) is filed, then the testimony of only one witness is needed.¹² This testimony is provided via written interrogatories or a self-proving affidavit.¹³ If the will is self-proved pursuant to § 53-4-24 of the Georgia Code, no additional testimony is needed.¹⁴ Section 53-5-21(b) of the Georgia Code de-

Georgia law refers to administrators, executors and other possible fiduciaries of an estate as “personal representatives.”

scribes the requirements of the petition to probate in solemn form. The Georgia Probate Courts have issued a standard form petition that is generally used.¹⁵

Probate in solemn form requires notice to all heirs of the decedent.¹⁶ Section 53-2-1 of the Georgia Code sets out the rules specifying the identity of a decedent's heirs. The heirs may both (i) acknowledge notice and (ii) assent to probate, such that the heirs do not have to be notified separately. This acknowledgment and assent may be accomplished by way of Georgia's standard form.¹⁷ Additionally, if there is any other purported will of the decedent for which probate proceedings are pending in Georgia, then notice shall also be given to the beneficiaries and the propounder of the other purported will.¹⁸

Sections 53-5-16 through 53-5-19 of the Georgia Code set forth the procedure to probate a will in common form. Probate in common form becomes conclusive upon all parties in interest¹⁹ four years from the time of probate.²⁰ Prior to the expiration of the four year period, however, probate of a will in common form "is not conclusive upon anyone interested in the estate adversely to the will."²¹ Additionally, if probate in common form is set aside, the Court's appointment of the executor does "not protect the executor in any acts beyond the executor's normal duties of collecting and preserving assets of the estate and paying the debts of the estate."²² However, bona fide purchasers "without notice under legally made sales from the executor will be protected."²³

Unlike solemn form probate, a will may be proved in common form upon the testimony of a single witness and without notice to anyone.²⁴ Georgia also has a standard form petition for common form probate.²⁵ Because of the limitations of common form probate, some Georgia courts will require an explanation or assurances that a solemn form probate will be filed prior to accepting a common form probate petition.

Intestate Decedents

A person dies intestate if he or she dies without a will or with a will that is deemed

invalid.²⁶ It is also possible for a decedent to have a valid will that fails to dispose of all of the decedent's property, in which case the property addressed in the will passes under the will and any other property passes by intestacy.²⁷ The disposition of an intestate decedent's estate (and any property not effectively disposed of under the decedent's valid will) is prescribed by § 53-2-1(c) of the Georgia Code.

The disposition of an intestate estate is overseen by an administrator. Generally, any interested party may file a Petition for Letters of Administration and seek to be named administrator.²⁸ Georgia provides a standard form for this purpose.²⁹ The rules regarding such petitions are governed by §§ 53-6-20 through 53-6-24 of the Georgia Code. As with solemn form probate, all heirs of the decedent must be notified.³⁰

The administrator may be unanimously selected by all heirs of the decedent.³¹ If no such unanimous selection is made, the probate court will appoint the administrator that such court deems will best serve the interests of the estate, considering the following order of preferences: (1) the surviving spouse; (2) one or more other heirs of the decedent or the person selected by the majority in interest of them; (3) any other eligible person; (4) any creditor of the estate or (5) the county administrator.³²

Under certain circumstances, Georgia law provides that no administration of an estate is necessary.³³ Because the circumstances under which a petition for no administration necessary is available are quite limited, a petition for no administration necessary is rarely available. In order for the court to grant such a petition, the petition must provide that "(i) the estate owes no debts or there are known debts and all creditors have consented or will be served" and "(ii) the heirs have agreed upon a division of the estate amongst themselves."³⁴ If the court grants the order, the court must file a certified copy of the order in each county in which the decedent owned real property, to be recorded in the deed records of the county.³⁵

Ancillary Probate

Non-domiciliaries with a probate estate outside of Georgia who own property in Georgia may be subject to ancillary probate in Georgia. Ancillary probate is governed by Article 5 of Chapter 5 of Title 53 of the Georgia Code. A foreign will or an out-of-state will duly admitted to probate or established under the laws of the domiciliary jurisdiction may be admitted to ancillary probate in solemn form so long as no caveat to the will is pending in a Georgia court.³⁶

Georgia law also has a concept of muniments of title for non-domiciliary testate decedents, which permits ancillary probate to be avoided in certain circumstances.³⁷ A will is admitted into evidence in Georgia as muniments of title without being probated in Georgia when: (1) the will is accompanied by properly authenticated copies of the record admitting the will to probate in another state, and (2) the "certified copy of the will is recorded in the office of the clerk of the superior court in the county in which the real property is situated."³⁸ The recordation of the documents pursuant to this procedure allows the executor of the estate to transfer the property without ancillary probate in Georgia if the executor assents to the transfer of the property and the "muniments of title" described in the statute have been properly recorded.

With regard to non-domiciliary intestate decedents, Georgia provides that any real property shall be distributed to the decedent's heirs in accordance with the laws of intestacy of Georgia (and not the decedent's domiciliary state).³⁹ A petition may be brought to administer the distribution of such real property.⁴⁰

Additionally, ancillary probate or administration may not be required when a non-domiciliary decedent dies owning a claim to or against real or personal property or otherwise maintains a cause of action within Georgia, and a personal representative is duly qualified and serving under the laws of the domiciliary jurisdiction.⁴¹ Such duly qualified personal representative may take certain actions, including giving deeds of assent, and may

“otherwise transfer or execute evidence of ownership of real property located within Georgia” in accordance with the applicable laws of descent.⁴²

Authority to Convey

If a person dies testate, purchaser’s counsel should generally confirm that the executor has been granted authority to sell the property. All executors are given certain authority by statute.⁴³ However, the powers granted to executors by statute are quite limited and do not include the power to sell estate property.⁴⁴ Because of the limited authority granted by default, most wills contain a grant of certain powers to the executor either by way of authority enumerated in the will or by incorporation by reference to an expanded list of powers. As such, an issue to consider is whether the will grants the executor authority to sell the property. If the power to sell real property was not included in the will, purchaser’s counsel should confirm that application was made to the probate court to grant powers or give leave to the executor to sell the property as the power to sell is not inherent in an executor’s appointment.

If the will does not grant the executor the power of sale, the beneficiaries can “authorize but not require the probate court to grant” one or more of the powers set forth in § 53-12-261 of the Georgia Code.⁴⁵ If neither the will nor the probate court has conferred a general power of sale on the executor, then the executor must petition the court for leave to sell the specific parcel of property. Georgia supplies a form for this purpose,⁴⁶ and the petition must specify the terms of the proposed sale and the reason for the sale. If the court grants the petition, the court’s order would evidence the executor’s authority to sell. However, purchaser’s counsel may wish to confirm that the terms of the purchase are at least as favorable (to the estate) as what is specified in the petition.

One issue to consider when reviewing the will is whether the will specifically

devises⁴⁷ the subject real property. If the subject property was specifically devised under the will, generally, the executor is only authorized to convey the property to the party to whom such property was so devised. However, the circumstances of the estate could be such that the executor is authorized to sell the property (rather than satisfy the specific devise) because the proceeds from the sale are needed to pay the debts of the decedent, pay estate expenses or other reasons. However, if real property is specifically devised in the will, counsel for the purchaser may wish to exercise further diligence to ensure that the executor has the authority and ability to sell the property in question.

In sum, to confirm the executor’s authority to sell the property, purchaser’s counsel should generally review the will and letters testamentary to determine whether the executor has the power to sell estate property and confirm whether the probate was solemn form or common form.⁴⁸ If common form, purchaser’s counsel should likely inquire further, as previously discussed.

If a person dies intestate, purchaser’s counsel should generally confirm that the administrator selling the property has followed all procedures set forth in the Georgia Code. Under Georgia law, the administrator generally must obtain permission from the probate court to sell any asset of the estate. To obtain permission to sell an asset, the administrator typically will file a petition with the court under § 53-8-13 of the Georgia Code.⁴⁹ Alternatively, the heirs may grant the administrator certain powers, including the power to sell assets, which would obviate the administrator’s need to petition the court for leave to sell property.⁵⁰ Therefore, purchaser’s counsel should confirm that the administrator petitioned the court to sell the subject property or was otherwise granted authority by the heirs to do so.

The Georgia Code also has specific provisions addressing title to real property if a person dies intestate and no petition is filed to name an administrator. Under § 53-2-7 of the Georgia Code, title

to real property owned by an intestate decedent vests immediately in the decedent’s heirs at law (i.e., the person(s) who would take the property pursuant to the Georgia intestate succession statute, O.C.G.A. § 53-2-1(c)), subject to divestment upon the appointment of an administrator of the estate.⁵¹ In *Williams v. Williams*,⁵² the Court of Appeals confirmed that, under the current version of § 53-2-7, there is no time bar for when title may be divested.

One issue of concern is whether the grantor has good title to the property. When dealing with a trust seller, purchaser’s counsel may wish to review the vesting deed under which the trust purportedly took title. Between July 1, 2010, and June 30, 2018, § 53-12-25 of the Georgia Code provided that a deed conveying real property to a trust had to name the trustee as grantee for the conveyance to be valid. As a result, a deed executed between July 1, 2010, and June 30, 2018, purporting to convey property to a trust, but not specifically naming the trustee as grantee, was invalid and the trust would not have title to the property. Section 53-12-25 was revised effective July 1, 2018. The current iteration still provides that a transfer of property to a trust requires a transfer of legal title to the trustee, but further provides that a transfer is deemed to have been made to the trustee if the trust is named as the grantee on the deed. If the grantor is also the trustee, § 53-12-25(b) also requires the deed to be properly recorded for the trust to take title to the property. Therefore, under revised § 53-12-25, any recorded deed purporting to convey property to a trust after July 1, 2018, will be valid. If a trust seller took title to the property between July 1, 2010, and June 30, 2018, however, purchaser’s counsel should confirm that the deed properly conveyed the property to the trustee rather than the trust.

Trustees of Georgia trusts generally have broad authority, including the power to sell.⁵³ However, the powers of the trustee may be limited by the trust instrument. When evaluating a situation involving a trust as seller, purchaser’s

GEORGIA BAR

JOURNAL

Get published.
Earn CLE credit.

The Editorial Board of the *Georgia Bar Journal* is in regular need of scholarly legal articles to print in the *Journal*. Earn CLE credit, see your name in print and help the legal community by submitting an article today.

Submit articles to Jennifer R. Mason:
Director of Communications
jenniferm@gabar.org | 404-527-8761
104 Marietta St. NW, Suite 100, Atlanta 30303



counsel has several options. One option is to review a copy of the trust to ascertain the trustee's authority. However, one's ability to evaluate whether the purported trustee is currently serving as the trustee may be limited. Fortunately, Georgia and many other states afford an option that generally will be preferred by purchaser's counsel, which is a certification of trust by the trustee. Under Georgia law, the trustee may present a certification of trust to establish the existence of trust provisions.⁵⁴ Anyone provided with such a certification who lacks knowledge that anything contained in the certification is incorrect is generally protected and may even enforce the transaction as if the information in the certification were correct.⁵⁵ Under Georgia law, all the trustees must sign the certification, although some other states permit certifications of trust to be provided by any trustee.⁵⁶ Given the ability to design a certification of trust to provide the seller with information such as the identity of the trustee, the authority of the trustee to act with respect to a given transaction, and other relevant information, generally purchaser's counsel will wish to seek a certification of trust and may wish to require the seller to record the certification of trust in the chain of title.

Liens, Taxes and Other Claims

Real estate practitioners should also be aware of certain liens, taxes and other claims that may attach to real property under Georgia probate or federal tax law. Unless otherwise provided by law, all real property of a decedent's estate, including all real property, will be liable for the payment of claims against the estate.⁵⁷ In a real estate transaction involving an estate, purchaser's counsel should confirm that there are no outstanding claims against the estate that will adversely affect the purchaser's interest in the property.

Georgia probate law prioritizes certain claims against the estate over others. The priority is as follows: (1) year's support; (2) funeral expenses, in an amount that corresponds with the circumstances of

the decedent in life; (3) other necessary expenses of administration; (4) reasonable expenses of the decedent's last illness; (5) unpaid taxes or other debts due the state or the United States; (6) judgments, secured interests and other liens created during the lifetime of the decedent, to be paid according to their priority of lien and (7) all other claims.⁵⁸ Purchasers should be aware of these potential claims against the estate given their potential to encumber title. Lenders should be aware that their lien on the property will be subordinated to certain claims against the estate.

Federal tax laws may also impose liens against the decedent's property. Section 6324 of the Internal Revenue Code of 1986, as amended (the Code), imposes a lien against certain property included in the "gross estate" of the decedent as security for any federal estate taxes owed.⁵⁹ The lien attaches to property includable in a decedent's gross estate.⁶⁰ The lien remains on the property until the earlier of the date the taxes are paid or 10 years after the decedent's death. The statutory lien is automatic. It is not recorded and, therefore, will not appear in a title search. Despite not being recorded, in many cases the statutory lien has priority even against a bona fide purchaser.⁶¹

Even if a decedent has property to which the statutory lien could attach, because the lien is in the amount of the federal estate tax, this "technical" lien is irrelevant for most decedents. The federal estate tax exemption for citizens and residents of the United States who die in 2022 is \$12.06 million.⁶² However, non-resident, non-citizen decedents are afforded a federal estate tax exemption of only \$60,000 (not adjusted for inflation).⁶³ Accordingly, purchaser's counsel will likely wish to exercise particular caution when the property at issue is being purchased from the estate of a decedent who was not a resident or citizen of the United States.

To discharge a Section 6324 statutory tax lien, typical practice is to request the Internal Revenue Service (IRS) to discharge the estate tax lien pursuant to § 6325(c) of the Code by submitting

Form 4422 (Application for Certificate Discharging Property Subject to Estate Tax Lien). In 2017, the IRS revised its procedure with regard to the application, including now potentially requiring any sales proceeds to be held in escrow or paid over to the IRS.⁶⁴ The authors have found that the IRS generally will decline to discharge the lien from the property *prior* to the property being divested from the estate, though the IRS will provide a "conditional commitment letter" that promises to discharge the lien upon satisfaction of certain conditions, one of which is evidence of transfer of title. Accordingly, the purchaser may wish to require the seller to indemnify the purchaser and the title insurer from any claims arising from the estate tax lien or require escrow of funds until the lien is discharged.

To confirm that there are no federal estate tax liens on the property, purchasers can request that the seller provide a closing letter. In a closing letter, the IRS confirms that the estate tax return has been accepted as filed and the estate will not be audited or the audit has been resolved to the satisfaction of the IRS. The IRS provides closing letters upon request by the estate. If a closing letter is provided, the purchaser should be comfortable that there will be no estate tax liens on the property.

Year's Support

Georgia law is unique in its concept of year's support, which is described in Chapter 3 of Title 53 of the Georgia Code. Year's support permits the surviving spouse and minor children of the decedent to request property for their support and maintenance for the period of 12 months from the decedent's death.⁶⁵ The year's support statute has certain implications on authority to convey and on the marketability of title to real property.

Despite its name, the petition for year's support must be filed within 24 months after the date of the decedent's death.⁶⁶ If no objection to the petition is made, the court must set aside as year's support the property applied for in the

petition.⁶⁷ If, however, an objection is made, the probate court will hold a hearing and “set apart an amount sufficient to maintain the standard of living that the surviving spouse and each minor child had prior to the death of the decedent,” taking into consideration the support from other sources for the petitioner, the solvency of the estate and certain other equitable considerations.⁶⁸

There are certain limitations on a surviving spouse or child’s eligibility for year’s support. Year’s support is barred if, prior to the filing of the petition, the surviving spouse dies or remarries, or if, prior to the filing of the petition, the minor child dies, marries or turns 18.⁶⁹ In addition, a testate decedent can include a provision in his or her will requiring the surviving spouse to make an election between year’s support and the provisions for the surviving spouse under the will.⁷⁰ Finally, year’s support cannot be claimed from property that has already been sold or otherwise transferred by the personal representative of the estate under authority of a court of competent jurisdiction or under authority granted in a will.⁷¹

Real property conveyed by the decedent’s estate to the surviving spouse as part of an award of year’s support may be subject to restrictions on transfers. In cases where the decedent is survived by no minor children, the surviving spouse is free to convey the property set aside as year’s support. In cases where the decedent is survived by a spouse and minor children, however, the surviving spouse may convey property set aside as year’s support for the joint benefit of the surviving spouse and minor children only upon approval by the probate court.⁷² Section 533-20 of the Georgia Code describes the petition and requirements for a hearing.⁷³

Year’s support also affects property taxes accrued against real property. Georgia permits the divestiture of all taxes and liens for taxes accrued for years prior to the year of the decedent’s death against the homestead if it is awarded as year’s support.⁷⁴ Additionally, if elected in the petition, property taxes for one year can be “divested” if the homestead is set apart for year’s

support.⁷⁵ The “divestiture” of the taxes from the property means the recipient of the homestead as year’s support need not pay the taxes so divested. The statute specifies which year’s taxes may be divested.⁷⁶

If the probate court grants a petition for year’s support, title to the property vests in the surviving spouse and/or children of the decedent and the property will not be administered as part of the estate. Therefore, the executor or administrator will not have authority to convey the property. When a probate court issues an order for year’s support that awards an interest in real property located in Georgia, the order will be filed in the real estate records of the county in which the property is located. When evaluating a real estate transaction involving an estate as seller, purchaser’s counsel should check the county real estate records to confirm that no order for year’s support awarding the property to the surviving spouse or children has been granted.

