

June 2022

Volume 27, Number 6

GEORGIA BAR

JOURNAL

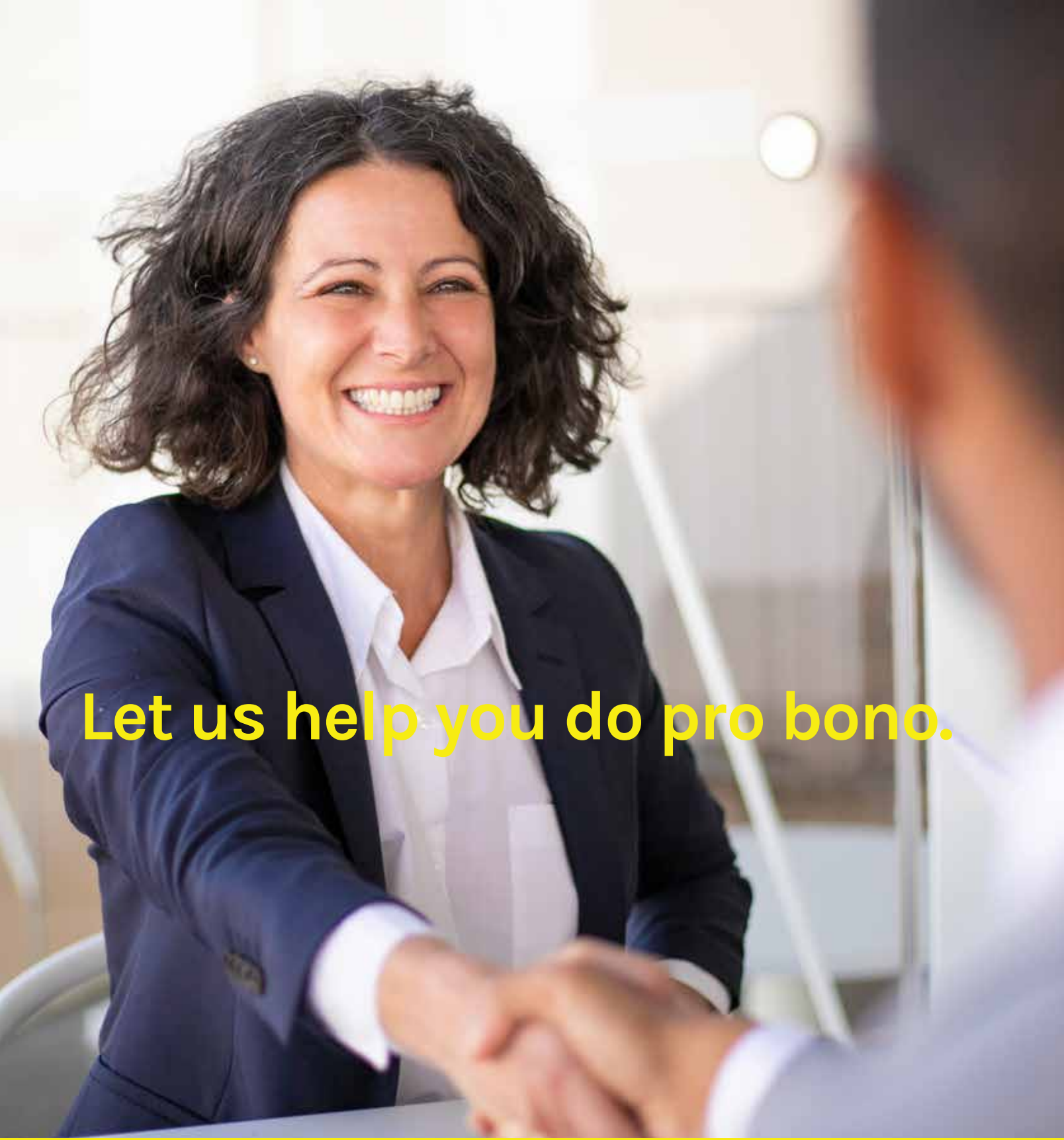
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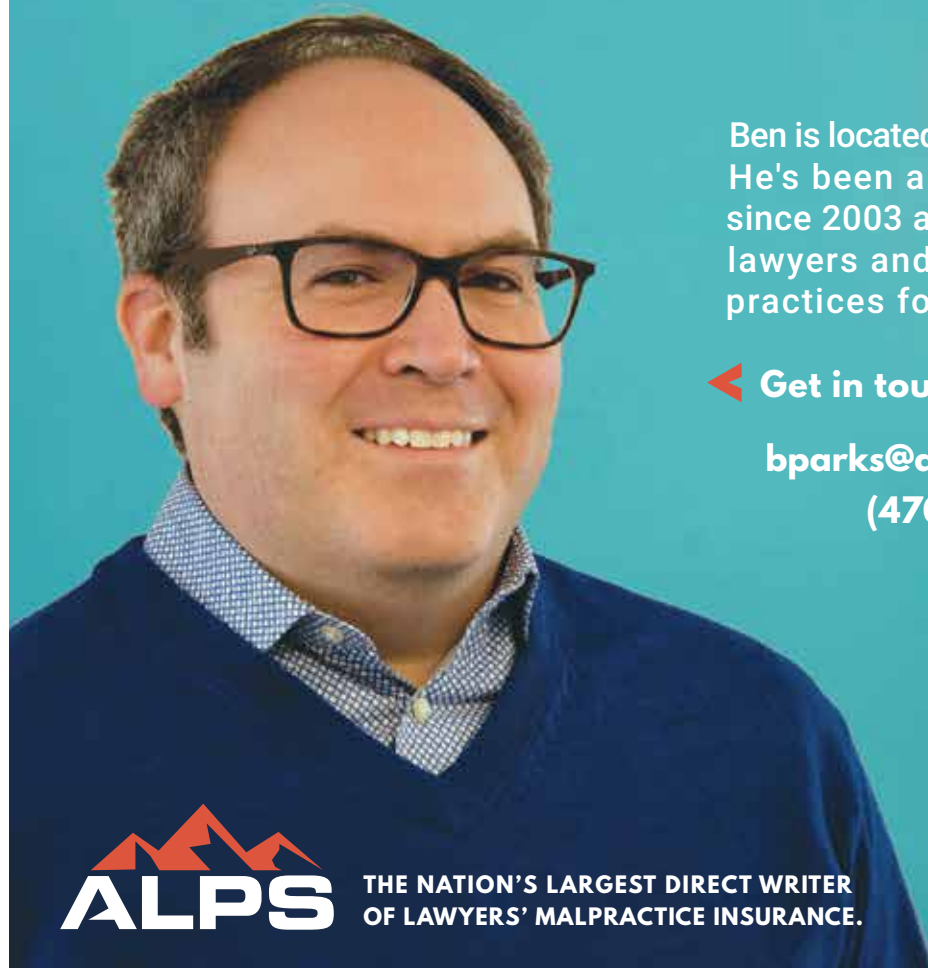
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The *Georgia Bar Journal* welcomes the submission of news about local and voluntary bar association happenings, Bar members, law firms and topics of interest to attorneys in Georgia. Please send news releases and other information to: Jada Pettus, Administrative Assistant, 104 Marietta St. NW, Suite 100, Atlanta, GA 30303; 404-527-8791; jadap@gabar.org.