Conclusion

This article highlighted certain provisions of Georgia law and federal tax law relevant to real estate practitioners given their potential effect on the quality of title or the seller’s authority to convey the property. When evaluating a transaction involving a trust or an estate, be sure to confirm that the seller has authority to convey the property and that there are no probate-specific encumbrances on title. ●



Kathryn Baldwin Hecker is a partner at Arnall Golden Gregory in Atlanta. Her practice focuses on wealth transfer planning for ultra high net worth clients, international estate planning and charitable planning.



Matthew J. Higgins is an associate at Arnall Golden Gregory in Atlanta. His practice focuses on wealth transfer planning for ultra high net worth clients, international estate planning and charitable planning.



Michael L. Van Cise is a partner at Arnall Golden Gregory in Atlanta. His practice focuses on wealth transfer planning for ultra high net worth clients, international estate planning and charitable planning.

Endnotes

1. Under Georgia law, among other things, a Will must be in writing, signed by the testator (or by another individual in the testator’s presence and at the testator’s express direction) in the presence of two witnesses, who also sign the Will. *See* O.C.G.A. § 53-4-20.
2. *See* BLACK’S LAW DICTIONARY 827 (7th ed. 1999).
3. If none of the executors named in a will are willing and able to serve, the person named to represent the estate will be referred to as an Administrator with the will annexed. *See* O.C.G.A. § 53-6-15. Note that some other states refer to the person in this role as a “personal representative.” In Georgia, the term “personal representative” is used to encompass executors, administrators, administrators with the will annexed, and the county administrator. O.C.G.A. § 53-1-2(12).
4. *See* O.C.G.A. § 53-1-2(12).
5. O.C.G.A. § 53-5-15.
6. *See* O.C.G.A. § 53-5-16(b). The statute provides, in part, “Bona fide purchasers without notice under legally made sales from the executor will be protected.” It is not clear from the statute what constitutes notice and precisely how a purchaser would acquire property “without notice.” The authors assume that, in this context, “without notice” means that the purchaser lacks knowledge of the fact that the probate was in common (as opposed to solemn) form.
7. O.C.G.A. § 53-5-20.
8. *See* O.C.G.A. § 54-5-22(a).
9. *See* O.C.G.A. § 53-5-20(b).
10. O.C.G.A. § 53-5-20(c).
11. O.C.G.A. § 53-5-21(a).
12. *Id.*
13. *See* Georgia Probate Court Standard Form (GPCSF) Supplement 6 (Interrogatories to Witness to Will).

14. O.C.G.A. § 53-5-21(a).
15. See GPCSF 5 (Petition to Probate Will in Solemn Form); *see also* Georgia Probate Court Rule 5.9 and GPCSF 1 (General Instructions Applicable to All Georgia Probate Court Standard Forms).
16. O.C.G.A. § 53-5-22(a). Note that the decedent's "heirs" may, and often do, differ from the beneficiaries under the Will. A decedent's heirs are limited to those individuals who survive the decedent identified under O.C.G.A. § 5321.
17. See GPCSF 5 (Petition to Probate Will in Solemn Form).
18. O.C.G.A. § 53-5-22(a).
19. There is an exception to this rule for minor heirs. See O.C.G.A. § 53-5-19.
20. O.C.G.A. § 53-5-19.
21. O.C.G.A. § 53-5-16(a). For example, a charitable organization may offer a will for probate in common form that purports to give all of the decedent's assets to the organization. Even after common form probate, however, the decedent's heirs could contest the will within four years after the probate was granted. O.C.G.A. § 53-5-19.
22. O.C.G.A. § 53-5-16(b).
23. *Id.*
24. O.C.G.A. § 53-5-17(a).
25. See O.C.G.A. § 53-5-17(b), GPCSF 4 (Petition to Probate Will in Common Form).
26. See O.C.G.A. § 53-2-1(c); *see also* BLACK'S LAW DICTIONARY 827 (7TH ED. 1999).
27. See O.C.G.A. 53-7-2 (providing, in part, "[i]f . . . there are assets not given under the will, such assets shall be distributed to the heirs of the decedent as if the decedent had died intestate.>").
28. See O.C.G.A. § 53-6-20. As of Jan. 1, 2021, O.C.G.A. § 53-5-2 enumerates the parties that would be "interested persons" in the case of a decedent who dies testate.
29. See GPCSF 3 (Petition for Letters of Administration).
30. O.C.G.A. § 53-6-22.
31. O.C.G.A. § 53-6-20.
32. *Id.*
33. See O.C.G.A. §§ 53-2-40 through 53-2-42; *see also* GPCSF 9 (Petition for Order Declaring No Administration Necessary).
34. O.C.G.A. § 53-2-40(b).
35. O.C.G.A. § 53-2-40(d).
36. See O.C.G.A. § 53-5-33(a).
37. See O.C.G.A. § 53-5-35.
38. O.C.G.A. § 53-5-35(a).
39. O.C.G.A. § 53-5-38.
40. O.C.G.A. § 53-5-39.
41. O.C.G.A. § 53-5-42.
42. *Id.*
43. See Chapter 7 of Title 53 of the Georgia Code, O.C.G.A. § 53-7-1, *et seq.*
44. See O.C.G.A. § 53-7-6 (enumerating certain powers including the power "[t]o petition the probate court for permission to perform such other acts as may be in the best interests of the estate.>"; *see also* William J. Self, II, Revised Handbook for Probate Judges of Georgia 5-14 – 5-18 (discussing sales by personal representatives).
45. See O.C.G.A. § 53-7-1(b).
46. See GPCSF 13 ((Petition of Personal Representative for Leave to Sell Property).
47. The word "devise" is used to describe a gift (at death) of real property under a decedent's last will and testament. See BLACK'S LAW DICTIONARY 463 (7th ed. 1999). The word "bequest" or "bequeath" is typically used to describe a gift (at death) of personal property under a decedent's last will and testament. See BLACK'S LAW DICTIONARY 152 (7th ed. 1999).
48. Some Georgia courts make probate filings and associated documents available online. For example, Cobb County probate records dating as far back as January 1969 are available online. See <https://www.cobbcounty.org/courts/probate-court/records-document-search> (last visited Mar. 29, 2021).
49. Georgia provides a standard form for such petition. See GPCSF 13 (Petition of Personal Representative for Leave to Sell Property).
50. See O.C.G.A. § 53-7-1(b).
51. See *also* Villas at Stone Mt. Condo. Ass'n. v. Blair, 311 Ga. App. 718, 716 S.E.2d 718 (2011).
52. 259 Ga. App. 888, 578 S.E.2d 582 (2003).
53. See O.C.G.A. § 53-12-261(a).
54. See O.C.G.A. § 53-12-280(a).
55. See O.C.G.A. § 53-12-280(e), (f).
56. See O.C.G.A. § 53-12-280(c)(1) (requiring that each trustee must sign the certification); *cf.* N.C. Stat. § 36C-10-1013(b) (permitting any trustee to authenticate a certification of trust).
57. O.C.G.A. § 53-7-40.
58. *Id.*
59. See 26 U.S.C. § 6324.
60. The "gross estate" generally includes all property owned by the decedent at the time of his or her death, including all real property. 26 U.S.C. § 2031(a).
61. *Beatty v. United States*, 937 F.2d 288, 290 (6th Cir. 1991) ("The estate tax lien, by contrast, attaches to the property by operation of law and does not require filing to be good against innocent third parties."). Certain non-probate property includable under Code sections 2034 through 2042 can be transferred to a bona fide purchaser free of encumbrance, in which case the lien will attach to the proceeds of such sale. For probate property included under Code section 2033, however, the statutory lien has priority even against bona fide purchasers, but the statutory lien will not attach to the proceeds of a sale of such property. *Id.* at 292.
62. Rev. Proc. 2021-45, 2021-48 I.R.B. 764 (providing the inflation adjusted amount for 2022 decedents); *see also* I.R.C. § 2010.
63. See 26 U.S.C. § 2102(b)(1); *see also* 26 U.S.C. 2001(c).
64. See IRS Memorandum SBSE-05-0417-0011.
65. O.C.G.A. § 53-3-1(c).
66. O.C.G.A. § 53-3-5(c) ("A petition for years support shall be filed within 24 months of the date of death of the decedent"). Georgia has a standard form Petition for Year's Support. See GPCSF 10 (Petition for Year's Support).
67. O.C.G.A. § 53-3-7(a).
68. O.C.G.A. § 53-3-7(b) and (c).
69. O.C.G.A. § 53-3-2.
70. O.C.G.A. § 53-3-3.
71. O.C.G.A. § 53-3-13.
72. O.C.G.A. § 53-3-19(b).
73. See *also* GPCSF 17 (Petition for Leave to Convey or Encumber Property Previously Set Aside as Year's Support).
74. O.C.G.A. § 53-3-4(b)(1).
75. See *id.*
76. See *id.*

IN-PERSON & VIRTUAL

The legal technology community that we've grown over the last 36 years is nothing without you. Together we are stronger, better connected, and we are shaping the future of this industry.

Get the latest and greatest that you've come to expect from TECHSHOW, delivered straight to you at TECHSHOW 2022, with the option to attend in-person or virtually. Four days filled with CLE sessions, networking events, keynotes and more.



State Bar
of Georgia

Save \$100 off standard registration by registering with our code: **EP2201**

www.techshow.com

**TECHSHOW2022**
MARCH 2-5, 2022

Presented By:



2021 Commitment to Equality Awards

The Committee to Promote Inclusion in the Profession recognizes and honors the recipients of the 2021 Commitment to Equality Awards. In a year of change, their dedication to diversity and inclusion stays strong.

BY KATIE DOD AND ELICIA HARGROVE

On behalf of the Committee to Promote Inclusion in the Profession, we are happy to announce the recipients of the 2021 Commitment to Equality Awards. All six of our recipients exemplify a dedication to making our profession, and community at large, more diverse, inclusive and just. We are inspired by all they have done and continue to do. Our profession owes them each a debt of gratitude beyond what this award can provide, but we are honored to celebrate them nonetheless.

Randolph W. Thrower Lifetime Achievement Award

The Randolph W. Thrower Lifetime Achievement Award recognizes an outstanding individual who has dedicated his or her career to providing opportunities that foster a more diverse legal profession for members of underrepresented groups in the state of Georgia.

Miles J. Alexander, *Senior Counsel, Kilpatrick Townsend*

Miles J. Alexander is a well-renowned intellectual property lawyer and senior counsel at Kilpatrick Townsend & Stockton. Alexander has dedicated a great deal

of his career to increasing opportunities in the legal profession for members of traditionally underrepresented groups.

His pro bono representation of causes promoting social justice, as well as his decades-long involvement with and leadership in the Anti-Defamation League, have earned him the Emory Medal, the highest honor bestowed upon an alum, and induction into the Gate City Hall of Fame. Alexander also stood at the forefront of battling discrimination at legal organizations and social clubs. He has been a force in using his career and influence to battle injustice wherever it exists.

John M. Clark, *Founding Partner, Clark & Clark Law Group*

John M. Clark is a military veteran and a graduate of Savannah State University and Southern University Law Center. He is the first Black man to practice law in Elberton, Georgia, where he currently maintains a private practice with his daughter.

He has used his legal acumen to champion social justice, such as forcing his city to move to a voting system which amplified the voices of Black voters. His efforts created a model for litigants in other jurisdictions to follow to increase minority representation in local government.

Clark served as the president of the Elbert County branch of the NAACP for 22 years. His commitment to social justice led to threats on his life, but his commitment never wavered.

Patrise M. Perkins-Hooker,
Administrative Partner, Johnson & Freeman, LLC

Patrise M. Perkins-Hooker is an honors graduate of Georgia Tech who received her graduate degrees from Emory University Law and Business Schools. In 2014, Perkins-Hooker was the first person of color to be elected president of the State Bar of Georgia. She is the current chair of the board of directors of Hosea Feed the Hungry and also serves on the board of directors of Atlanta's John Marshall Law School.

She has received numerous honors for her service to the legal profession and the community, including but not limited to: Gate City Bar Association's Hall of Fame, Leah Ward Sears Service to the Profession Award by the Georgia Association of Black Women Attorneys; the Eleonoré Raoul Greene Trailblazer Award from Emory University School of Law; the George A. Pindar Award for Lifetime Service to the Real Prop-

Commitment to Equality Awards: 2021 Honorees



Miles J. Alexander
Randolph W. Thrower
Lifetime Achievement Award



John M. Clark
Randolph W. Thrower
Lifetime Achievement Award

erty Profession; and the Phoenix Award from the mayor of Atlanta, which is the highest honor bestowed on citizens in Atlanta for their outstanding contributions. Perkins-Hooker has dedicated her life to service to her community and the legal profession.

Commitment to Equality Awards

The Commitment to Equality 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 Georgia. The awards are presented annually to lawyers and legal employers that, over the course of a decade or more, have demonstrated an outstanding commitment to promoting diversity in the legal profession.

Mecca Anderson, *Mecca Anderson LLC*
Mecca Anderson practices law as a trial attorney representing catastrophically injured plaintiffs. She has also clerked for a trial judge and the Supreme Court of Georgia, and served as chief of staff for a justice of the Supreme Court of Georgia.



Patrise M. Perkins-Hooker
Randolph W. Thrower
Lifetime Achievement Award



Mecca Anderson
Commitment to Equality Award



R. Gary Spencer
Commitment to Equality Award



Courtney Johnson
One to Watch Award

We are grateful for these individuals and their commitment to the profession, and it has been our pleasure to share just a small glimpse of their service with you.

Since 2012, she has taught professionalism to new lawyers for the Georgia Association of Black Women Attorney's Professional Development Academy (PDA). She has served as the dean of PDA since 2019. In this role, she has served as a mentor and teacher to new Black female attorneys and has provided them with a supportive professional network. Such mentorship and networking has often been denied to attorneys of color.

Anderson serves on the executive committees of the Georgia Trial Lawyers Association, the DeKalb Bar Association and the DeKalb Volunteer Lawyer's Association.

She earned her law degree from Valparaiso University School of Law and a B.A. in Humanities from New College of California.

R. Gary Spencer, R. Gary Spencer, P.C.

R. Gary Spencer is a trailblazing community and civil rights activist who received his undergraduate and law degrees from Howard University. He began his community activism during college where he advocated for the Martin Luther King Jr. holiday.

He continued his advocacy with his efforts to abolish apartheid in South Africa and his support of the Black Lives Matter movement and the enforcement of voting rights. Spencer is also active with the national and local Poor People's Campaign fighting for fundamental rights and bringing transparency to the human and economic costs of inequality. With perseverance and resolve, Spencer is a

formidable agent of change who continues to be a stellar example of commitment to equality.

One to Watch Award

The One to Watch Award recognizes the efforts of young lawyers who are deeply committed to providing opportunities that foster a more diverse legal profession for members of underrepresented groups in Georgia.

Courtney Johnson, Senior Attorney, Domestic Relations Unit, Atlanta Legal Aid Society, Inc.

Courtney Johnson is a senior attorney in the Domestic Relations Unit of the Atlanta Legal Aid Society. She is an alum of Spelman College and Howard University School of Law. Johnson has used her position not only to advocate for members of an extremely vulnerable population, but also to increase diversity and representation in the profession.

She is the co-chair of her organization's Diversity and Inclusion Committee and uses her role as summer intern coordinator to effectuate diverse hiring practices. Although early in her career, Johnson has demonstrated a commitment to fostering a pipeline of diversity to enrich our profession.

Conclusion

We are grateful for these individuals and their commitment to the profession, and it has been our pleasure to share just a

small glimpse of their service with you. For more information about all honorees, visit www.gabar.org/cte.

We are currently seeking nominations for the 2022 Commitment to Equality Awards. ●

The committee would like to thank members LaQuaria Barton, Anelise Codrington and Simone Hylton for their assistance in preparing this article.



Katie Dod has been a member of the State Bar of Georgia for 16 years following her graduation from Emory University School of Law. She currently serves as staff attorney to Hon. Kenneth B. Hodges III of the Court of Appeals of Georgia.



Elicia Hargrove serves as the assistant district attorney in the Henry County District Attorney's Office located in the Flint Judicial Circuit. She earned her J.D. from Nova Southeastern University's Shepard Broad Law School and her LLM from Mercer University's Walter F. George School of Law. As a member of the State Bar of Georgia for more than nine years, she has extensive experience as a criminal trial attorney and continues to be involved in the legal community through her leadership roles.

Privilege Please

As we move through work and life, it makes sense to periodically take stock of our privileges so that we can embrace those who haven't earned them yet.

BY HALIMA H. WHITE

Privilege can be defined as the favorable treatment an individual or group receives based on personal characteristics. For example, those who are physically attractive have a privilege in terms of other people liking them, noticing them and wanting to be around them. Physical attractiveness can translate into more opportunities. Likewise, extroverts have a privilege in terms of getting noticed. Tall people have the privilege of being thought of as leaders more often.

One key about privilege is that we rarely notice our privileges because they usually have been a part of us for so long. We take them for granted. But we rely on our privileges because they help us navigate the world more easily. When privileges are removed, it can be a big threat. For example, when physically attractive people age (which can involve wrinkles and weight gain), it can be a hard pill to swallow that others are no longer affirming them constantly, and people are not doing double takes anymore. It makes sense that when privileges are removed—or even challenged—*anxiety follows.*

We all have some privileges. And we all love and rely on some of our privileges. As

we move through work and life, it makes sense to periodically take stock of our privileges—occupation, socioeconomic status, intelligence, power, race, gender, tenure, etc.—and embrace those who don't have such privileges. Even with respect to privileges that we've earned (rather than innate characteristics), it makes sense to embrace those who haven't earned those privileges yet or who may never earn them. We know that sometimes, we earn a privilege, in part, through some of the innate characteristics described above. ●

Programming is supported by Georgia Diversity Program member firms. We are grateful to these firms, a list of which can be found at www.gabar.org/diversity, for their continued support and acknowledge that without their dedication, the work of the program would not be possible.



Halima H. White

Executive Director, Georgia Diversity Program
State Bar of Georgia
gadiversityprogram@gmail.com



GETTYIMAGES.COM/RVANJLANE

Ash Tree Receives \$75,000 Emergency Grant from the Georgia Bar Foundation

Ash Tree Organization Learning Academy in Savannah has served Savannah's at-risk children for decades by developing unique programming to meet their needs.

BY LEN HORTON

The Georgia Bar Foundation (GBF) awarded a \$75,000 emergency grant to Ash Tree Organization Learning Academy in Savannah. The award was presented on Nov. 30 by Hon. Derek J. White, GBF president and Chatham County State Court judge, to Dr. Morris Brown, Ash Tree's president and longtime director.

"We were glad to step in to assist Ash Tree during this time when funds are

scarce and the children served by Ash Tree are at risk of falling further behind in their education," said President White.

Also, in attendance at the presentation was Hon. Louisa Abbot, Superior Court judge in Chatham County and someone familiar with the good work of Ash Tree.

Ash Tree for decades has served Savannah's children at risk by developing a unique educational program to meet their

educational needs. The children being served have typically been rejected by the public school system and would be denied an education without Ash Tree Organization. Dr. Brown developed a program tailored to these children who are forced to deal with social and organic impediments as they struggle to learn.

The Georgia Bar Foundation is the charitable arm of the Supreme Court of Georgia and the largest legal charity in Georgia. It has awarded more than \$100 million in grants to law-related organizations like Ash Tree, which has received a total of \$299,000 since 2001. ●

The Georgia Bar Foundation is a 501(c)(3) foundation, the largest legal charity in Georgia devoted to supporting legal assistance to those who cannot afford legal representation; to improving the judicial system to foster speedy, efficient and inexpensive resolution of disputes; to assisting in providing legal education to pre-college, educational programs for Georgia's children; and to fostering professionalism in the practice of law.



(Left to right) Eastern Circuit Superior Court Judge Louisa Abbot, Ash Tree President Dr. Morris Brown and Chatham County State Court Judge Derek White at the presentation of the \$75,000 grant check.



Len Horton

Executive Director
Georgia Bar Foundation
len@gabarfoundation.org



Serve the Bar. Earn CLE credit.

2

Volunteer and complete online training to be a peer in the Georgia Lawyers Helping Lawyers program and earn up to **two** CLE hours during your training. Visit www.georgialHL.org to learn more.

3

Coach a team or judge a trial for the High School Mock Trial program and receive up to **three** hours of CLE credit. Contact michaeln@gabar.org for more information and to volunteer.

6

Earn up to **six** CLE credits for having your legal article published in the *Georgia Bar Journal*. Contact jenniferm@gabar.org to learn more.



State Bar
of Georgia

Kudos

Baker Donelson and the University of Richmond School of Law have partnered together to launch the Innovation Fellows Program. This program brings together law students and Baker Donelson professionals to tackle some of the most pressing issues and barriers to innovation in the legal industry.

The firm also announced they were named to Bloomberg Law's Inaugural Diversity, Equity and Inclusion Framework. Baker Donelson was recognized for their level of disclosure of diversity-related metrics and distinguished performance against six core pillars: demographics, leadership and talent pipeline, recruitment and retention, business innovation and strategy, marketing, and diversity and inclusion in the community.

Merchant & Gould announced the formation of an internal trade commission group, specializing in Section 337 investigations before the ITC and expanding the firm's capabilities at a critical time in our global economy. The ITC Section 337 Investigations Group, which will sit within the firm's litigation practice, serves all clients, regardless of industry, and handles both patent and non-patent issues (trademark, trade dress, false advertising and trade secrets) under Section 337.

Hunton Andrews Kurth LLP celebrated their 120th anniversary in November. The firm serves clients across a broad range of complex transactional, litigation and regulatory matters.



Arnall Golden Gregory announced that partner Alan C. Horowitz received the Grace Harrison Award from the Eastern Pennsylvania Geriatrics Society for his contributions to the field of aging at a ceremony in December. The Grace Harrison Award is presented to an individual who has demonstrated a commitment to improving the lives of those living in long-term care facilities. Horowitz was honored for his pioneering work related to the regulatory and legal aspects of the care and oversight provided to older adults in residential settings.



Brad Cunningham was appointed to a two-year term on the board of directors of the International Municipal Lawyer's Association (IMLA). The IMLA is a nonprofit, professional organization that has been an advocate and resource for local government attorneys since 1935. It serves

as an international clearinghouse of legal information and cooperation on municipal legal matters. The mission of IMLA is to serve local government lawyers and to advance the interests of local government law locally, nationally and internationally.



Jana J. Edmondson-Cooper, senior trial attorney, Office of the Solicitor, Region IV (Atlanta), was the FY2021 recipient of the U.S. Department of Labor Willard Wirtz Legacy Award. The award recognizes exceptional performance and accomplishments in public service that exemplifies accountability, responsibility and emerging leadership skills that display the promise of future leadership in the spirit of the former Secretary of Labor Willard Wirtz.



Georgia State University (GSU) announced that alumna Megan Hodgkiss was named to the GSU 40 Under 40, Class of 2022. The Georgia State Alumni Association honors, recognizes and celebrates the most influential GSU Alumni under the age of 40. Award winners demonstrate impact in their field and community, uphold GSU's core values, and bring recognition and pride back to the university.



Nelson Mullins Riley & Scarborough LLP announced the selection of Partner Daniel S. Sanders Jr. to lead the Office of the General Counsel. The General Counsel's office includes responsibility for conflicts, ethics and serves as the firm's in-house legal department, providing advice and counsel to firm personnel while also handling client-related matters in a manner that is practical, collegial and risk-oriented.



Swift, Currie, McGhee & Hiers, LLP, announced that Mike Rosetti was named managing partner. Rosetti will lead the firm's operations and more than 160 attorneys in Georgia and Alabama.



Baker Donelson announced that Mark A.B. Carlson was named the firm's chief growth officer, a position that focuses on lateral attorney recruiting, acquisition and integration. Carlson is responsible for structuring and executing the recruitment of lateral attorneys across Baker Donelson, as well as identifying and vetting candidates for law firm mergers.

On the Move

IN ATLANTA



PLOTT



HO-SANG

Akerman LLP announced the addition of Tracy Plott as partner and the elevation of Montoya M. Ho-Sang to partner. Plott focuses her practice on commercial and real estate financing transactions. Ho-Sang's practice focuses on government affairs, public

policy, higher education and collegiate athletics, and sports. The office is located at 999 Peachtree St. NE, Suite 1700, Atlanta, GA 30309; 404-733-9800; Fax 404-733-9898; www.akerman.com.



404-997-6020; Fax 404-997-6021; www.jamesbatesllp.com.

James Bates Brannon & Groover LLP announced the addition of Jackson A. Bush as an associate. Bush focuses his practice on real estate law, commercial real estate transactions and government-guaranteed lending. The firm is located at 3399 Peachtree Road NE, Suite 1700, Atlanta, GA 30326;



Davis Bozeman Johnson Law announced the addition of Roodgine Bray as partner. Bray's practice focuses on litigation. The firm is located at 4153 C Flat Shoals Parkway, Suite 332, Decatur, GA 30034; 404-244-2004; Fax 888-360-6516; www.dbjlawyers.com.



www.dmqlaw.com.

Davis, Matthews & Quigley, P.C., announced the addition of Renee E. Salley as of counsel. Salley's practice focuses on the preparation of wills, trusts and other related documents. She will also assist clients with probate administration and the formation of pass-through entities, as well as



OEHLSCHLAEGEL



SASSANI

Baker Donelson announced the addition of Maximilian Oehlschlaegel and Ida Sassani as associates. Oehlschlaegel counsels domestic and international clients in a variety of areas including corporate and partnership law, cross-border

transactions, mergers and acquisitions, foreign direct investment, real estate transactions and tax. Sassani focuses her practice on litigation, product liability and mass tort. The firm is located at 3414 Peachtree Road NE, Suite 1500, Atlanta, GA 30326; 404-577-6000; Fax 404-221-6501; www.bakerdonelson.com.



SAIDMAN



SPECHT

Finnegan, Henderson, Farabow, Garrett & Dunner LLP announced that Benjamin A. Saidman and Kara A. Specht were elevated to partner. Saidman's practice focuses in areas involving mechanical, electrical, computer and medical device technologies. Specht focuses on patent litigation and her practice covers a wide range of electronic and electrical technology areas related to computers, consumer electronics and computer-implemented business methods. The firm is located at 271 17th St. NW, Suite 1400, Atlanta, GA 30363; 404-653-6400; Fax 404-653-6444; www.finnegan.com.



CHAC



CHRISMAN



CULVERHOUSE



DUNAWAY



HASWELL



HOCKEL



KNAUSS



LALLY



MARTIN



MASHMAN



PATTON



VEGA

lawsuits. Mashman's practice focuses on medical malpractice

Hall Booth Smith, P.C., announced the addition of Fanny Chac, Cayton S. Chrisman, Baylee A. Culverhouse, Preston Dunaway, Thomas Haswell, Dorothea C. Hockel, Tyler Knauss, J. Vincent Lally, Taylor Martin, Devin Mashman, Hannah L. Patton and Breanna Vega as associates. Chac focuses her practice on medical malpractice, products liability and general liability litigation. Chrisman focuses her practice on medical malpractice defense, insurance coverage, coronavirus litigation, and professional malpractice and ethics. Culverhouse focuses her practice on medical malpractice defense, aging services and health care matters. Dunaway focuses his practice on transportation litigation—protecting the rights of trucking and transportation companies, employees, independent contractors and insurers in complex litigation. Haswell's practice focuses on medical malpractice, premises liability and general liability litigation. Hockel focuses her practice on business and family immigration matters, as well as international business transactions. Knauss' practice focuses on medical malpractice and general liability litigation. Lally focuses his practice on government affairs, business litigation, family law, and energy, regulatory and utilities matters. Martin focuses his practice on medical malpractice defense and batch claims and class action lawsuits.

litigation defense, business litigation and products liability matters. Patton focuses her practice on medical malpractice, health care and general liability defense litigation. Vega's practice focuses on protecting the rights of clients in a wide range of general liability litigation and related matters. The firm is located at 191 Peachtree St., Suite 2900, Atlanta, GA 30303; 404-954-5000; Fax 404-954-5020; www.hallboothsmith.com.



DIXON



HOFFMEYER

Copeland, Stair, Kingma & Lovell, LLP, announced the election of Ryan D. Dixon, Jeffery C. Hoffmeyer and Jordan N. Teich to partner. Dixon focuses his practice on general liability litigation and transportation litigation. Hoffmeyer's practice focuses on commercial litigation and business litigation. Teich's practice focuses on construction litigation and design professional litigation. The firm is located at 191 Peachtree St., Suite 3600, Atlanta, GA 30303; 404-522-8220; Fax 404-523-2345 www.cskl.law.



TEICH

Goggans, Stutzman, Hudson, Wilson & Mize, LLP, announced it has expanded its Buckhead office with the addition of the boutique law firm, Partnership Title. The firm is located at 2921 Piedmont Road, Suite B, Atlanta, GA 30305; 404-207-1620; www.gshattorneys.com.



HOFFMAN



LUBIN

FordHarrison LLP announced the addition of Charles Hoffman and Kadale Lubin as associates. Hoffman focuses his practice on representing management in labor and employment law matters. Lubin's practice focuses on providing counsel and representation to management clients in issues related to employment and labor law. The firm is located at 271 17th St. NW, Suite 1900, Atlanta, GA 30363; 404-888-3800; Fax 404-888-3863; www.fordharrison.com.



GAJADHARSINGH



COX

Barnes & Thornburg announced the election of Adam Gajadharsingh and the addition of John W. Cox as partner. Gajadharsingh focuses on commercial litigation, electronic discovery, and data privacy/security issues, along with a variety of other subject matter areas. Cox focuses on patent litigation and strategic counseling related to pharmaceutical, biotechnology, medical device and chemical matters. The firm is located at 3475 Piedmont Road NE, Suite 1700, Atlanta, GA 30305; 404-846-1693; Fax 404-264-4033; www.btlaw.com.



COWARD



HENSON



MCKENZIE



MCNULTY



MOORE



NOICE



REINHARDT



RUETER



SCHARYJ



WHITE

Morris, Manning & Martin, LLP, announced the election of Elliott Coward, Michael Henson, Patrick McKenzie, Shannon McNulty, Hallee Moore, Dan Noice, George Reinhardt, Nick Rueter, Alex Scharyj and Reed White to partner. Coward, a member of the health care litigation group, represents hospital systems, physician practice groups and other health care providers. Henson works in the tax and real estate practices and focuses on business transactions involving real estate, including mergers and acquisitions, strategic corporate matters, private equity investments and divestitures. McKenzie, in the corporate technology practice, focuses on mergers and acquisitions, private equity transactions, venture capital financing, emerging companies, commercial finance and corporate governance. McNulty, a member of the corporate, securities and real estate capital markets practices, represents clients in structuring and consummating complex corporate transactions including public offerings, private placements, mergers and acquisitions, restructurings and reorganizations. Moore is in the corporate tech practice and focuses on mergers and acquisitions, finance transactions, private equity, venture capital, strategic investments and general corporate matters. Noice, a member of the real estate development and finance practice, represents developers and investors in all phases of commercial transactions, including development, acquisitions, dispositions, joint ventures and related loan closings for retail, medical, multifamily, hotel, industrial and office properties. Reinhardt is in the corporate health care practice where he provides legal advice to health systems, physician practices, and other health care-related entities on matters including corporate transactions, mergers and acquisitions, regulatory and legislative issues, patient privacy and contract negotiation. Rueter is a member of the corporate practice and represents domestic and international clients in corporate and transactional matters including mergers and acquisitions, joint ventures, venture capital and private equity transactions, emerging company issues, fund formations, private placements and franchise law. Scharyj works in the corporate, M&A and private equity practices and handles complex business transactions including mergers and acquisitions, private equity and venture capital investments, recapitalizations and joint ventures. White is in the corporate finance

practice and focuses on debt finance transactions, including representing both private equity sponsors and their portfolio companies and non-sponsored borrowers in connection with negotiating, structuring and documenting secured and unsecured financing transactions for acquisitions, leveraged buyouts, refinancings, dividend recapitalizations and working capital facilities. The firm is located at 1600 Atlanta Financial Center, 3343 Peachtree Road NE, Atlanta, GA 30326; 404-233-7000; Fax 404-365-9532; www.mmmlaw.com.