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The June Issue

Thank you for picking up or clicking on the June edition of the *Georgia Bar Journal*. Here's a few highlights from this issue:

Two State Bar of Georgia leaders are saying "goodbye" in this edition: Bar President Elizabeth L. Fite and YLD President Elissa B. Haynes. In her article "Continue to #KnowYourBar," Fite revisits her year-long campaign to increase awareness of the State Bar of Georgia's great services and benefits. She focuses on such groups as the Law Practice Management Program, the Transition Into Law Practice Program, the Client Assistance Program and the Lawyer Assistance Program. In "Lessons in Leadership," Haynes paints a very candid picture of what her life has been like for the past 12 months. She shares lessons that she learned as the 75th president of the YLD and thanks those who helped her navigate the past year.

Our legal article for this issue is "It's Your Copy, Right? Understanding the Legal Protections for Your Creative Genius" by Derrick Alexander Pope. The article highlights the legal protections given to authors and other creators of original works through federal copyright laws. Pope also outlines the basic rights protected and explains the various limitations and remedies associated with any copyright infringement.

The *Georgia Bar Journal* editorial team is excited to share our selection for the 31st

Annual Fiction Writing Competition. This year's winner is "Killian's Folly" by Hon. Lori B. Duff. In "A Conversation with Chief Justice David E. Nahmias," Editorial Board member Jacob E. Daly spoke with Chief Justice Nahmias ahead of his retirement from the bench.

If you're interested in learning more about the American Bar Association's new formal opinion on solicitation of clients, Paula Frederick's article, "Have I Got a Lawyer for You," walks readers through the new guidance and explains its potential impact on Georgia's own Rules of Professional Conduct. Our other articles on the business of law include Nkoyo-Ene Efiog's "Top Six Practices to Help You Regain Control of Your Law Practice," David Hricik and Karen Sneddon's "Five Tips for Writing Success as a New Lawyer or Law Student Clerk," and Sam Skelton and Plamen Russev's "The Power of Breath: From Stress Relief to Life Integration."

Finally, if you're looking for a new book to add to your summer reading list, check out Kevin Patrick's review of "The Significant Lawyer: The Pursuit of Purpose and Professionalism" by Hon. William S. Duffey Jr. As Patrick explains, the book explores the true meaning of the practice of law and the paramount importance of professionalism throughout a legal career.

Thank you again for reading the June issue of the *Georgia Bar Journal*. ●



MEGAN HODGKISS

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Continue to #KnowYourBar



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ELIZABETH L. FITE

President
State Bar of Georgia
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It is difficult to believe that 12 months have passed since I was sworn in as the 59th president of the State Bar of Georgia. After years of preparation for this privilege as a Young Lawyers Division board member and later on the Board of Governors, Executive Committee and as secretary, treasurer and president-elect, once I became Bar president, in what seems like the blink of an eye, it's nearly over.

I saved the goodbyes and a more complete review of the past year for the Annual Meeting on the first weekend of this month at Amelia Island. But in this final article for the *Georgia Bar Journal*, I'd like to conclude with a focus on our one broad initiative for 2021-22. For the past year, we have sought, under the hashtag #KnowYourBar, to increase member awareness of the great services and benefits your Bar license fees pay for and are available to you.

Through our very well done and successful public service announcements and other education campaigns over the years, we have been focusing on what the public thinks of the legal profession and justice system. But before taking office as president, I had learned that a lot of lawyers in this state don't know how the Bar operates, which certainly makes it difficult for them to answer the question, "What can the Bar do for you?"

During my year as president, I have sought to use every opportunity to highlight at least one offering of our Bar and

educate our members on the myriad of programs and services they have access to through their license fees.

Law Practice Management

In my speech to the Board of Governors on the day I was sworn in, I referenced the Law Practice Management Program (LPM) as a tremendous resource that could help all law firms and law offices across the state. "Maybe you are saying to yourself, 'I'm a judge, work in a large firm or work in the public sector. I don't need to know about tools to better a run a firm.'" But I'd argue that every law firm or office could benefit from some of the tools available from LPM. Also, even if you don't need those resources, maybe someone in your legal community does. Knowing what your Bar offers can help you point a colleague who needs assistance in the right direction.

LPM is a member service to help all Georgia lawyers and their employees pull together the pieces of the office management puzzle. Whether you need advice on technology, firm finances, organization or library materials, LPM has the resources and training to assist you, including online forms and articles collections, a library of books and videos, as well as onsite management consultations and training sessions.