LOKKEN

Hunton Andrews Kurth LLP announced the addition of Shaney B. Lokken as counsel. Lokken's practice focuses on public finance including financing for state and local governments and non-profit issuers. The firm is located at 600 Peachtree St. NE, Suite 4100, Atlanta, GA 30308; 404-888-4000; Fax 404-888-4190; www.huntonak.com.



CALHOUN



DOWELL

Alston & Bird announced the election of Ian Calhoun, Matthew L.J.D. Dowell, Ronnie Gosselin, Gavin Reinke, Sean Sullivan, Joshua M. Weeks and Jennifer F. West to partner. Calhoun is a member of the financial services and products group and the payments system team and represents wealth management and investment advisory firms as well as payments and banking clients on a range of transactional matters, including mergers and acquisitions, corporate restructurings, and card-issuing and merchant-acquiring relationships. Dowell joined the litigation and trial practice group and focuses on government investigations, health care litigation, conducts internal investigations and



GOSSELIN



REINKE



SULLIVAN



WEEKS

represents clients in a wide variety of health care proceedings, including payer-provider disputes, antitrust litigation, and civil and administrative proceedings under the Anti-Kickback Statute and False Claims Act. Gosselin is a member of the environment, land use and natural resources group and focuses her practice on complex environmental and toxic tort litigation. Reinke joined the litigation and trial practice group where he defends clients in data security and privacy class actions, False Claims Act litigation and government investigations in addition to representing clients in products liability and financial services litigations as well as complex commercial disputes. Sullivan is a member of the health care group and advises health care providers and industry stakeholders on regulatory risks related to health care compliance, fraud and abuse, licensing matters and transaction structuring, with a focus



WEST

on digital health and telehealth issues. Weeks, a member of the intellectual property litigation group, represents clients in protecting and enforcing patents, trade secrets and other intellectual property rights in federal district courts and before the International Trade Commission. West, a member of the real estate finance and investment group, advises developers and institutional investors in all aspects of commercial real estate transactions, including acquisitions, financings, leaseings and dispositions across multiple asset classes nationwide. The firm is located at 1201 W. Peachtree St., Suite 4900, Atlanta, GA 30309; 404-881-7000; Fax 404-881-7777; www.alston.com.



BEEZHOLD



LEWIS

Nelson Mullins Riley & Scarborough LLP announced the election of Donna Beezhold, Samantha Lewis, Rebekah McCorvey and Matthew Zischke to partner. Beezhold's practice focuses on commercial real estate, particularly in the development and health care industries. Lewis practices in the area of education law, focusing on Title IX, special education, and student disciplinary matters. McCorvey focuses her practice on mergers and acquisitions, advising buy-side and sell-side clients in complex business transactions in a broad range of industries. Zischke advises all types of employers on a variety of benefits matters, including design, implementation, and administration of employee benefit plans such as defined benefit, defined contribution (e.g. 401(k) and 403(b)), and health and welfare arrangements. The firm is located at 201 17th St. NW, Suite 1700, Atlanta, GA 30363; 404-322-6000; Fax 404-322-6050; www.nelsonmullins.com.



MCCORVEY



ZISCHKE



BAKHSH



MOODY

Eversheds Sutherland announced the election of Umar R. Bakhsh, Aaron C. Moody and Kyle E. Wamstad as partner. Bakhsh's practice focuses on counseling clients on various aspects of intellectual property procurement and



WAMSTAD

enforcement as well as licensing, purchases and other transactional matters. Moody focuses his practice on critical business transactions, including mergers and acquisitions, joint ventures, financings, venture capital investments and private placements. Wamstad focuses his practice on representing clients in various transactional and regulatory matters in the electric power, renewable energy, natural gas, crude oil and refined products sectors. The firm is located at 999 Peachtree St. NE, Atlanta, GA 30309; 404-853-8000; Fax 404-853-8806; www.us.eversheds-sutherland.com.



FUCETOLA



WILLIAMS

Balch & Bingham announced the addition of Mitch Fucetola and Jace Williams as associates. Fucetola focuses his practice on complex commercial and class action litigation. Williams focuses his practice on litigation, product liability and casualty litigation, and intellectual property/trademark. The firm is located at 30 Ivan Allen Jr. Blvd. NW, Suite 700, Atlanta, GA 30308; 404-261-6020; www.balch.com.



Chamberlain Hrdlicka announced the addition of John Coughlin as senior counsel in the real estate practice. Coughlin handles leasing matters for landlords and tenants, and commercial real estate transactions for buyers and sellers. The firm is located at 191 Peachtree St. NE, 46th Floor, Atlanta, GA 30303; 404-659-1410; Fax 404-659-1852; www.chamberlainlaw.com.

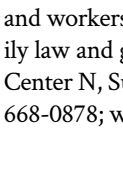


BRAWNER

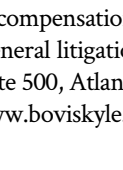


FEDELE

Bovis, Kyle, Burch & Medlin, LLC, announced the addition of Robert Brawner, Carly R. Fedele, Courtney LeBeau, Precious Okonokhua, Anna Cook Pritchett and Alexa Martin as associates. Brawner focuses his practice on insurance defense, litigation and family law. Fedele focuses her practice on litigation and workers' compensation. LeBeau's practice focuses on litigation and workers' compensation. Okonokhua's practice focuses on complex litigation, personal injury tort, business litigation, legal malpractice and professional liability defense, commercial development/construction/erosion litigation and intellectual property infringement/trade secrets litigation. Pritchett focuses her focus practice on litigation and workers' compensation. Martin focuses her practice on family law and general litigation. The firm is located at 200 Ashford Center N, Suite 500, Atlanta, GA 30338; 770-391-9100; Fax 770-668-0878; www.boviskyle.com.



PRITCHETT



MARTIN

IN ALBANY



Joe Dent announced that he started a new firm, Joseph W. Dent, P.C. Dent has more than 30 years of experience in civil litigation. His practice will focus on personal injury, collections, creditor bankruptcy, construction litigation, zoning and land use, landlord/tenant, property

tax appeals and eminent domain. As a registered mediator, Dent will be expanding his mediation services and use his 30 years of experience to assist parties with resolving their disputes. The firm is located at 2535 D Lafayette Plaza, Albany, GA 31707; 229-461-6100; Fax 229-800-5577.

IN COLUMBUS



PEAK



WOOTEN



MCDANIEL



COLWELL

Attorneys Brandon Peak, Joel Wooten, Chris McDaniel & Joseph Colwell announced the formation of Peak Wooten McDaniel & Colwell LLP. The lawyers at PWMC will continue to represent clients in serious wrongful death and personal injury cases, including those involving tractor-trailer and motor vehicle collisions, product liability, False Claims Act and negligent security cases. The firm is located at 945 Broadway, Suite 200, Columbus, GA 31902; 706-460-4800; www.peakwooten.com.



Page, Scramton, Sprouse, Tucker & Ford, P.C., announced the addition of Stephen Carson Cummings Jr. as an associate. Cummings' practice focuses on business and corporate law, and trusts and estates. The firm is located at 1111 Bay Ave., Columbus, GA 31901; 706-324-0251; Fax 706-243-0417; www.psstf.com.

IN MACON



ALIG



BENNETT



MASON



WANNA

James Bates Brannon & Groover LLP announced the addition of Taylor Alig, Will Bennett, Kelly L. Mason and Donia Wanna as associates. Alig focuses her practice primarily on corporate, tax and estate planning matters. Bennett's practice focuses on tax and wealth planning, including estate planning matters, wills, powers of attorneys and advance directives in health care. Mason focuses her practice on insurance defense and general litigation matters. Wanna focuses her practice on businesses, insurance companies and local governments in civil matters, including business, employment, insurance claims, coverage disputes and contractual disputes. The firm is located at 231 Riverside Drive, Macon, GA 31201; 478-742-4280; Fax 478-742-8720; www.jamesbatesllp.com.

IN MARIETTA



FLETCHER



GARRETT



POUNCEY

Gregory Doyle Calhoun Rodgers, LLC, announced the addition of Olivia K. Fletcher, Maggie Garrett and Melissa Pouncey as associates. Fletcher joined the business transactions and corporate practice where she assists closely held businesses and middle market companies with stock purchase agreements and asset purchase agreements, performs due diligence review in acquisition agreements, compiles disclosure schedules for commercial transactions and drafts transaction documents ancillary to mergers. Garrett joined the litigation and

community association practices where she litigates business, securities and intellectual property cases as well as various issues on behalf of community associations. Pouncey, a member of the government and real estate and litigation practices, represents clients across a broad range of legal matters with a focus on eminent domain/condemnation and local government. The firm is located at 49 Atlanta St., Marietta, GA 30060; 770-422-1776; www.gdcrlaw.com.

IN NEWNAN



D. Scott Cummins announced the launch of The Cummins Firm. Cummins' practice focuses on personal injury and wrongful death cases, and criminal and DUI law. The firm is located at 75 Jackson St., Suite 402, Newnan, GA 30263; 678-590-5590; Fax 678-877-8118; www.thecumminsfirm.com.

Harris Lowry Manton LLP Hosts 8th Annual First Responder Appreciation Event



Attorneys and staff at Harris Lowry Manton LLP recently hosted the firm's 8th Annual First Responder Appreciation Event at Daffin Park in Savannah, Georgia.

Harris Lowry Manton LLP hosted the 8th Annual First Responder Appreciation Event at Daffin Park in Savannah, Georgia, on Oct. 28, with attorneys and paralegals serving 500 free hot meals to first responders from across the area, which was an all-time record. Due to the COVID-19 pandemic, the 2021 event was drive-through only for the second consecutive year. The popular annual event attracted police officers, firefighters, paramedics and other first responders from across Chatham County and the surrounding area. Local dignitaries including Savannah Police Department Chief Roy Minter, City of Savannah Alderman Detric Leggett and Alderman Linda Wilder-Bryan attended the event and helped serve. The event, which took place on National First Responders Day, included free hamburgers and BBQ pork lunches catered by Chef Kirk Blaine and complimentary giveaways for all first responders. All meals were available to-go, including more than 200 pre-orders. ●

IN ROSWELL

Brient IP Law announced the addition of Nathan Loyd as an associate. Loyd's practice focuses on patent drafting and related negotiations and analysis. The firm is located at 1175 Grimes Bridge Road, Suite 100, Roswell, GA 30075; 678-218-5065; Fax 678-835-9310; www.brientip.com.

IN SAVANNAH



Bouhan Falligant announced the addition of Gary J. McGinty as an associate in its litigation group. McGinty's practice focuses on transportation and logistics, medical malpractice, maritime and products liability. The firm is located at One West Park Ave., Savannah, GA 31401; 912-232-7000; Fax 912-233-0811; www.bouhan.com.



Attorney Zachary H. Thomas announced the formation of Zachary H. Thomas Law, P.C. His practice areas include medical malpractice, personal injury and wrongful death. The firm is located at 2 E. Bryan St., Suite 509, Savannah, GA 31401; 912-525-1196; www.zhtlawpc.com.



HunterMaclean announced the addition of Sean Callahan as an associate in the firm's real estate group. Callahan focuses his practice on commercial and residential real estate transactions. The firm is located at 200 East Saint Julian St., Savannah, GA 31412; 912-236-0261; Fax 912-236-4936; www.huntermaclean.com.

IN SNELLVILLE



Michelle M. Riley announced the The Michelle Reilly Law Group, LLC, has relocated. Reilly's practice continues to focus on personal injury, estate planning and family law matters. The firm is located at 2138 Main St. E, Snellville, GA 30078; 770-559-5677; www.michellereillylawgroup.com.

IN SUWANEЕ

Goggans, Stutzman, Hudson, Wilson & Mize, LLP, announced the relocation of its Northeast Metro office to Suwanee. The office is located at 1325 Satellite Blvd. NW, Suite 102, Building 100, Suwanee, GA 30024; 678-987-2800; www.gshattorneys.com.

IN VIDALIA



The Bryant and O'Connor Law Firm announced the addition of Hillary D. Earls as an associate. Earls focuses her practice on real estate, estate planning, probate and juvenile criminal defense. The firm is located at 502 Jackson St., Vidalia, GA 30474; 912-537-9021; www.bryantoconnor.com.

IN BIRMINGHAM, ALABAMA



Baker Donelson announced the addition of Rodney Dillard II as an associate. Dillard litigates and tries cases in a wide range of high exposure disputes including commercial, complex transportation, construction, insurance and wrongful death litigation. The firm is located at 420 20th St. N, Suite 1400, Birmingham, AL 35203; 205-250-8359; www.bakerdonelson.com.

IN INDIANAPOLIS, INDIANA



Barnes & Thornburg announced the election of Michael P. Gieger as partner. Gieger advises on complex corporate transactions, including a myriad of M&A and capital-raising initiatives. The firm is located at 11 S. Meridian St., Indianapolis, IN 46204; 317-231-7396; Fax 317-231-7433; www.btlaw.com.

IN NASHVILLE, TENNESSEE



FordHarrison LLP announced the addition of Paige Lyle as counsel. Lyle counsels clients from corporations and governmental entities to small family-owned businesses on the day to day legal ramifications of managing a workforce. The firm is located at 150 3rd Avenue S, Suite 2010, Nashville, TN 37201; 615-574-6705; Fax 615-574-6701; www.fordharrison.com.

Announcement Submissions

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. Learn more at www.gabar.org/newsandpublications.

To place an announcement, please contact Jada Pettus at jadap@gabar.org or 404-527-8736.



Attorneys from Oliver Maner load donations from women's emergency housing center supply drive to be delivered to Union Mission. (Left to right) Sara Jo Rowell, firm administrator, Oliver Maner; William J. Hunter, partner, Oliver Maner, board member of Union Mission; Joy Bonner, associate, Oliver Maner; Amelia C. Stevens, associate, Oliver Maner; Victoria Nease, associate, Oliver Maner; Savannah resident Victoria White and her daughter Alethia Edwards; Michael Traynor, president and CEO of Union Mission; and Suzanne Willis, director of marketing and development of Union Mission.

Oliver Maner LLP Raises Supplies and Support for Parker's House: A Home for Women

In recognition of National Homelessness Awareness Month in November, Savannah law firm Oliver Maner LLP issued a challenge to the community to raise supplies and support for Union Mission's newest project, Parker's House: A Home For Women. Oliver Maner attorneys Amelia Stevens and Victoria Nease led the efforts and the law firm's office was overflowing with the results of the generosity of the Savannah community.

Representatives of Oliver Maner presented the donations collected during the charity drive at their downtown offices on Dec. 8 and loaded up Union Mission's van. The items—ranging from soap and toothpaste to sheets and blankets—will stock the shelves of the program for unaccompanied homeless women, set to launch in early 2022. Statistics show more than 180 women each night are homeless in Chatham County. The Parker's House: A Home For Women's renovated space will have 16 bedrooms and eight bathrooms. It's designed to provide emergency housing and supportive services to 32 unaccompanied, homeless women for up to 90 days at a time, or roughly 100 women annually.

Once completed, Parker's House: A Home For Women will be the only facility along the I-95 corridor from Florida to South Carolina dedicated solely to unaccompanied women experiencing homelessness. Union Mission provides basic human needs for the residents, including food, clothing, transportation, access to mental health care, employment support and more. The goal of this program is to help residents maintain stable housing and become independent members of the community. Union Mission has cared for Savannah's homeless community for more than 80 years offering emergency, transitional and permanent housing solutions to those in need. Union Mission also collaborates with the community's network of service providers to make comprehensive, wrap-around supportive services, such as mental health counseling and culinary arts job training available to all homeless persons in the community. The mission of Union Mission is to partner with people to end their homelessness through housing and supportive services. ●

Too Good to Be True?

BY PAULA FREDERICK

It usually starts with an email ...

A Potential Client (PC) needs a lawyer. And of all the lawyers in all the towns in all the world, PC chooses you.

PC needs a place to stash some money—a lot of money—for a short time. There's a deal in the works, but PC doesn't want your help on the substance of it. He just wants access to your trust account.

PC has investors who are comforted by the fact that their money will be held in a lawyer's escrow account. He's in Hong Kong. The investors? You aren't quite sure where they are, but PC mentions companies in Australia and the U.K.

PC presents you with an executed contract that names his company as buyer of a company that has an address in Australia. The contract names you as paymaster and obligates you to wire the escrowed funds to the seller when the time is right.

In the following weeks, millions of dollars turn up in your escrow account, identified only by 24-digit numbers. You don't know whose money it is, or where it's coming from. When PC gives the word, you wire the money to the account he designates.

The best part? The contract set your payment at 1% of the amount that went through the account, so you just earned a cool \$50,000!

Then things start to go wrong. Your first hint is when you get a call from someone you have never heard of. The caller claims he wired \$500,000 to your escrow account and he has receipts to prove it. He's looking for PC, who has disappeared. When you contact the seller you find they have not been paid, and they are looking for PC too. Within a

few days you are getting questions from the bank, the Bar and the FBI.

It's hard to believe that a lawyer could fall prey to a scam like this, yet this scenario plays out several times each year. So what's a lawyer to do?

Watch for red flags! Why would PC hire you, a lawyer in small-town Georgia, to facilitate a deal for property in Samoa? Why would a potential client offer to pay fees that greatly exceed the value of the work you are performing? Why would you hold money as a fiduciary for people you cannot identify and have no direct relationship with?

Conduct a due diligence investigation of new clients when things seem fishy. There is helpful guidance from the American Bar Association in Formal Opinion 491 (www.americanbar.org/content/dam/aba/administrative/professional_responsibility/aba-formal-opinion-491.pdf) and in "A Lawyers Guide to Detecting and Preventing Money Laundering" (available from many sources with a quick Google search). Although aimed at preventing lawyers from becoming involved in money laundering, the recommendations on client due diligence are useful in any context.

And finally, remember that there's help out there when you need it. Contact us on the Ethics Helpline at 404-527-8741 if you find yourself in a situation that seems too good to be true! ●



Paula Frederick

General Counsel
State Bar of Georgia
paulaf@gabar.org



WWW.GETTYIMAGES.COM/KATTV

Attorney Discipline Summaries

November 2, 2021, through December 14, 2021

BY LEIGH BURGESS

Disbarment

Billy Reid Zeh III

105 Pirates Cove
St. Simons Island, GA 31522
Admitted to the Bar 2001

On Dec. 14, 2021, the Supreme Court of Georgia accepted the petition for voluntary surrender of license of Billy Reid Zeh III (State Bar No. 784827) which is tantamount to disbarment. In his petition, Zeh admitted that on Aug. 16, 2021, in the Superior Court of Glynn County, he entered an *Alford* plea to one count of aggravated assault and one count of simple assault. He was sentenced under the First Offender Act and given a total sentence of five years to serve on probation, with credit received for time previously served in custody from Aug. 21, 2019, to April 17, 2020. Zeh admitted that, by virtue of his guilty plea entered in the criminal case, he violated Rules 8.4 (a) (2) and (a) (3) of the Georgia Rules of Professional Conduct. The maximum penalty for a violation of Rules 8.4 (a) (2) and (a) (3) is disbarment. The State Bar filed a response to the petition, asking the Court to grant Zeh's peti-

tion in consideration of the Court's compelling interest in "the public's confidence in the profession," and because Zeh's misconduct warranted disbarment.

Public Reprimand

Monte Kevin Davis

1425 Market Blvd. Suite 530-219
Roswell, GA 30076
Admitted to the Bar 1994

On Nov. 2, 2021, the Supreme Court of Georgia accepted the petition for voluntary discipline of Monte Kevin Davis (State Bar No. 212065) and ordered Davis receive a public reprimand in accordance with Bar Rules 4-102 (b) (3) and 4-220 (c) for his admitted violation of Rule 3.1 (a) of the Georgia Rules of Professional Conduct.

The disciplinary matter came before the Court on the special master's report and recommendation in which she recommended that the Court accept the Second Amended Petition for Voluntary Discipline filed by Davis after the filing of a formal complaint. As recounted by the special master, Davis admitted that he

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

Warren R. Hinds, P.C.

"An Attorney's Attorney"

- Bar Complaints
- Malpractice Defense
- Ethics Consultation



1303 Macy Drive
Roswell, Georgia 30076
Call (770) 993-1414
www.warrenhindslaw.com

sent a text message to a former client (the grievant) in an attempt to coerce her into discussing a domestic dispute that had blossomed into a legal matter in which Davis was acting on behalf of the grievant's domestic partner, who also was a friend and former client of Davis'. In the text message, Davis indicated that he was aware of the grievant's status as an "illegal alien;" threatened that he would call the U.S. Immigration and Customs Enforcement (ICE) and have the grievant "picked up" if she refused to call him back; and advised the grievant that he was aware of her address.

Based on this text message, the State Bar filed a Formal Complaint against Davis alleging violations of Rules 1.6, 1.8 (b), 1.9 (c), and 3.1 (a) of the Georgia Rules of Professional Conduct. Rather than answer the complaint, Davis filed a petition for voluntary discipline admitting a violation only of Rule 3.1 (a) and requesting a public reprimand. After some discussions with the Bar, Davis amended his petition twice to add additional information about his prior disciplinary history and about the basis for his knowledge of the grievant's immigration status.

In his second amended petition, Davis admitted that he was a personal friend of the grievant's domestic partner; that he had consulted with that man regarding several business and family matters over the last 13 years; that he was aware that the grievant and her domestic partner had been involved in a long-term, tumultuous personal relationship and had a child together; that he represented the grievant in 2008 or 2009 in connection with a matter arising from a traffic accident; that he learned, through his social relationship with the grievant's domestic partner, that the grievant was an undocumented immigrant; that be-

ginning in May 2018, after the domestic partner contacted him about an incident involving the grievant, he tried to contact her in an effort to amicably resolve the dispute, but was unsuccessful; that he subsequently became aware that the grievant alleged that the incident involved criminal violence against her by her domestic partner; that he believed he could mediate the dispute between them; and that, toward that end and in an effort to have the grievant contact him, he sent her the above-described text message on behalf of the domestic partner. Davis admitted that sending the text was impulsive, reckless and inconsiderate, but averred that he did not intend to scare the grievant (although he conceded in hindsight he "realize[s] how that text may've caused her emotional distress") and that he did not share the information contained in the text with anyone other than the grievant.

After considering the petition, the special master determined that the admitted facts were sufficient to authorize a conclusion that Davis committed a violation of Rule 3.1 (a) ("[A] lawyer shall not ... take ... action on behalf of a client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.") The special master noted that Davis had asserted in his petition that he did not technically "represent" the domestic partner at the time he sent the text, but found that assertion to be at odds with the other evidence, including Davis's admission that he had consulted with the domestic partner on several business and family matters over the years and the language of the text itself, which suggested that Davis was acting on behalf of the domestic partner. The special master further found that the language of the text and the sur-

rounding circumstances established that sending the text served merely to harass or maliciously injure the grievant, as the reference to her immigration status and the threat to call immigration services had no connection to the domestic violence allegations the grievant had leveled against her partner or the concomitant personal dispute that Davis claimed he was trying to mediate.

Next, the special master concluded that a public reprimand—the maximum sanction for a violation of Rule 3.1 (a)—was the appropriate level of discipline. The special master then considered the factors in aggravation and mitigation of discipline. Although Davis admitted that he had three instances of prior discipline,¹ neither the Bar nor the special master attempted to use Davis's prior disciplinary history as an aggravating factor or to trigger the recidivist provisions of the Bar Rules, noting that the conduct underlying his prior offenses was different in kind from the current offense and that the prior offenses were remote in time. Nevertheless, the special master found in aggravation that Davis acted with a dishonest motive (albeit not for personal gain or enrichment); that the victim of his conduct was vulnerable to his threats due to her undocumented status; and that Davis had substantial experience in the practice of law. In addressing whether to apply the aggravating factor of "multiple offenses," the special master noted that, although the Bar brought other charges against Davis as a result of his sending this text, all parties agreed the case could be resolved through Davis' admission that he violated Rule 3.1 (a).

In mitigation, the special master found that Davis made full and free disclosure to the Disciplinary Board and displayed a cooperative attitude during

these proceedings; that he had expressed in his petition genuine remorse for his conduct; and that his prior offenses were remote in time. In declining to apply the mitigating factor of “personal and emotional problems,” the special master took note of the various personal and professional problems Davis has experienced because of the COVID-19 pandemic and the pendency of this matter, but observed that he had provided no evidence that he was suffering from any personal or emotional problems at the time of the underlying conduct. Similarly, the special master noted that, although Davis had apologized for his actions, he was not entitled to application of the mitigation factor of “timely good faith effort to make restitution,” because he did not apologize until after this matter had been initiated. Thus the special master recommended that the Court accept Davis’ petition for voluntary discipline and imposed a public reprimand for his admitted violation of Rule 3.1 (a). ●



Leigh Burgess

Assistant Grievance Counsel
State Bar of Georgia
leighb@gabar.org

Endnote

1. Davis admitted he had received an Investigative Panel Reprimand in July 2011 for failing to file a sworn response to an Investigative Panel inquiry and that he had received two Formal Letters of Admonition, one in October 2008 for failing to file a sworn response to an Investigative Panel inquiry and another in September 2010 for failing to return a client’s file and “failing to include [his] name in his trade name.”



Ethics dilemma?

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



Legal Tech TIPS

BY MIKE MONAHAN
AND NKOYO-ENE R. EFFIONG



GETTYIMAGES.COM/GRINVALDS

1 HR Software

If you are growing a team, then an HR platform is a must. HR software is designed to help you manage the team you are building. A good tool will automate your HR workflow for both you and your team members. Many tools help you keep up with your hiring and onboarding processes, manage payroll and benefits administration, provide your staff with a self-service portal and even a free mobile app. A few common platforms include Gusto, gusto.com; ADP, www.adp.com; and BambooHR, www.bamboohr.com.

2 Trainual

www.trainual.com

When it comes to building a team, hiring is just one portion of the equation. Onboarding and training are vital to building a high-functioning, engaged team. Trainual is an online platform that helps you build and maintain your processes, policies and SOPs in one place and move your team from “just hired” to “fully productive” in days.” The platform also allows you to create a searchable, trackable employee handbook and a people directory with profiles so your new hires know who does what.



3 Whimsical

whimsical.com

Need a visual mind-mapping tool you can use with your team? Look no further than Whimsical. Whimsical is a unified workspace for thinking and collaboration. If you need to create flow charts, organization charts, map out your intake process or other processes, this is a great tool for you. Plus, it was designed with collaboration in mind. You can easily engage your team in the ideation process.

4 Video Tools

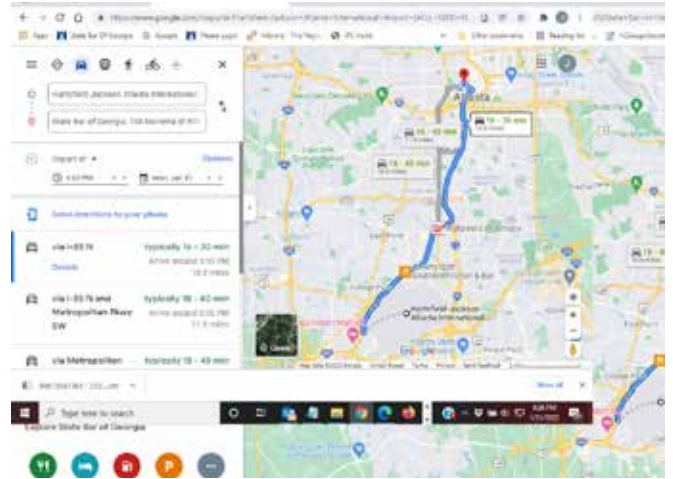
If you have been on Zoom recently, you might have noticed they updated their filters. You can better define your eyebrows or your beard with the click of a button. But all of the efforts Zoom has made to make you look better online still pale in comparison to upgrading your webcam. If you have not invested in a better webcam, microphone and lighting yet, let 2022 be the year you commit. As real as Zoom fatigue is, virtual meetings are here to stay.



GETTYIMAGES.COM/POPOVAPHOTO



GETTYIMAGES.COM/MARIA PETRISHINA



5 Password Manager

We cannot stress enough how important it is to create strong passwords. Beyond helping you create and remember your passwords, implementing a password manager, like Dashlane, LastPass or 1Password, is smart business. If you have a team, your password manager allows you to share passwords and notes securely. You can also use a password manager to quickly change passwords when accounts or devices are compromised. Password managers are also really effective tools to use in your succession planning process. You can use them to store all the information someone would need in the event of a sudden health crisis, incapacity or death.

6 Fact-Checking

Evidence-based fact-checking sites fight misinformation, ensuring the online and offline information you're hearing, reading and sharing is as accurate as possible. Sites you should visit and bookmark include: FactCheck.org for political claims, SciTech.org for health and science claims, FlackCheck.org for logic and ethics. LeadStories.com

provides information in real time on viral stories, images and videos, and fact-checks for hoaxes.

7 Try One-Note Templates

If you've gotten the hang of using OneNote, try upping your game by using a OneNote template or creating your own. Since you can share with OneNote, using a template for project work can help you walk your team through the parts of a project. And it can help you keep your written thoughts in order. The ready-to-use OneNote templates are limited, but it's not so hard to create your own. Here's how: In OneNote, create the notebook page with your desired text and formatting. Click the Insert tab, then the Page Templates dropdown. At the bottom right, choose "Save current page as a template."

8 Excel Mobile

Use Excel Mobile's "Insert Data from Picture" Function, available on iPhone and Android. If you have a hard copy of spreadsheet, you can insert the data you want into a spreadsheet you are working on by using the Excel Mobile app. Have

the app and the spreadsheet you are designing open on your phone. Select the empty cell where you want the data to go. Click on the "import data from a picture" icon in the bottom toolbar. Take a photo of the data you want to import, then clean up the formatting.

9 Be On Time, All the Time

Stop guessing when to leave. Google Maps lets you set a departure time or an arrival time. By setting a departure time, you'll get an estimate of when you should arrive for an appointment. By setting an arrival time, you receive an estimate on when you should leave your current location to make it on time. All you have to do is open Google Maps and fill in your location and destination.

10 #LifeHack

Living and working with a major illness is something lawyers might have to face. Take some #LawyersLivingWell time to consider how you would handle a serious health crisis, and visit www.gabar.org/healthcrisis for information on how to protect your practice and your clients.

Building a Team in 2022?

Building a team is an important milestone for your growing law practice. This article discusses how to build a team by design.

BY NKOYO-ENE R. EFFIONG

“The most important decisions that business people make are not what decisions, but who decisions.” —Jim Collins, author of “Good to Great”

This article is for you if growing your practice (without increasing your working hours) is one of your 2022 goals. In this issue, we are discussing how to build a team by design. If that is you, keep reading.

Have you ever wondered whether it is time to hire? Do you stare at your to-do list, wishing you could clone yourself so everything can get done? Are you wondering whether you have enough work to justify building a team?

You are not alone.

Like many law firm owners, you know you need to build the right team to help you scale your practice. If you have never built a team, the whole process of interviewing, hiring and onboarding team members might seem overwhelming and risky. If you have built a team before, you already know that this investment of time and money is not something you want to take lightly.

Nor should you.

Building a team is an important milestone for your law practice. Not only does it free you from being the admin, bookkeeper, marketing manager, receptionist, you-name-it, for your practice, but it also



GETTYIMAGES.COM/GERASIMOV174

affords you more time to practice law. According to the 2021 Clio Trends Report, the average lawyer bills 2.5 hours of an 8 hour day.¹ Yikes. If your firm runs on the billable hour, you must figure out a[n ethical] way to increase your billables. Building a team can help. It can also become a major headache if you are not intentional about your process.

When should you start building your team?

Before you think you are ready.

Most people wait until they are in a bind to build their team. This. Is. Not. A. Good. Idea. When you are already at capacity and stressed, you often are not the best at making decisions. Your immediate need for help may overshadow an orderly and strategic hiring process that sets you up for long-term success—leaving you with a less than stellar team member.