LPM also offers resources on returning to the office after COVID-19, starting

OFFICERS' BLOCK

In this issue of the Georgia Bar Journal, we asked our State Bar of Georgia officers, "Who is/was the most influential person in your legal career?"

or closing a law practice, solo and small firm-specific issues, practice management advice and general ethical guidance from the Office of the General Counsel and many other tools for success.

Transition Into Law Practice & Mentorship

In October, my article in the *Georgia Bar Journal* focused on mentorship and featured the Bar's Transition Into Law Practice Program (TILPP), as well as saluting the Labor & Employment Law Section's ultra-successful Mentorship Academy. The value of mentorship in the legal profession is immeasurable, as I pointed out then. Most of us can point to at least one instance where the support and tutelage of a more experienced attorney helped carry us from what we learned in law school to the real-world practice of law.

As the article stated, TILPP matches new Bar members with a mentor during their first year of practice for continuing legal education credit. The aim is to equip every newly admitted Bar member with meaningful access to an experienced lawyer equipped to teach the practical skills, seasoned judgment, and sensitivity to ethical and professional values necessary to practice law in a highly competent manner. The program was developed by and is operated under the auspices of the Standards of the Profession Committee of the Commission on Continuing Lawyer



ELIZABETH L. FITE | President

My mentor and later friend, Allen P. Roberts, from my hometown of Camden, Arkansas, is undoubtedly the most influential person in my legal career. He passed in 2021, and I still find myself wanting to reach out and share something that's going on in my career.



SARAH B. "SALLY" AKINS | President-Elect

The late Paul W. Painter Jr.—my mentor, my law partner, my friend and my hero. He exemplified every quality a lawyer should have—honor, intellectual curiosity, professionalism, a spirit of service and grit. I think about him every day and try to do what he would have done.



HON. J. ANTONIO "TONY" DELCAMPO | Treasurer

To name a just a few of the countless individuals: Bill Grant, an unbelievably talented trial lawyer in South Carolina; Keenan Nix, who interviewed me for a summer clerkship, is the reason I came back to Atlanta; my good friend and colleague Chris Graddock and I were summer associates at Neely & Player; lastly, Judge Al Wong, a great role model. I always will be thankful for his friendship and guidance.



IVY N. CADLE | Secretary

My father, Jerry Cadle. I was inspired by how he could help people, show up for his family and be active in the Swainsboro/Emanuel County community.



DAWN M. JONES | Immediate Past President

So many have influenced my legal career, but the first would be Dean Dorrie Fontaine. She invited Department of Health and Human Services nurse-lawyers to speak to my MSN, Critical Care Nursing class at Georgetown University, inspiring me to consider a career in law.



BAR BENEFITS

Conference Center

DID YOU KNOW?

The Bar Center conference rooms can be reserved at no charge for law-related meetings. Similar amenities are available at the Savannah and Tifton offices.

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Competency. Key elements of TILPP's mentoring program include regular contact and meetings between the mentor and beginning lawyer; discussions on ethics and professionalism, client relationships, practice management and pro bono responsibilities, among others; an introduction to the local community; and periodic evaluation of the mentor/mentee relationship.

Without a doubt, mentoring is important to the present and future of the legal profession. It's an opportunity at an early stage of one's career to continue learning after law school—drawing from the real-world experiences of a veteran lawyer who is willing to share his or her institutional knowledge for the good of the profession.

Succession Planning

My December article highlighted the Bar program for Sudden Health Emergency/Succession Planning. As I wrote then, planning for the future of our law practices is based on something over which we have no control. Too often, sudden health crises do not comply with the retirement date we've put on our calendar. Indeed, since being sworn in as president, I have received more calls than I ever anticipated from the friends and family of lawyers who have experienced an unexpected and sudden health crisis. Those family members and friends all ask the same question related to that lawyer's practice: "What do I do?"

Every lawyer—especially those in solo practices or small firms without the support structure of a large firm—needs to have an exit strategy for the protection of our clients, our employees and our families in the event of a sudden health crisis that brings an unexpected change of plans and a temporary halt or permanent end to our ability to practice law.

The Bar's program for Sudden Health Emergency/Succession Planning has a twofold purpose: (1) to assist lawyers in preparing their own "sudden health crisis emergency" (or succession) plan; and (2) to assist persons who are helping a lawyer who has undergone a "sudden

health crisis," especially if that lawyer had no sudden health crisis emergency plan.

I applaud Bill Gentry, the Senior Lawyers Committee and the Office of the General Counsel for their efforts in creating the State Bar's Sudden Health Crisis Succession Plan. If you have not done so already, I encourage you to take advantage of this advice to have a plan for the future.

ReliaGuide

During the Spring meeting of the Board of Governors, I reminded everyone that the Bar also offers an efficient way on our website for members of the public to find a lawyer. ReliaGuide (formerly CloudLaw and ZeekBeek) provides a simple search form to locate for a lawyer based on practice area and geographic location. Having a Basic Profile on ReliaGuide is free to all Bar members and includes contact information, photo and up to three practice areas.

Lawyers can provide additional information, but a disclaimer informs members of the public that the State Bar has not approved or verified the authenticity of information beyond the lawyer's membership status, public disciplinary history and section membership. The State Bar does not recommend, approve or endorse any lawyer but provides this search tool as a service to the public and our lawyer members.

Client Assistance Program

During the Annual Meeting, I highlighted the Bar's Client Assistance Program (CAP). While it may seem counterintuitive because it is one of the Bar's programs directed to the public, CAP is, in fact, a benefit to Bar members because it often helps deescalate issues that arise between attorneys and clients. Individuals contact CAP with their questions or issues about legal situations, complaints about attorneys and communication problems between clients and attorneys. CAP is most often the first, and only, contact that members of the public have with the State Bar of Georgia. Most problems can be resolved

by CAP's providing information and referrals, possibly contacting the attorney or suggesting other ways of dealing with the situation.

By facilitating direct communication between attorneys and their clients, CAP resolves approximately 80% of the complaints it receives without members of the public having to utilize the formal grievance process. During the calendar year 2021, CAP handled 9,627 new complaints and received 11,632 telephone calls and 2,633 letters/emails. Of those complaints, the top three practice areas were criminal law (36%), family or domestic law (16%), and general civil litigation (14%). Regardless of practice area, however, communication (or the lack thereof) was a common reported issue, and attorneys finding themselves the recipient of a phone call from CAP would be well-served to return the call with haste.

Lawyer Assistance Program

It is always important to remind members of the Lawyer Assistance Program (LAP), a confidential service provided by the State Bar to help its members with life's difficulties. In order to help meet the needs of its members and ensure confidentiality, the Bar contracts the services of CorpCare Associates, Inc., Employee Assistance Program, a Georgia-headquartered national counseling agency.

LAP provides a broad range of helping services to members seeking assistance with depression, stress, alcohol/drug abuse, family problems, workplace conflicts, psychological and other issues. These include a 24/7 Telephone Hotline at 800-327-9631 for lawyers and judges to seek help with personal problems causing significant concern, six prepaid clinical sessions per calendar year and work/life assistance with issues such as childcare, elder care and finances.

Members can take advantage of or read more about these and many other valuable services and benefits on the Bar website. As the sun sets on my year as your president, I truly hope you will always make an effort to #KnowYourBar. ●

Know Your Bar

Client Assistance Program of the Office of the General Counsel

CAP is most often the first, and only, contact that members of the public have with the State Bar of Georgia. Most problems can be resolved by CAP's providing information and referrals, possibly contacting the attorney or suggesting other ways of dealing with the situation.



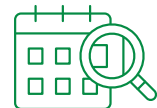
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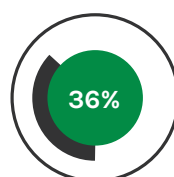
RECEIVED **11,632** TELEPHONE CALLS

RECEIVED **2,633** LETTERS/EMAILS

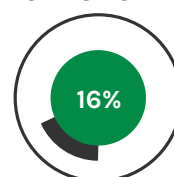


Of those complaints, the top three practice areas were:

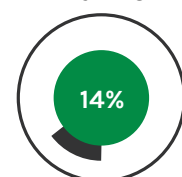
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LITIGATION**





ELISSA B. HAYNES

YLD President
State Bar of Georgia
elissa.haynes@fmglaw.com

Lessons in Leadership

In late December 2019, I made one of the most adult decisions I had made at the time—the decision to leave my law firm after four and a half years and after making partner. And while I do not typically believe in “signs from the universe,” so to speak, shortly after making my decision, I came across a quote that I have tried to carry with me over the years and one that rings especially true today: “Busy is a choice. Stress is a choice. Joy is a choice. Choose well.” —Ann Voskamp.

Those closest to me know that this year has been a struggle for me—both personally and professionally. From the death of my grandfather (who, aside from me, was the last living relative on my father’s side of the family), to battling anxiety and depression, trying to navigate a rapidly growing book of business with little support at a previous law firm, leading the Young Lawyers Division, attempting some semblance of a “work/life balance,” starting a new job and most recently, to the sudden loss of my German Shorthaired Pointer, Abita. To quote the Grateful Dead, “[w]hat a long, strange trip it’s been.”

Towards the end of my YLD presidency year, I often joked that I was, in my mind, the worst YLD president. When I started my climb up the YLD leadership ladder four years ago, I had several ideas and goals for what I wanted to accomplish. I was like a little kid who wanted to change the world. For many, it will

come as no surprise to learn that I am the epitome of a “Type A” personality—competitive, a planner, impatient, a perfectionist and a workaholic. For as long as I can remember, I have always placed an unreasonable amount of stress on myself, and I would convince myself that I just worked better under pressure. And when things did not always go exactly as I had meticulously planned, I would inevitably feel an immense sense of failure.

Over the past four years, I have grown more than I could have ever imagined as a lawyer, leader and person. And while I still consider myself Type A, I have slowly tried to take a step back to focus not on the things I was unable to accomplish this year, but on everything the YLD *did* accomplish—whether planned or by happenstance. With that, I want to take this opportunity to share a small sampling of what the YLD has been up to this past 12 months.

Georgia Pro Bono and Public Interest Awards Ceremony

Last December, several of our members attended the Georgia Pro Bono and Public Interest Awards Ceremony at the Glenn Hotel in Atlanta. I also had the privilege of accepting Georgia Legal Services Program’s award on behalf of the YLD in honor of our 50-year partnership with GLSP and the YLD’s commitment to serving the community and legal profession.

OFFICERS' BLOCK

In this issue of the Georgia Bar Journal, we asked our YLD officers, "Who is/was the most influential person in your legal career?"

#YLDLunchandListen

This past December marked 22 years since my dad passed away. Losing a loved one in December has always made the holidays a difficult time for me, as I know it is for many others. With that, we launched a new initiative, #YLDLunchandListen, where I asked young lawyers to take another young lawyer out to lunch or coffee to check in, talk about stressors, plans for the new year or anything else on their mind. These types of connections are critical and can truly be the saving grace for someone, especially those who may be silently struggling.

Impactful CLEs and Programming

The YLD was fortunate to be able to resume in-person programming this year and our committees hit the ground running. Our committees put on several lunch and learns, innovative CLEs including the Litigation Committee's virtual CLE on cannabis law, launched new programs such as the Inclusion in the Profession Committee's Big Brothers Big Sisters initiative with the Atlanta Chapter of Big Brothers and Big Sisters of America, and hosted timely and helpful seminars such as the Government Law Committee's seminar on "Making Sense of Public Service Loan Forgiveness" and the Corporate Counsel Committee's "Peek Behind the Curtain—An



ELISSA B. HAYNES | YLD President

Each person who invested in me early on and took the time to mentor and teach me how to practice law. While there are several, I owe a special thank you to Brian Parker, Robert Luskin, Edward Lindsey and Douglas Burrell.