Here are three red flags that signal it is time to hire:

- You are turning down work because you are too busy to handle it ... well. How it manifests: missing deadlines, errors, rushed research.
- Your client's experience is suffering because you do not have the time or systems in place to manage those relationships. How it manifests: delayed or rushed communication, subpar work product, late billing, difficulty collecting.
- You are always working in your business and have no time to work on your business. How it manifests: lack of systems, poor accounting, inconsistent marketing + biz development, the low collection rate.

As a bonus, if you are working all the time but nothing feels like it is getting done, build a team.

What position should you hire next?

This is a law practice-specific question. The next role you need to fill is a func-

tion of the types of issues you are facing in your practice, your natural strengths, and what tasks you need (and are willing) to release to someone else. Taking time to audit your to-do list and determine what things you really do not need to be doing, are not great at doing or do not enjoy doing is an excellent step towards designing a job description that makes sense for you. Typical roles may include: receptionist, legal assistant, paralegal, marketing support, bookkeeper/accountant, accounting and law clerk.

Before you get too caught up in the role and job description, spend some time thinking about the type of person you need on your team.

Who you hire matters ... a lot.

In "Who: The A Method for Hiring,"² authors Geoff Smart and Randy Street do just that. They provide a replicable four-step approach for hiring "A Players" at any level of your organization. An A-Player is defined as someone with a high likelihood of achieving a set of outcomes that only the top 10 candidates can achieve. Not only can an A Player do the job you need to be done, but they also fit in with your company's culture. "Who" is a great resource to use as you build out your team. The book highlights common hiring pitfalls, lays out its four-step approach, and provides numerous strategies and case studies from leaders who successfully used the framework to attract A Players.

Excitingly, building a team of A Players got a little bit easier amidst the Great Reshuffle.³ With more and more Americans seeking meaning, flexibility and autonomy in their work, your solo or small law firm has an even greater chance of competing for A Players. Furthermore, you do not have to hire a W2 employee to build your team. The gig economy brought on the [re]birth of freelance and contract work. Today, numerous companies can help you find talented freelance and contract workers. You can build a solid team

at any stage of business by leveraging agencies, contractors and freelancers. We shared some resources to get you started in the Legal Tech Tips. If you missed it, go back and take a look.

For more helpful resources on building your team of A Players, email us at lpdept@gabar.org. We are here to help you. All inquiries to LPM are confidential.

Cheers to your growth!

Did you know? We are on social. Follow @gabarlpm on Instagram and Twitter for more great tips! ●



Nkoyo-Ene R. Effiong

Director, Law Practice Management Program
State Bar of Georgia
nkoyoe@gabar.org

Endnotes

1. 2021 Clio Legal Trends Report, <https://www.clio.com/resources/legal-trends/2021-report/> (last visited Jan. 13, 2022).
2. Geoff Smart & Randy Street, *Who: The A Method for Hiring* (2008).
3. The Great Reshuffle describes the current phenomena of people aligning their passions and purpose with what they do. Now more than ever, professionals prioritize flexibility and fulfillment in their work. Workers are not just leaving the workforce; they are reconfiguring their careers, shifting industries and careers, or going into business for themselves. See *How the Great Resignation is turning into the Great Reshuffle*, <https://www.bbc.com/worklife/article/20211214-great-resignation-into-great-reshuffle> (last visited Jan. 13, 2022); see also, Mark C. Perna, 4 Ways 'The Great Reshuffle Can Help Us Reimagine the Employer-Employee Dynamic', *Forbes* (Nov. 9, 2021), <https://www.forbes.com/sites/markcperna/2021/11/09/4-ways-the-great-reshuffle-can-help-us-reimagine-the-employer-employee-dynamic/?sh=3dd21f1f37b3>.

State Bar of Georgia Expands Pro Bono Recognition Program

Attorneys who have met or exceeded their 50 hours of annual pro bono service will be included in the new recognition program.

BY Y. SOO JO AND SHARON A. LIM

In its continuing effort to promote awareness and recognition of the value of pro bono service to the legal profession and to those it serves, the State Bar of Georgia is pleased to announce a recognition program for attorneys who have met or exceeded their Georgia Rule of Professional Conduct 6.1 goal of 50 hours of annual pro bono service. This new program was developed by the Pro Bono Subcommittee of the State Bar's Access to Justice Committee in partnership with the Pro Bono Resource Center of the State Bar of Georgia. The program expands upon the State Bar of Georgia's existing Pro Bono Honor Roll—which was limited to attorneys participating in certain pro bono programs—to now include attorneys throughout the state who have met their pro bono goal through any service that comports with Rule 6.1 (a).

The State Bar's expanded Pro Bono Honor Roll will retain a Silver level of recognition for attorneys who have accepted at least one case through a structured, coordinated civil pro bono program registered with the Pro Bono Resource Center. However, attorneys who have provided pro bono service through any Rule 6.1 (a) qualifying service or program in the previous calendar year may now be inducted into the Pro Bono Honor Roll at the new Gold and Platinum levels for 50 hours and 100 hours of pro bono service, respectively. The annual Pro Bono Honor Roll is published in the June edition of the *Georgia Bar Journal*, and each annual list of honorees beginning in 2022 will be maintained online on the State Bar of Georgia's website. Honorees will also be recognized as a group at each annual State Bar of Georgia Pro Bono Awards reception.

This is a voluntary recognition program for which attorneys may self-report service hours from December of each service year



GETTYIMAGES.COM/SYAHIR MAULANA

through March of the following year by submitting a brief online form on the State Bar of Georgia's website (www.gabar.org/publicservice/pro-bono-awards-and-recognition.cfm). The form is available now through March 31, 2022, to submit pro bono hours from calendar year 2021.

As we all know, there is an ongoing need for legal services that are accessible despite geographical challenges, public crises or economic circumstances. This expansion of the Pro Bono Honor Roll is intended to more comprehensively recognize the dedicated service of those attorneys who have been providing these necessary services, and to foster a sense of community among pro bono attorneys throughout the state. It is the sincere hope of the Pro Bono Subcommittee of the Access to Justice Committee and the Pro Bono Resource Center of the State Bar of Georgia that this expansion of the Pro Bono Honor Roll will encourage and show appreciation to those who have long been committed to pro bono service without regard to recognition, as well as those who will be inspired to serve by the example of their colleagues who are recognized through this program.

Thank you to all who elevate our profession and serve the ends of justice by providing pro bono services. We see you, we appreciate you and we cordially invite you to participate in this expanded pro bono recognition program. ●



Y. Soo Jo

County Attorney
Fulton County Attorney's Office
soo.jo@fultoncountyga.gov

Sharon A. Lim

Assistant U.S. Attorney
U.S. Department of Justice



RESOURCE CENTER



The State Bar of Georgia can help you do pro bono!

- Law practice management support on pro bono issues
- Professional liability insurance coverage
- Free or reduced-cost CLE programs and webinars
- Web-based training and support for pro bono cases
- Honor roll and pro bono incentives

Visit www.gabar.org / www.GeorgiaAdvocates.org.

Fight Back Against the Hack

Businesses of all sizes have fallen prey to cyber criminals, and the legal profession is no exception. Take these steps to protect your data.

BY R. SCOTT REID

No business or industry is immune to a cyber-attack or data breach. Ninety-five percent of the Fortune 500 companies in America—as well as numerous government agencies such as the Internal Revenue Service, the Central Intelligence Agency, the Defense Department and even the White House—have been hacked or had data compromised.

Businesses of all sizes have fallen prey to cyber criminals, and the legal profession is no exception. Attorneys are required to comply with state and federal data security laws, regulations and standards that describe the ways in which data must be protected and define what constitutes a “data breach.”

For example, in Georgia, a data breach encompasses any way that information is lost, stolen or inadvertently disclosed. This means your computer systems do not have to be “hacked” to have a data breach. This includes things like laptop theft, lost USB memory sticks or portable drives, a lost mobile phone containing confidential client data and an email containing confidential information that is inadvertently sent to the wrong person—as well as the theft or improper disposal of paper documents.

Take the First Step

Given the many ways in which business data can be compromised, protecting it



GETTYIMAGES.COM/SOLARSEVEN

can be a challenge. The first step is to acknowledge that your business is at risk. Your clients and business partners—and state and federal regulators—all expect you to be able to safeguard confidential and private information.

Also, lawyers are held to a higher level of ethics and standards, which hold them responsible for ensuring the confidence all information gained in the professional relationship with a client.

Information security risks should be addressed in the same way that you address other business risks. Your business property is insured against damage, fire and theft. Your confidential information should be similarly protected.

Have a Risk Assessment and Compliance Audit

Having an independent, third-party risk assessment can help you identify potential threats; see where you are out of compliance with federal, state and industry requirements for information security; and identify areas where you are most vulnerable. In addition, a third-party report can enable you to demonstrate to clients that you are taking steps to protect their data and defend your business against potential litigation or possible future regulatory fines and penalties.

Establish a Solid Cybersecurity Foundation

Although a Risk Assessment and Compliance Audit may bring to light several areas that need improvement, addressing some cyber and data security basics can increase security immediately.

Encrypt Emails

At a minimum, emails containing sensitive or confidential information should be encrypted using your email provider's encryption service.

Never Use Public Wi-Fi

Use a virtual private network (VPN) app on both your phone and your laptop when using Wi-Fi to prevent criminals and hackers from watching what you are doing and stealing your data or passwords.

Don't Click on Suspicious Emails

Email is the No. 1 way that spyware and malware are deployed. Never click on the links in or the attachments to emails.

Back Up Your Data

In case your systems become infected or are held hostage, back up your files to the cloud.

Change Your Passwords

Stolen or weak passwords allow cyber criminals direct access to your computer and online accounts. Having complex, unique passwords for each application improves online security.

Evaluate Cyber and Data Breach Liability Insurance

Cyber insurance will *not* protect you against a cyberattack or data breach, but a good policy will enable you to survive one.

Look for insurance that provides coverage for both cyber breaches and data breaches as well as broad coverage for first-party expenses, such as breach response, credit notifications, forensic analysis, public relations consultants, cyber extortion payments, business-interruption costs for loss of income and restoration costs. In addition, the policy should also cover third-party expenses for violation of privacy laws, multimedia liability, regulatory fines, compensatory payments and legal defense costs, as well as the costs of potential future lawsuits and settlements.

Also be sure to find an insurance carrier that provides access to a Breach Response Call Center, or other telephone

support, that is staffed 24 hours a day, seven days a week, throughout the entire year and is available even if a breach is only *suspected*. This call center should provide you with access to breach response team(s) and legal counsel, as well as to other resources to develop a response plan and help you begin response and recovery activities.

Insurance cannot eliminate a data breach or be a replacement for data security; but it can provide a backstop of financial relief and access to support tools like the breach response call center. Having a separate insurance plan in place, specific to this exposure, is a critical component of your overall data breach preparedness.

The response costs associated with minimizing the damage of a data breach or cyberattack can be extensive and can even put a company out of business. Cyber and data breach liability insurance is affordable and helps mitigate the financial hardship of a cyberattack and data breach by offering coverage to help you pay for the costs of an event. ●

To learn about Cyber Liability and Data Breach insurance programs offered by Gallagher Affinity and Member Benefits, Inc., the Bar's recommended broker call, 1-800-282-8626 ext. 5002 or 1-512-765-9598 or reach out to Sheila Baldwin at 404-526-8618 or sheilab@gabar.org for assistance.

Scott Reid is the director of Association Cyber Insurance Programs for Gallagher Affinity/360 Coverage Pros, executive director of the Cyber and Data Security Association and works with trade groups and business coalitions—as well as with federal agencies such as the Department of Homeland Security, the Federal Bureau of Investigation, the Federal Trade Commission and the Small Business Administration—to address cybersecurity as a national security issue.

Wellness Through the Stages of Practice

This article features how Henry County Presiding Magistrate Judge Amanda Flora integrates wellness into her time on and off the bench.

BY MEGAN MURREN RITTLE

Wellness has become a term of such common vernacular that we see it everywhere—in advertising and labeling. Everyone from our grocery retailer to our insurance companies want to get in on our journeys that are becoming geared more and more toward wellness. But wellness, like style of eggs, is very specific to the person who is consuming it, and the phase of life (or day when we are talking eggs) that they are presently experiencing. Specifically, as it relates to lawyers, wellness can look very different at the beginning of practice than it does at a stage closer to retirement.

During 2021, the Attorney Wellness section of the *Bar Journal* featured articles exploring the different aspects of Designing an Integrated Life.¹ Throughout that series, we reviewed aspects of each area of wellness as defined by the American Bar Association, which includes emotional, social, physical, spiritual, intellectual and occupational well-being.² During the 2022 year, the Attorney Wellness section will feature Georgia Lawyers integrating their wellness into practice throughout the stages of practice.

Meet Hon. Amanda Flora. Judge Flora began her career in 2004 in public service at the Walton County District Attorney's office. After an opportunity came up in her home of Henry County, Flora made the move to the Henry County Public Defender's office where she stayed for seven and a half years before making a move to the other side of the "v" to the Clayton County Solicitor's Office and then to the

Henry County District Attorney's Office. In 2016, Flora left public service for private practice in a two-woman firm where she stayed for two years before she got her call to the bench.

Throughout her career, Flora has always made her well-being a priority. "I am really big on self-care," Flora shared. "I have a group of girlfriends that I take a quarterly spa day with." Flora explained that she and her group take a whole day to get massages, visit the steam room, chat, have some wine, eat lunch and go home. One of the important components to her successful quarterly decompress days? No lawyers! "It never ends and we can't turn it off with lawyers! It has always been important to me to get away from shop talk."

While always prioritizing her mental, social and emotional well-being, making the move to private practice helped Judge Flora find space for her physical well-being, too. "After six months [in private practice], I joined a gym. It was convenient for me to work out in the morning before work, come to the office to shower and get ready." Flora says that the time spent in the gym five days a week before work gave her more energy and allowed her to relax in the morning before the day got hectic. "The routine felt good."

Although her routine had her feeling well and balanced in practice, Flora's commitment to her well-being would prove lifesaving in the winter months of 2018-19.

In December of 2018, Flora was sworn in as presiding magistrate of Henry Coun-

ty. At the same time, the other attorney in her firm, Hon. Pandora Palmer, got her call to the State Court of Henry County. "We had to shut down two practices and 180 cases in a matter of months."

Shutting down a practice and transitioning to a judgeship was not the only big change life had in store for Flora in December of 2018. During that time, she and her husband, Wade, had been working through the adoption process. On Dec. 28, 2018, their son, Trevor, made his debut into the world. "We had to go to Florida to get him that day, but we had to wait 11 days before we could leave. I became a full-time magistrate on Jan. 1, 2019." Although Flora was given some leeway from the chief magistrate at the time, she started back to work full-time on Jan. 26, 2019. Trevor was barely a month old. "We were so fortunate that my husband was already working from home. He took care of Trevor until he could start daycare."

With all the new life changes on top of the stress of the holiday season in general, Flora had put off checking in with her health care provider about some physical symptoms she was experiencing. "My vision was getting bad and, with everything that was happening, I did not take the time to get it checked."

In February 2019, Flora was attending a baby shower with friends and family when she realized that she could not see the faces of the people across the room. She said as much to her husband and they decided she needed to make an appointment to figure



out what the problem was. Shortly thereafter Flora was diagnosed with multiple sclerosis. Multiple sclerosis (commonly referred to as MS) is a disease that impacts the brain and spinal cord which make up the central nervous system.³ MS involves an immune-mediated process in which an abnormal response of the body's immune system is directed against the central nervous system. In layman's terms, the body attacks itself causing a multitude of unpredictable symptoms.

"It was a shocker. And I did not know what to expect. There were so many unknowns," Flora said of the days following her diagnosis. On Feb. 12, 2019, Flora drove to a doctor in Atlanta where she would spend the next five days treating her current symptoms and learning how to cope moving forward. "Luckily, I have a great physician and I have not had a relapse since." Flora also noted that the treatment for MS has changed significantly and become so much more advanced from what it once was so that a person can continue to live and thrive with MS. "I want people to know that I am a successfully living and practicing judge with MS," says Flora.

The pandemic, in a sense, has helped Flora to successfully continue to practice. While getting her treatments for MS, Flora can also conduct virtual hearings. "I can sit in the chair and get my treatments at the same time I swear out warrants in the virtual setting."

In order to prevent any future relapse, Flora has to make wellness a priority. "I

take it day by day. Every day, when I wake up, I must assess myself and how do I feel that day? I try not to get too stressed because stress can bring on symptoms."

How does a mom of a toddler and practicing judge avoid stress? "I am very lucky that my husband, Wade, is an equal parent to me. I know a lot of mothers do not have the support that I have. He makes sure when I take those spa days that he can take care of Trevor." Flora also credits her family system that she can lean on for support.

The judgeship has also been a blessing for this season of life for Flora. "This has been my dream ever since I came to the public defender's office in 2006. I used to tell the magistrate at the time, 'I want your job.' To have that now, it fits with my season of life. It allows for me to be there for my son, to pick him up from school and be there for doctor's visits."

Having faced some of the toughest challenges that life can throw one person (in two months), Flora has some advice for layers who are navigating their own seasons and challenges. "We put a lot of pressure on ourselves where it is frowned upon if we take a day or don't work 24/7. You have to find that work-life balance. Being at the office until 8 p.m. is not something to brag about. You cannot sustain that." Flora noted how important it is as colleagues for lawyers to allow each other to be well and practice wellness, in addition to focusing on our own well-being. "We have to give each other that leeway. We can be each other's worst enemy sometimes."

Flora wants to encourage younger lawyers to follow the experience and not the money. "The younger generation of lawyers has a grandiose idea of being successful and making a lot of money. I cannot stress how unimportant that is in the beginning. The experience is so much more important." ●

Content for the Attorney Wellness section of the Georgia Bar Journal is provided by members of the Print and Media Subcommittee of the State Bar of Georgia Wellness Committee.



Megan Murren Rittle is a partner at the law firm of Smith, Welch, Webb and White, LLC, practicing in the education and general civil litigation groups. She is an avid runner and swimmer, and her favorite food is sushi or ice cream. Rittle lives in Atlanta with her husband, Tom, and their fur babies.

Endnotes

1. See "Designing and Living an Integrated Life," Plamen Russev, Georgia Bar Journal, Feb. 2021, pp. 50-53.
2. "The Path to Lawyer Well-Being," National Task Force on Lawyer Well-Being (2017), p. 9, <https://lawyerwellbeing.net/wp-content/uploads/2017/11/Lawyer-Wellbeing-Report.pdf>.
3. <https://www.nationalmssociety.org/What-is-MS>.

Writing Matters to Clients

This installment of “Writing Matters” discusses some recent cases that highlight the fundamental reason why writing does in fact matter.

BY DAVID HRICIK AND KAREN J. SNEDDON

Our first “Writing Matters” column was published in April 2007. Most of our columns have explained one way or another *how* to write better. Some have explained *why* to follow our advice—to avoid ambiguity, to be more concise or simply to use good English. Others have emphasized the importance of reading text closely as part of the writing process: both as part of the proofreading process and to consider how the audience will apprehend a particular text. And yet others have focused on the creation of specific types of documents. Our key message has been that writing and reading with care does in fact matter.

This installment of “Writing Matters” discusses some recent cases that highlight the fundamental reason why it does: poor legal writing can harm clients, and careful reading of text can be critical to their cause. Even sentence construction and punctuation use can be outcome determinative. That is the focus of this installment.

Limiting Use of Long Sentences and Avoiding Run-on Sentences

Complex ideas don’t require complex sentences. While long sentences can be an intentional technique to connect a series of ideas, their use may be or the result of a cut-and-paste mistake. Our past columns have noted that sentences exceeding 25 words may pose readability and comprehension reasons. For that reason, short sentences are generally better.

Particularly in litigation, where the time that a court may spend with a text is limited, being precise and concise is critical. In a recent case, the U.S. Court of Appeals for the Seventh Circuit affirmed dismissal of an amended complaint where, among other things, the proposed amendment had at least “23 sentences contained 100 or more words,” including sentences “of 385, 345, and 291 words but does not include sentences set off with multiple subsections.”¹

A long sentence might be a run-on sentence. Run-on sentences are grammatically incorrect, and courts also stress that “they create confusion.”² In a recent case involving breach of contract, a party asserted it had no liability because the contract being litigated had required notice and an opportunity to cure before suit, and the other party had failed to provide it. The district court rejected the argument because the cure provision in the contract “consists of a single run-on sentence that is, to say the least, difficult to parse,” and while “one might make a reasonable guess as to what the parties intended the agreement to require,” the court would not let a jury guess at what the notice provision meant.³

Long sentences and run-on sentences can muddle analysis, confuse the reader and harm the client. Pay attention to the length of sentences and to proper grammar. And, when a long sentence is appropriate, craft a strong construction that uses active voice.

Using Proper Punctuation in Your Writing and Carefully Analyze Contracts or Statutes for Punctuation-Based Arguments

Punctuation is vital to creating meaning. Punctuation helps segment the text into meaningful units of information so that the reader can process the information. Punctuation can facilitate recall of information, too. Improperly used, punctuation creates problems for clients. When the meaning of a contract or statute is disputed, attention to punctuation can be critical for success.

The use (or misuse) of a single comma can be outcome determinative. Demonstrating this, a district court recently used the internet meme “Commas Save Lives” to remind lawyers of the importance of commas. That meme did so by showing that adding a comma to “Let’s eat Grandma” to make it “Let’s eat, Grandma” turned a call for cannibalism into a request to share a meal with Grandma.⁴

Punctuation matters in all legal writing. Its use (or misuse) is often particularly notable in transactional documents. One court recently emphasized that punctuation “is significant and affects meaning in written contracts.”⁵ In the context of wills, the so-called Oxford comma⁶ is a notorious form of punctuation, one with known potential for creating ambiguous testamentary gifts. As an example, a court recently was called upon to unpack a testamentary gift to children. As the court shared, “a bequest



to three children phrased as ‘to Alice, Bill and Claire in equal shares’ could potentially result in a distribution of 50% to Alice and the remaining 50% to Bill and Claire to share. However, a bequest ‘to Alice, Bill, and Claire in equal shares’ would clearly result in each beneficiary receiving 1/3 of the estate.”⁷ Lawyers drafting transactional documents must pay attention to punctuation to avoid these ambiguities. Those litigating the meaning of transactional documents should look for opportunities to exploit ambiguities when it favors their clients.

Statutory interpretation, too, often turns on punctuation use. Again, the Oxford comma creates problems. In a recent case before the Texas Supreme Court, a statute required that, upon dismissal of a suit, courts award “court costs, reasonable attorney’s fees, and other expenses incurred in defending against the legal action as justice and equity may require.” The question was whether “justice and equity” was a condition for *any* award or *only* for an award of expenses.⁸ Each party focused on the punctuation and the Court held that the use of the Oxford comma indicated that “the Legislature intended to limit the justice-and-equity modifier to other expenses,” and not to attorneys’ fees.⁹ The prevailing lawyers were able to use placement of a comma to win the case for their client.

These cases show that punctuation matters. When drafting legal documents lawyers must pay careful atten-

tion to punctuation, and those who litigate must carefully read text to identify all available arguments. Punctuation can control meaning.

Conclusion

Legal writing matters, as does carefully reading even the punctuation in contracts, wills and statutes. These recent cases illustrate that legal writing matters in practice and to clients. ●



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 interim dean and professor of law at Mercer University School of Law.

Endnotes

1. Stanard v. Nygren, 658 F.3d 792, 798 (7th Cir. 2011). The complaint was also full of typographical errors – so many that they were “too numerous to add [sic] where required.” *Id.*
2. Quigley v. Com., Dep’t of Transp., Bureau of Driver Licensing, 965 A.2d 349, 358 (Pa. Commw. Ct. 2009).

3. Exodus Partners, LLC v. Cooke, 04 CIV. 10239 GEL, 2007 WL 120053, at *10 (S.D.N.Y. Jan. 17, 2007). The clause read: At the conclusion of the thirty (30) day period, the challenging party shall determine if the non-compliant party has sufficiently cured the problem and this determination shall not be unreasonably withheld, (b) in the event the venture disposes of more than ninety percent (90%) of the 1031 Property, (c) if [the Realty Corporation or Exodus] files for bankruptcy or reorganization or such a filing is made against [one of them] and not withdrawn within 90 days, (d) if [the Realty Corporation or Exodus] so elect[s] following the term of the Agreement for certain breaches, or (e) if required by law[.]
4. *Id.* (citing *See* Pinterest, “Meme-tastic,” Commas Save Lives meme, <https://www.pinterest.com/sitelab/meme-tastic/> (last viewed Dec. 1, 2016)).
5. Han v. Synergy Homecare Franchising, LLC, 16-CV-03759-KAW, 2017 WL 446881, at *5 (N.D. Cal. Feb. 2, 2017).
6. When commas are used to separate three or more items in a list the final comma before the “and” or “or” is called the Oxford Comma. The Oxford Comma is also called the serial comma.
7. Han v. Synergy Homecare Franchising, LLC, 16-CV-03759-KAW, 2017 WL 446881, at *5 (N.D. Cal. Feb. 2, 2017).
8. Sullivan v. Abraham, 488 S.W.3d 294, 296 (Tex. 2016).
9. *Id.*

Designated Attorney Fellowship and CLE

The Chief Justice's Commission on Professionalism hosted a Designated Attorney Fellowship and CLE on Dec. 17, 2021.

BY KARLISE Y. GRIER



SCREENSHOT COURTESY OF KARLISE Y. GRIER

Chief Justice David E. Nahmias shared that he hoped planning for a volunteer designated attorney becomes a normal routine of law practice management.

“The Lawyer’s Creed¹ encourages us to prioritize fidelity to our clients and to preserve the dignity and integrity of our profession. An important way to adhere to these ideals is to engage in succession planning for your practice,” said State Bar of Georgia Committee on Professionalism Vice Chair and CLE program Co-Chair Terrica Ganzy, who opened the Chief Justice’s Commission on Professionalism’s Designated Attorney Fellowship and CLE on Dec. 17, 2021. The Commission hosted the Designated Attorney Fellowship and CLE, in part, to assist the State Bar of Georgia in educating attorneys about the voluntary Designated Attorney Program and to alert attorneys, regardless of their age or practice setting, that selecting or becoming a volunteer designated attorney is an affirmative way to enhance professionalism and a sense of community among lawyers.² Ganzy, who serves as the executive director of the Southern Center for Human Rights, also told the CLE audience she looked at the topic of designated attorneys and succession planning in a whole new light because in May 2021, the Southern Center lost a dear friend and colleague, Marissa McCall Dodson, who died unexpectedly at the age of 37. Ganzy continued, “We often live each day like we’ll

Are you ready?



GETTYIMAGES.COM/MICHAIL_PETROV-96

have many more tomorrows, like sudden illness couldn't strike us or people in our care, like natural disasters happen to other people, as if each day is going to be sunshine and blue skies. But failing to think about and prepare for rainy days does not prevent them from occurring. And rainy days happen to organizations, too."

Jim Hogan, another presenter at the CLE, spoke about his experiences after years of volunteering with the Cobb County Bar Association to assist the staff and families of deceased attorneys in winding up their practices. One thing Hogan noted about solo practitioners in particular was that through the years of helping in this process, he learned that most of the spouses of a deceased lawyer had little or no knowledge of the inner workings of the law practice. Hogan concluded, "If we care about our spouses and families and the difficulties they may face in the absence of a smooth transition of our law practice, then we need to make a succession plan a priority." Takisha Heyward confirmed Hogan's anecdotal observations from her own personal experience. Heyward lost her husband, attorney Sparticus Heyward then age 45, in February 2021, in a car accident. Ms. Heyward said she and her husband did not discuss the operation of his law practice

and she had very little information about it at the time of his death. In addition, she said that while she and her husband had discussed preparing a will, they thought they had more time to do so. In the midst of grieving for her husband, Heyward shared she received calls from her late husband's clients about their cases. One client's case was scheduled for a murder trial the week after her husband's death. She said having attorney Jim Hogan to assist her in transitioning her husband's cases to other attorneys was a tremendous help. She encouraged attorneys to learn from her experience and to discuss the basics of their law practices with their spouses, partners or other family members, and to have plans in place if the unexpected happened.

Hon. LaTisha Dear Jackson and Hon. Martin Valbuena spoke about their experiences helping to wind up practices for attorneys who had unexpectedly left the practice of law. Prior to becoming a judge in the DeKalb County Superior Court, Dear Jackson said she shared space with another attorney who unexpectedly entered a coma and then later died. Since she shared space with the attorney, Dear Jackson assisted in managing the attorney's affairs when his unexpected absence occurred. She emphasized that attorneys

who ensure their volunteer designated attorney can easily determine their cases' status—and especially upcoming court dates, depositions and mediations—not only perform a professionalism service for their clients, but also for opposing counsel and the courts. Valbuena, a member of the State Bar of Georgia's Executive Committee, concurred and shared an experience in which he was able to easily transition cases in one instance compared with difficulties in another instance when information was not as readily available.

Bill Gentry, another member of the State Bar of Georgia's Executive Committee and the chair of the Senior Lawyers Committee, who also served as a co-chair of the CLE Program, explained to the audience the numerous resources that are available to Bar members on the Bar's Sudden Health Crisis Succession Plan (SHCSP) webpage.³ The SHCSP portal is divided into two primary sections, he said. The first section is designed with resources to help lawyers plan in advance for a possible sudden exit from the practice of law. The other section of the portal is designed to help guide a lawyer's staff and family through the process of closing down and transitioning the lawyer's practice in the event that the lawyer had

The Commission encourages all lawyers—regardless of their age or practice setting—to establish a meaningful relationship with a volunteer designated attorney and to create and regularly update a sudden health crisis succession plan.

failed to create a sudden health crisis exit plan from the practice of law. Gentry also encouraged attorneys to consider how the one or two people with the most knowledge of the workings of the firm and the clients' cases, would be compensated for a reasonable period of time crisis to help in transitioning the clients' cases, and perhaps to preserve any value of the practice for the absent attorney's family, after an attorney's death or sudden health crisis.

Nkoyo Effiong, director of the Bar's Law Practice Management Program, also told the audience how her office could assist Bar members in planning for unexpected absences from the practice of law. She shared that technology such as password management software could greatly assist a volunteer designated attorney if the unexpected happened. She also explained that her office could assist attorneys in finding the correct software to meet their needs for both day-to-day law practice management and if a volunteer designated attorney needed to assist in transitioning an absent attorney's cases. Paula Frederick, the general counsel for the State Bar of Georgia and a member of the CLE planning team, reviewed some of the ethical rules that govern receiverships. She said that not all volunteer designated attorneys needed to be appointed as receivers, but she discussed the process if a receivership was needed and when a volunteer designated attorney might want to consider a receivership. Frederick also talked about the impact on clients when a volunteer designated attorney could not be located and the State Bar of Georgia became the receiver.

To close the CLE program, Chief Justice David E. Nahmias shared his thoughts. He said that the Commission hoped that planning for a volunteer designated attorney becomes as much a part of the normal routine of law practice management as using written retainer agreements and establishing sound fiscal practices for managing trust accounts. Lawyers are an integral part in ensuring the efficient and effective administration of justice, he continued. If an attorney leaves the practice of law with little to no advance warning, whether due to death, disability or otherwise, making plans in advance for how to transition client files and property not only fulfills a private duty to a client, it is also in the public interest. It is a courtesy that judges will appreciate because it is a great help to the courts as the court fulfills its responsibilities to all of the parties.

The CLE was moderated by Commission member Molly Barrett Gillis, a partner at the Gillis Law Firm, LLC. During the CLE, Gillis discussed the importance of a lawyer's reputation. She then shared that if she unexpectedly became absent from the practice of law, she would want her clients to remember in their last interactions with her law practice that Gillis had taken steps to ensure her client's cases were properly handled and smoothly transitioned to another attorney. In conclusion, the Commission encourages all lawyers—regardless of their age or practice setting—to establish a meaningful relationship with a volunteer designated attorney and to create and regularly update a sudden health crisis succession plan. ●



Karlise Y. Grier
Executive Director
Chief Justice's Commission
on Professionalism

kygrier@cjcpga.org

Endnotes

1. See *A Lawyer's Creed and the Aspirational Statement on Professionalism*, <http://cjcpga.org/wp-content/uploads/2019/07/2-Lawyers-CreedAspStatement-v-2013-Line-Number-with-new-logo-and-seal-v07-25-19.pdf>.
2. Beginning with the State Bar of Georgia's 2018-19 State Bar of Georgia License Fee Notice, the Bar began to ask attorneys to nominate a fellow Georgia Bar member to assist with coordinating the return of client files and property in the event the attorney completing the License Fee Notice became an "absent attorney" as defined under Rule 4-228(a) of the Georgia Rules of Professional Conduct. In implementing this voluntary program, the Bar asked attorneys to consider, "What happens to your clients if you suddenly become an 'absent attorney,' one who leaves the practice of law with little to no advance warning, whether due to death, disability or otherwise?" Noting that other states that had implemented this program had seen substantial success in timely transitioning client files to other lawyers, the Bar encouraged Georgia lawyers to speak with another lawyer and obtain his or her willingness to work with the State Bar to return files and other property to clients in the event an attorney became an absent attorney through death, disability or otherwise.
3. See <https://www.gabar.org/attorneyresources/succession.cfm>.