RON DANIELS | YLD President-Elect

The first lawyer I ever interacted with was Bill NeSmith who was crazy enough to let me intern with him during my undergraduate studies. I never would have gone to law school but for his kindness. And now as Bar counsel he is stuck with me causing problems for him in his job.



BRITTANIE D. BROWNING | YLD Treasurer

I am grateful for my mentors that inspire me to keep learning and striving to improve. I have had a variety of mentors throughout my career that led me to plug into Bar service and to seek leadership opportunities. Their encouragement and support helped me particularly as a first generation lawyer.



KENNETH MITCHELL JR. | YLD Secretary

The most influential person in my legal career is my father, Kenneth Mitchell Sr., the first person to introduce me to the legal profession.



BERT HUMMEL | YLD Immediate Past President

It is difficult to select one person. I owe a debt of gratitude to my mentor, Veronica Richardson, a lot of great leaders in the Cobb Bar including Robert Ingram and Darrell Sutton, past leaders of the YLD, our State Bar, my Mercer Law family and our judiciary. Keep mentoring young lawyers; our profession is only as good as those who inherit it!



ASHLEY AKINS | YLD Newsletter Co-Editor

Growing up in Bulloch County, Georgia, I was surrounded by wonderful lawyers and judges, many of whom provided support and advice as I attended law school and became a young lawyer. In my current career, I have many wonderful mentors and sponsors in Atlanta that support my continued growth as a lawyer.



LAKEISHA R. RANDALL | YLD Newsletter Co-Editor

While several mentors have contributed to my development, the late Hon. Barbara A. Harris was the most influential person to my legal career. She was the first person I confided in that I was considering law school and she supported me until her untimely death in 2020.

Intimate Conversation with In-House Counsel” event.

Public Interest Internship Program

The Public Interest Internship Program (PIIP) solicited applications for the summer 2022 PIIP grant from Georgia law students and recent graduates. PIIP received 51 applications and we are proud to report that this year, PIIP was able to grant five awards, an increase from the four grants awarded last year.

Moot Court/Mock Trial

The YLD worked with law schools and high schools across the state to judge the Intrastate Moot Court Competition (which was finally back in person this year) and the Georgia High School Mock Trial Competition.

Leadership Academy

Although COVID-19 threw us all for a loop, we were able to combine the 2021 and 2022 Leadership Academy classes and resumed all but one of our sessions in person. I am also proud to report that our 2022 class had a record number of government and other public service employees, which accounted for a third of our overall leadership class. A highlight of this year’s Leadership Academy was traveling to Chattanooga for our Spring Meeting, which included a joint networking reception with the Tennessee YLD, a ’90s-themed trivia and dinner, and a service project for the Chattanooga Room in the Inn organization that empowers women and children experiencing homelessness.

Signature Fundraiser

After a two-year hiatus, we were able to bring back the YLD Signature Fundraiser which took place on April 30 at 433 Bishop in Atlanta. This year’s fundraiser benefited Kate’s Club, an organization that empowers children and teens facing life after the death of a parent, sibling or caregiver. The fundraiser featured live music from Mercer Law graduate JB Strauss, Fox Bros BBQ and a photo booth camper. More importantly, we were able to raise more than \$10,000 for Kate’s Club!

Legal Food Frenzy

The YLD, Georgia Attorney General Chris Carr, the State Bar of Georgia and the Georgia Food Bank Association held the 11th annual Georgia Legal Food Frenzy, which took place April 18-29. One hundred eighty-nine law firms, legal organizations, in-house counsel and courts across Georgia participated, and together, we raised a grand total of \$880,248.08—the equivalent of 3.5 million meals for those experiencing food insecurity.

Eleventh Circuit Judicial Conference

Most recently, on May 6 and 7 the YLD participated in the Eleventh Circuit Judicial Conference in Atlanta. The YLD hosted a roundtable with our federal judiciary, which had a record-setting 83 federal judges in attendance from Georgia, Alabama and Florida. We were also joined by special guests including U.S. Supreme Court Justice Clarence Thomas, U.S. Court of Appeals for the Eleventh Circuit Chief Judge William Pryor and U.S. District Court for the Northern

District of Georgia Chief Judge Timothy Batten. The event concluded with a ceremony where our members had the opportunity to be sworn into the bars of the U.S. Supreme Court, the U.S. Court of Appeals for the Eleventh Circuit and the U.S. District Court for the Northern District of Georgia.

In Closing

While I may not have accomplished everything on my presidential agenda, I can confidently look back at the past 12 months with an incredible amount of pride and joy. It has been one of the greatest honors and privileges to serve as the 75th president of the YLD. Leadership is tough, and while I may not have all the answers, I think one of my opposing counsels said it best—“[y]ou will find your own way.” Just make sure to put your physical and mental health first and always try to give yourself some grace.

Lastly, I am grateful for everyone who helped me find my way this year and over the past few years, especially my “lawyer tribe.” While it would be impossible to list everyone, in addition to my family, there are several lawyers without who I would not have made it through this year. A special thank you to Tyler Walker, Morgan Lyndall, Melody Kiella, Douglas Burrell, Jamie McDowell, Bert Hummel, Ron Daniels, Elizabeth Fite and Anthony Petrozza. I also want to thank my YLD officers and directors, our YLD members and members of the State Bar for their support and dedication to our legal profession. I look forward to serving my final year on the YLD and State Bar’s executive committees. ●

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DAMON ELMORE

Executive Director
State Bar of Georgia
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An Update on the Institute of Continuing Legal Education

As part of our Annual Meeting, we provided an update to the Board of Governors, in my executive director's report, and for the Institute of Continuing Legal Education (ICLE) Board, on the activities and operations of the department. We wanted to provide a brief update for you, too, as the program evolves to support the needs of our members and play its part in improving the quality of legal services.

ICLE is a fully integrated program of the State Bar of Georgia. All of their activities are designed *to promote a well-organized, properly planned and adequately supported program of continuing legal education by which [Georgia lawyers] are afforded a means of enhancing their skills and keeping abreast of developments in the law, and engaging in the study and research of the law, so as to fulfill their responsibilities to the legal profession, the courts and the public.* It is important.

I reported that we could not be more pleased with the direction our ICLE department is moving. That is due in part to a greater ability to resume regular and specialty programming, institutes and events. It is also due in part to the patience and renewed and ongoing partnerships with our sections, related or-

ganizations, individuals and others that serve as program chairs and planners, or in another capacity as a valuable stakeholder and partner with the program. We are grateful to you all.

It is mainly due in part to the work of the people in the department that remain dedicated to the mission and purpose stated above. Like all the Bar's staff members, they are working hard and making contributions that will benefit the department in the short and long term. Some have been with the department for a while, and they know the corners. Others are new to ICLE and bring fresh perspectives and skills. All of them are committed to the work.

Our search for a new director is underway, and soon that person will be able to also carry out the vision of the department on a daily basis. Until then, and after, we will remain focused on a few things.

We will place an emphasis on quality programming.

When planning those programs, we will be creative in program content and content delivery. That includes incorpo-

rating technology, as well as planning events in the places where our lawyers work and gather.

We will rely on our partners, program sponsors and chairs.

We do not take their time for granted and appreciate their expertise in shaping the direction of most events. We will do our part in building a comprehensive agenda, with fresh subjects, supported by robust written materials and practice aids. All of that is necessary.

We will place an emphasis on those courses that matter most to our membership.

We will look at variety for our peers that have general practices, and build programs with a particular interest for our peers that have a clearly defined area of practice. We will be conscientious of our members that remain active, but may have a more non-traditional or relaxed practice area, and we will ensure access to ethics (proscribed rules of conduct) and professionalism (what it means to be a professional) hours remain at the

top of our list as recent feedback has shown that those are important to most members. We are building something for everyone.

We will take advantage of opportunities to provide value to our members by analyzing pricing, fees and charges.

The goal is to position the department as the go-to provider of legal education programming.

To accomplish those goals and fulfill those promises, we will make continued

change internal assessments. We will cultivate a suitable mix of staff members, inclusive of those that have supported the department for decades. We will build a better marketing strategy, and promote our programs and events in a broader fashion.

You can count on us. We know we can count on your suggestions, feedback and thoughts. Those are also an integral part of our planning and continued evolution of the program. So, with this department, as with any other Bar activity or event, do not hesitate to contact me to let me know your ideas for making things better. DEE ●

Point of Personal Privilege:

We started this most recent Bar year with Hon. David Nahmias as our chief justice and Elizabeth L. Fite as our president. It has been an honor to work with both of them during such a unique time and with a number of unique challenges that faced the Bar. Both Justice Nahmias and Elizabeth are the definition of service to the public and the profession, and I am grateful to them for their partnership and support. When you see them, thank them for their commitment to the work of the Bar and on behalf of all Georgia lawyers. DEE

It's Your Copy, Right? Understanding the Legal Protections for Your Creative Genius

This article highlights the legal protections given to authors and other creators of original works through federal copyright laws. It outlines the basic rights protected and how those rights are secured. It also details the various limitations and remedies associated with any infringing uses of those protections.

BY DERRICK ALEXANDER POPE

Let us dare to read, think, speak and write.¹ —John Adams

Writers. Inventors. Musicians. Filmmakers. Software developers. Photographers. Even architects. All of these, and many others, have protectable ownership rights in their works of creation. These rights are enshrined in the U.S. Constitution and solidified in federal copyright laws.² From the very beginning, the laws of the nation have safeguarded the proprietary interest in the fruits of human creativity and imagination and furthered their societal utility. Lawyers, perhaps more than any other segment of society, have a special relationship to and particular appreciation for both.

We enter the domain of our service offerings through the creative process of writing. Long before the suasion of a jury with spell-binding oration, we capture the attention of the court with a well-crafted, written petition. A reasoned study, prospectus or memorandum of understanding precedes the riveting presentation to a meeting of the board of directors. Similarly, when confronted with a new and thorny

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problem of human nature crying out for some relief, we unfailingly seek the wisdom of past ages in the inspired writings left for our discovery.

Indeed, we write for our vocation, but we write also for invocation. More than a few juris doctors unleash their inner scribe putting pen to paper (or finger to keyboard) to crank out a screenplay, novel or an article for their favorite bar journal. Others create new musical treasures inspired by a Prince-esque “G-flat major with an E in the bass;”³ produce an original song driven by a Garibaldi drum beat underneath a Santana/Clapton modeled guitar riff; or sketch out a symphonic poem for a chamber group with a pizzicato introduction. Or we may merely provide the advice and counsel to those who do.

This article highlights the legal copyright protections given to authors and other creators of original works. It outlines the basic rights protected by federal law and how those rights are secured. In addition, the article details the various limitations of those rights and explains the remedies stemming from infringing uses. It accentuates the broader parameters of copyright law, and given the lawyer’s special bond with the written and spoken word, examples used here to illustrate its inner workings will mostly emphasize works of authorship. Along the way, a little literary levity will be used to showcase a touch of creativity that is a hallmark requirement to attain copyright status. With that in mind, let us begin ...

... But First, a Word From Our (Historical) Sponsor

Broadly speaking, copyright is the “set of laws and practices restricting the right to reproduce or perform individual creations.”⁴ Along with patents, trademarks and trade secrets, copyright makes up the four basic types of intellectual property.⁵ Ownership rights in original created works are found in the U.S. Constitution. Article I establishes Congress’ power “[t]o promote the progress of science and useful arts, by securing for *limited times to authors* and inventors the *exclusive right to their respective writings*

and discoveries.”⁶ This protection and its purpose made its way into the national charter in the summer of 1787.