A blurred hospital scene with medical staff and a patient's hands being held. The text "When life doesn't make sense." is overlaid on the left side of the image.

When life doesn't make sense.

The SOLACE program is designed to assist any member of the legal community (lawyers, judges, law office and court staff, law students and their families) in Georgia who suffer serious loss due to a sudden catastrophic event, injury or illness. Visit www.gabar.org for more information on SOLACE, or email solace@gabar.org.

SOLACE
Support of Lawyers, All Concern Encouraged

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.

JAMES MICHAEL ADAM
Gainesville, Georgia
Atlanta Law School (1990)
Admitted 1991
Died November 2021

DUNCAN HAMILTON ADAMS
Savannah, Georgia
Emory University School of Law (1998)
Admitted 1999
Died September 2021

ANSEL L. BRADLEY
Crossville, Tennessee
Atlanta Law School (1948)
Admitted 1948
Died September 2021

GREGORY SCOTT BROW
Atlanta, Georgia
University of North Carolina School of Law (1995)
Admitted 1996
Died November 2021

SIDNEY M. CALLOWAY
Atlanta, Georgia
Woodrow Wilson College of Law (1976)
Admitted 1976
Died December 2021

W. KENT CAMPBELL
Covington, Georgia
University of Georgia School of Law (1968)
Admitted 1969
Died November 2021

JAMES H. COX
Clarkesville, Georgia
University of Georgia School of Law (1975)
Admitted 1975
Died January 2022

RODERICK A. DOWLING
Atlanta, Georgia
Fordham University NY School of Law (1965)
Admitted 1974
Died November 2021

WILLIAM F. EVERILL
Jacksonville, Florida
Mercer University Walter F. George School of Law (1953)
Admitted 1956
Died January 2022

JOHN W. FOLSOM
Doraville, Georgia
Woodrow Wilson College of Law (1970)
Admitted 1971
Died January 2022

DAWN YVETT GARRISON
Lawrenceville, Georgia
Atlanta's John Marshall Law School (2015)
Admitted 2021
Died October 2021

GENE EDWARD GARRISON
Proctor, Montana
Western State University College of Law (1978)
Admitted 1981
Died March 2021

CRAWFORD E. HICKS
Warner Robins, Georgia
University of Louisville Louis D. Brandeis School of Law (1960)
Admitted 1972
Died October 2021

BUELL VERNON INGRAM
Rockmart, Georgia
Atlanta Law School (1948)
Admitted 1950
Died February 2021

LAURA M. JACK
Dillard, Georgia
Samford University School of Law (1983)
Admitted 1984
Died November 2021

HOLLIS GAROLD JORDAN
Atlanta, Georgia
Samford University Cumberland School of Law (1979)
Admitted 1979
Died December 2021

SANFORD R. KARESH
Marietta, Georgia
University of Georgia School of Law (1958)
Admitted 1960
Died January 2022

WILLIAM W. LAVIGNO III
Conyers, Georgia
University of Georgia School of Law (1972)
Admitted 1972
Died November 2021

ROBERT F. LYLE
Madison, Georgia
University of Virginia School of Law (1956)
Admitted 1957
Died December 2021

THOMAS H. MORTON
Zebulon, Georgia
Mercer University Walter F. George School of Law (1949)
Admitted 1949
Died December 2021

MATTHEW H. PATTON
Dallas, Texas
Emory University School of Law (1963)
Admitted 1963
Died January 2022

HARDY E. PICKERING JR.
Atlanta, Georgia
Woodrow Wilson College of Law (1956)
Admitted 1956
Died January 2022

TIMOTHY D. SCRANTOM
Charleston, South Carolina
University of Georgia School of Law (1983)
Admitted 1983
Died October 2021

HUBERT CURTIS SHIRLEY
Jefferson, Georgia
Georgia State University College of Law (1987)
Admitted 1988
Died November 2021

MARK OWINGS SHRIVER IV
Williamsburg, Virginia
Emory University School of Law (1981)
Admitted 1981
Died October 2021

ERIN ELIZABETH SUSSMAN
Martinez, Georgia
Florida Coastal School of Law (2014)
Admitted 2016
Died October 2021

OSCAR DERWARD TOLER JR.
Monroe, Georgia
Emory University School of Law (1972)
Admitted 1972
Died February 2021

PRENTISS Q. YANCEY JR.
Stone Mountain, Georgia
Emory University School of Law (1969)
Admitted 1970
Died November 2021

OBITUARIES



James Hadley Cox III, passed away in January. He was born in Cordele, Georgia, on July 18, 1950, to the late James and Linda Cox.

Cox graduated from the University of Georgia with a BA in 1972. After graduation he was admitted to the University of Georgia School of Law and the Business School where he received both his juris doctorate and MBA in 1975. After passing the bar exam, he was admitted to the State Bar of Georgia and moved to Atlanta where he established an impressive practice over his 46-year legal career.

In 1975, he began his career as legal counsel for Gulf Oil Corporation. In 1978, he joined Redfern, Butler and Morgan, which later merged with Hurt Richardson Garner Todd & Cadenhead where he was elected partner in 1982. During his time at HRFT&C, he served on the management committee and later became sole managing partner. In 1993, he joined Paul Hastings Janofsky & Walker, and later joined Greenberg Traurig in 2002.

In 2011, Cox decided to leave big city law practice and moved to Clarkesville, Georgia, to practice law as a sole practitioner. In 2014, he joined the Carr Law Group where he remained until he retired in September 2021.

Cox tried cases in state and federal courts throughout the country and was a very active member of the State Bar of Georgia throughout his career, serving as president of the Younger Lawyers Section (now the Young Lawyers Division) of the State Bar of Georgia in 1986. He also served on the Executive Committee of the Board of Governors and the governor's Judicial Nominating Commission. He gave his time and service to the Bar by being involved and leading many committees over the years. ●



William Watson Lavigno III, 74, of Lilburn, passed away in November.

Lavigno was born on May 5, 1947, in Augusta, Georgia, to William and Virginia Lavigno. After graduating from Thomson High School, Lavigno enrolled at the University of Georgia, where he received both his Bachelor of Business Administration and his Juris Doctor degrees. He entered law practice in 1972, focusing on criminal defense, child custody litigation and personal injury cases. His compassion for youth led him to accept the position of Juvenile Court judge for Rockdale County in 1979, where he served until 1996.

Community involvement included serving on the Board of Directors of Rockdale Community Bank until its merger with Regions in 1996. Lavigno supported local charities such as the Miracle League of Rockdale County and Project ReNeWal and participated in the Pro Bono Project with the State Bar of Georgia, providing representation to indigent citizens. He was a member of the State Bar of Georgia, Georgia Association of Criminal Defense Lawyers, Georgia Trial Lawyers Association and the Rockdale County Bar Association. ●



Matthew H. Patton, 86, of Dallas, passed away in January.

Patton was born in 1936, in Carroll County, Georgia. He graduated from Darlington School in 1954 and from Duke University in 1958 with an A.B. in history, where he was a member of Phi Delta Theta fraternity and later received Golden Legion recognition for being a member for 50 years. Patton studied at Southern Baptist Theological Seminary before graduating from Emory University School of Law. He spent his entire legal career in Atlanta with the law firm of Kilpatrick Townsend & Stockton, formerly Kilpatrick, Cody, Rogers, McClatchey & Regenstien.

From his arrival as an associate to his full retirement in 2018, the firm grew from 20 to more than 600 lawyers. Tremendously talented and widely recognized as a top courtroom advocate, Patton was the lead trial attorney on numerous high-profile matters. While at Kilpatrick, Patton mentored and took great pride in training the next generation of lawyers.

Patton held numerous professional offices, serving on the Board of Governors of the State Bar of Georgia for 36 years, presiding over the State Bar's Younger Lawyers Section (now the Young Lawyers Division) and heading the Georgia Chapter of the American Board of Trial Advocates. ●

Memorial Gifts

Memorial Gifts are a meaningful way to honor a loved one. The Georgia Bar Foundation furnishes the *Georgia Bar Journal* with memorials to honor deceased members of the State Bar of Georgia. Memorial contributions may be sent to the Georgia Bar Foundation, 104 Marietta St. NW, Suite 610, Atlanta, GA 30303, stating in whose memory they are made.

The Foundation will notify the family of the deceased of the gift and the name of the donor. Contributions are tax deductible. Unless otherwise directed by the donor, In Memoriam contributions will be used for Fellows programs of the Georgia Bar Foundation.

Note: ICLE courses listed here are subject to change and availability. For the most up-to-date ICLE program details, please visit our page at www.gabar.org/ICLEcourses. For questions and concerns regarding course postings, please email ICLE@gabar.org.

FEBRUARY

- 17 Civil Prosecutions of DUI & Dram Shop Cases in Georgia**
6 CLE
Register at www.gabar.org/civil-prosecutions-dui
- 25 Trial Advocacy**
6 CLE
Register at www.gabar.org/ICLEcourses

MARCH

- 2 Secured Lending**
6 CLE
Register at www.gabar.org/secured-lending
- 4 Estate Planning**
6 CLE
Register at www.gabar.org/estate-planning
- 8 Georgia Auto Insurance Claims Law**
6 CLE
Register at www.gabar.org/ICLEcourses
- 23 Adoption Law**
6 CLE
Register at www.gabar.org/adoption-law
- 30 Economic Development**
6 CLE
Register at www.gabar.org/ICLEcourses

APRIL

- 8 Social Security Law**
6 CLE
Register at www.gabar.org/ICLEcourses
- 13 Health Care Fraud**
6 CLE
Register at www.gabar.org/ICLEcourses
- 20 Basic Fiduciary Law 101**
6 CLE
Register at www.gabar.org/ICLEcourses
- 22 Eminent Domain**
6 CLE
Register at www.gabar.org/ICLEcourses

make plans to attend

ICLE INSTITUTES



General Practice & Trial Law

March 17-19, 2022

Omni Amelia Island Resort

Family Law

May 19-21, 2022

Westin Hilton Head Island Resort & Spa

Real Property Law

May 19-21, 2022

Omni Hilton Head Oceanfront

Fiduciary Law

July 14-16, 2022

Omni Amelia Island Resort

By registering for in-person attendance you agree to comply with State Bar of Georgia safety measures, which include social distancing and wearing a mask that covers your nose and mouth.

**Please note : Not all programs listed are open for registration at this time.*

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
SOLACE
#UseYour6

GEORGIA
LAWYERS
LIVING WELL
lawyerslivingwell.org

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



PROPERTY/RENTALS/OFFICE SPACE


Rent Your Empty Office to a Lawyer. Find a Match on our platform exclusive for lawyers sharing office space. www.LawSpaceMatch.com. Created by lawyers for lawyers.

2800 square foot light filled executive office space for lease in the heart of Buckhead. Drive up to front door. Six individual offices, large conference room, break room, server room, private bathrooms and large administrative staff area. Ideal for and previously occupied by law firm. Contact Allen at 404-229-9660 for additional information.

Prime downtown Atlanta location with office space available to rent in the State Bar of Georgia building. Space available is from 5,000 square feet to 15,000 square feet. Will subdivide for your needs. Includes break room/server room/copy room. Also available are seven individual offices ranging from 200-400 square feet, includes access to shared break room. Prefer law-related tenant. Space is available immediately. Building is technology-equipped. The rent includes all taxes, standard utility costs and common area maintenance costs as well. Guaranteed parking based upon amount of space occupied. Additional non-guaranteed parking available at predetermined rates. Easy access to: federal, state and local government offices; State Farm Arena; CNN; and Mercedes Benz Stadium. Contact Steve at Steven.Hallstrom@cis.cushwake.com.

Advertisers Index

- 1 ALPS
- IFC Law Pay
- IBC Member Benefits, Inc.
- 41 Warren R. Hinds, P.C.



Are you attracting
the right audience
for your services?

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.





Group health and employee benefits for Georgia law firms.

As a member of the State Bar of Georgia you have access to group health solutions that allow you to **customize your own employee benefits management portal** — and select from the most competitive group insurance plans on the market.

Enjoy return-of-premium opportunities, large provider networks, flexible plan designs, defined contribution capabilities, and concessions on ancillary products.

Take control your firm's healthcare expenses while providing personalized coverage options to your employees.

Request a **free quote**: 1-800-282-8626 or memberbenefits.com/gabar

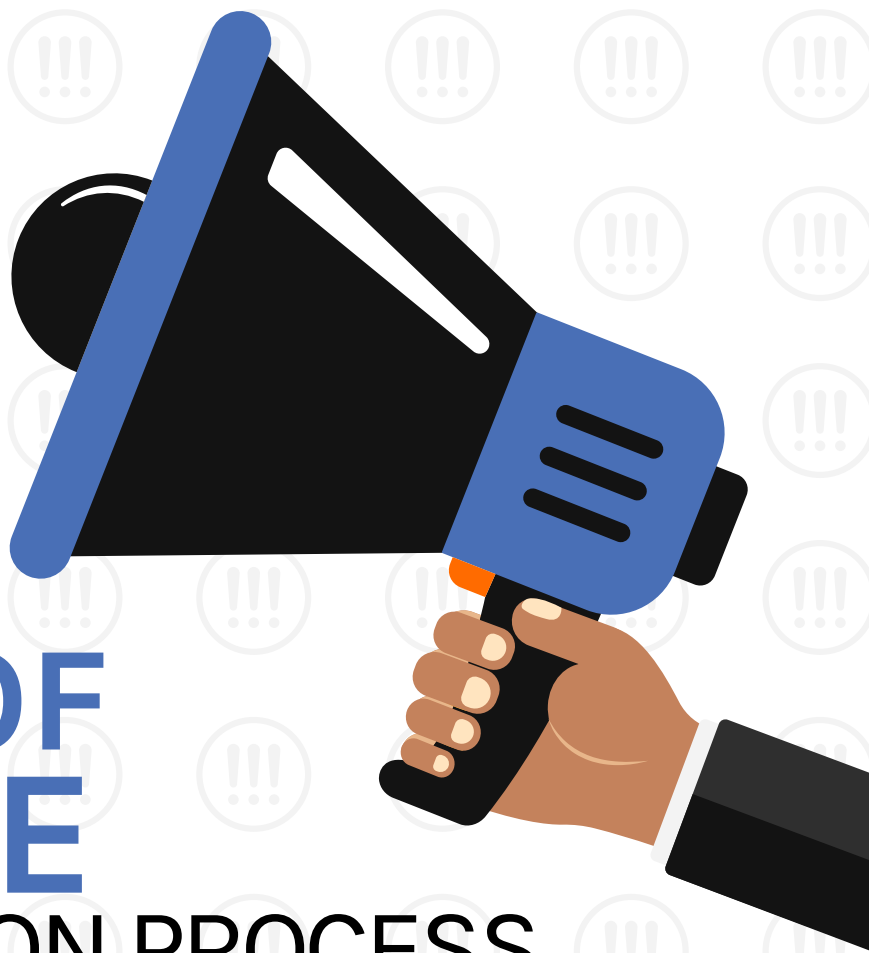
ADMINISTERED BY:

MB | MemberBenefits

RECOMMENDED BROKER OF THE:



State Bar
of Georgia



NOTICE OF CHANGE IN BAR ELECTION PROCESS

The State Bar of Georgia is transitioning to electronic ballots starting with the 2022 State Bar election.

- > All eligible voting members will receive an electronic ballot in March 2022.
- > If you prefer to vote by mail, you may change your ballot mailing preference via your online account by selecting “edit personal preferences” and indicating “no” next to “receive electronic ballot.” If you prefer to vote electronically, no action is needed.
- > Need assistance? Contact membership@gabar.org.



State Bar
of Georgia