Twelve states sent 55 delegates to Philadelphia for “the sole and express purpose of revising the Articles of Confederation.”⁷ But the work they conducted from May to September produced instead a constitution, a new framework of governance for a nation not yet a dozen years old.⁸

The delegates had been at the matter for 96 days when James Madison—affectionately introduced to us by history as “the Father of the Constitution”⁹—and Charles Pinckney submitted to the delegates complimentary proposals to protect copyrights.¹⁰ So acquainted were they all with the benefits of copyright, owing to the respective treatments of their state constitutions, the measure was unanimously adopted.¹¹ Indeed, the thought that copyright was property worthy of constitutional mention was long recognized.¹²

No doubt, lawyers were instrumental in shepherding the convention delegates to include the protection in the burgeoning constitution. Of the 55 delegates, 31 were lawyers.¹³ Legal treatises and other commentaries were in short supply then and lawyers depended mainly on the few essential textbooks at their disposal. They knew intuitively the full value of having needed books available. Hence, “the lawyer’s appreciation for literature must have permeated the Convention and when the chance came ... to secure to authors their property rights, the framers eagerly jumped on this opportunity.”¹⁴ Madison urged its constitutional propriety during the ratification process.¹⁵

The first Congress, convening on March 4, 1789, wasted little time to enact the nation’s germinal copyright law. Books and maps were the focus of the Copyright Act of 1790, whose formal name was “An Act for the encouragement of learning, by securing the copies of maps, Charts, And books, to the authors and proprietors of such copies, during the times therein mentioned.”¹⁶ Over time, however, the constitutional term “writings” was expanded to include other original works of authorship.¹⁷

Writers and inventors were granted the right to reprint, publish and sale their works for an exclusive term of 14 years, plus an additional 14 if the author was still living. In addition, as a remedy for “infracture of copyright” the law exacted a fine of “fifty cents for every sheet which shall be found” in possession of the offender. One-half of the damages went to the author and the other moiety to the United States.¹⁸ Two weeks after the law’s passage, the first copyright was issued when John Berry registered *The Philadelphia Spelling Bee* in the District Court of Philadelphia.¹⁹ The Copyright Act of 1790 was the basis for the major changes in the years to come.²⁰

Act 2, Scene 1—What Can Be Copyrighted and How Is It Obtained?

The taproot of the copyright concept is the eventual collective benefit resulting from the created ideas of an individual.²¹ It is “intended to increase and not to impede the harvest of knowledge ... the scheme established by the Copyright Act for fostering the original works ... provide the seed and substance for this harvest.”²² It all begins with the protection of the first works.

At present, copyright protections subsist in “original works of authorship fixed in any tangible medium of expression, *now known or later*, from which they can be perceived, reproduced, or communicated.”²³ A work is deemed to be original if it satisfies the test of independent creation and sufficient creativity.²⁴ Notably, copyright protection extends to eight basic types of original works.²⁵ Of these, literary works, musical works, motion pictures and audiovisual works, and sound recordings are the most familiar.

Only the *expressions* of ideas can be copyrighted, not mere ideas themselves.²⁶ For instance, three different people at three different times can have the same thought to generate something inspired by the biblical passage, “[h]e that troubleth his own house shall inherit the wind”²⁷ and none would be able to obtain copyright for it. To the contrary, a play,²⁸ a film²⁹ and a book³⁰ each becomes eligible for copy-

right protection as each has fixed the same idea in a tangible medium of expression.³¹

No express requirement for notice and registration exists under current law, although earlier statutes did impose such a prerequisite.³² Prior to the adoption of the Copyright Act of 1976, a work could enjoy copyright protection only if it included a copyright notice, and was either published or registered in the copyright office. Notice was achieved by placing the word “Copyright” or its abbreviation, “Copr.,” the year of first publication, and the name of the copyright owner in a prominent location on the published work and notice.

After 1976, notice and registration were removed as a requirement as copyright became automatic once the work was fixed in a tangible medium, even if it remained unpublished or undistributed. When used, however, its form remains substantially the same.³³ In books, notice is customarily placed on the title page, tracking the familiar phrasing:³⁴

Thy Will Be Done: An African American Guide to Estate Planning. Copyright © 2013 by Derrick Alexander Pope.

There remains considerable practical benefit to providing notice and obtaining registration, despite the absence of a formal requirement. Notice, in effect, is a “[n]o trespassing sign—notice to the

world that you claim ownership.”³⁵ Its use bars others from feigning ignorance of ownership in an infringement action. In addition, a copyright holder forfeits the right to statutory damages when failing to register the work. To that end, the practical and legal consequences of notice and registration outweigh reliance on automatic copyright.

A work is now properly registered when “at any time during the copyright term” an author deposits with the Register of Copyrights a suitable copy of the work.³⁶ If the work is unpublished, then only one copy needs to be submitted. Two copies are required if the work is published.³⁷ Online registration is preferred and is available through the Electronic Copyright Office (eCO) Registration System.³⁸

A certificate of registration is issued after the Register of Copyrights determines that the materials submitted are copyrightable and all legal requirements under the Act have been met.³⁹ If registration is denied, two appeal options are available. First, “an applicant may request that the Registration Program reconsider its initial decision to refuse registration” referred to as a first request for reconsideration.⁴⁰ If registration is denied once again, “an applicant may request that the Review Board reconsider the Registration Program’s refusal to register.”⁴¹ This is known as the second request for reconsideration. Decisions of the Review Board are the final step in the administrative appeals process, but they are subject to court challenge under the Administrative Practice Act.

A certificate is *prima facie* evidence of validity in all judicial proceedings if the certificate is issued before or within five years of the first publication of the work.⁴² With the certificate issued, voilà! you are a registered copyright owner.

Now That I Have My Right, What Can I Do With It, and How Long Can I Do It?

Conceptually, copyright is “not a unitary phenomenon, but a bundle of separate economic interests and specific individual rights.”⁴³ In its essence, copyright lets its holder determine in what manner and to what extent “the harvest of knowledge”⁴⁴

Prior to the adoption of the Copyright Act of 1976, a work could enjoy copyright protection only if it included a copyright notice, and was either published or registered in the copyright office. ... After 1976, notice and registration were removed as a requirement as copyright became automatic once the work was fixed in a tangible medium, even if it remained unpublished or undistributed.

WHAT IF ...

Suppose a scholar accepts an invitation to deliver a lecture at a law school symposium concerning the legal history of the electoral franchise. The scholar has written a paper accompanying the lecture to be submitted to the school's law journal, and the paper will be the basis of a chapter in a forthcoming book about important constitutional decisions of the 20th century. A journalist who is employed by, and writes for, a periodical marketed to lawyers, also attends the forum. The magazine is planning a two-edition feature about elections entitled, "Ballot Box Blues" and plans to promote the feature on its website with an article written by the journalist attending the symposium.

During the presentation with no prepared notes, the lecturer ponders

whether registration is anathema to the spirit of the Constitution. The journalist surreptitiously obtains a copy of the paper, and in the article promoting the magazine's feature, uses verbatim the scholar's words that express the viewpoint from the lecture, which reads:

The utilization of prerequisites to voting is the breeding ground for all suppression related activities. Historic civil rights battles to abolish the use of the more notorious and odious voting qualifications like poll taxes, literacy tests and grandfather clauses obscured the fact that registration itself is a prerequisite, one that has been unwittingly accorded equiva-

lence with the franchise itself. Its acquired status of necessity warrants a sober second look.

Upon learning of the website article, the scholar brings an action for copyright infringement and the magazine asserts the doctrine of fair use.

In *Harper & Row Publishers, Inc. v. Nation Enterprises*, 471 U.S. 539 (1985), the Court found that a newspaper's "scoop" of selections from the forthcoming memoirs of former president Gerald Ford, published in advance, was a usurpation of the copyright holder's rights to first publication and was not a fair use. The Court maintained an "author's right to control the first public appearance of ... undissemminated expression will outweigh a claim of fair use."

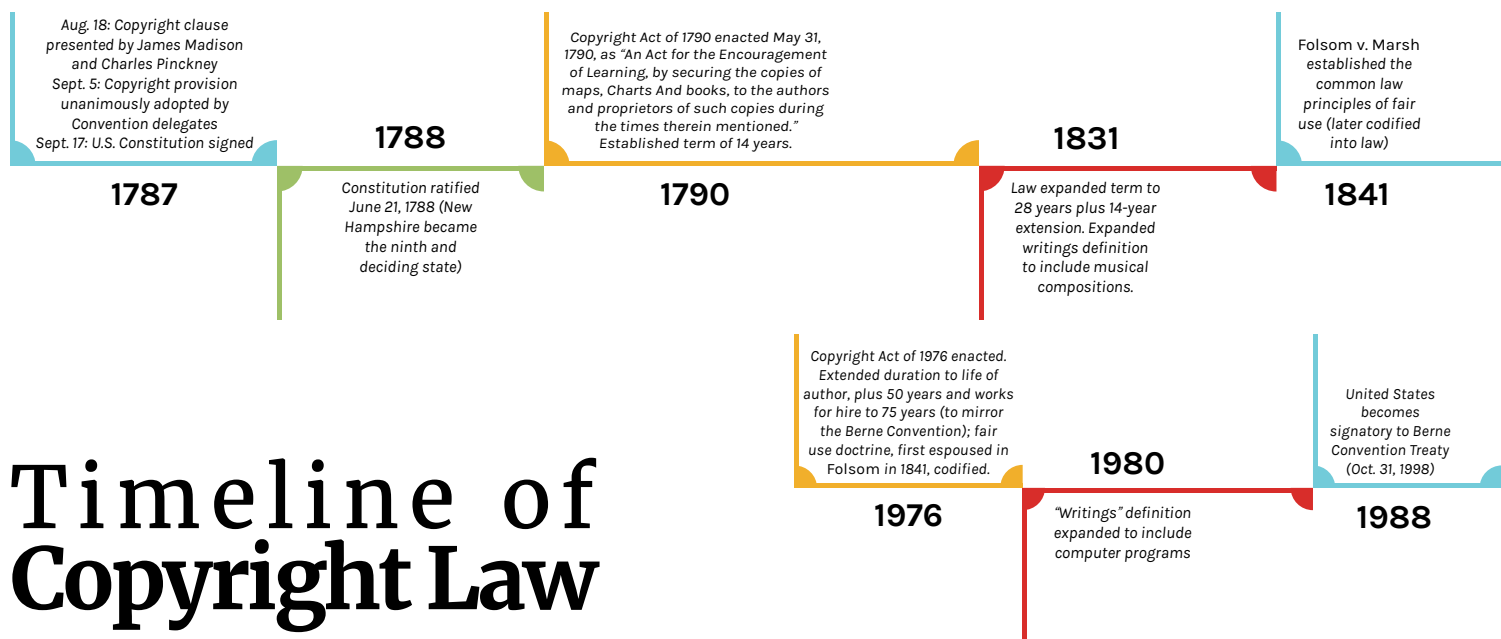
will be shared, if at all. Those rights exist, however, only for "limited times" as decreed by the Constitution.

Section 106 of the Copyright Act sets forth the "specific individual rights" provided.⁴⁵ Copyright owners are not obligated, however, to exercise any of the exclusive rights held. There is no "use-it-or-lose-it" directive.⁴⁶ Nonetheless, the law aids the quest for commercial viability—an inherent motivating factor, to say the least. A practical, and therefore more vital prerogative allows the "transfer in whole or in part" any of the exclusive rights in section 106.⁴⁷ This enables the copyright owner to pursue more effectively the goal of economic gain, most often accomplished through the use of a license agreement.

Equally important is the duration of copyright ownership. Protection "endures for ... the life of the author and seventy years after the author's death."⁴⁸ In the past, authors would have to periodically renew their copyright. Since 1992, renewal rights are now automatic.⁴⁹ Other types of ownership, such as a work made for hire, carry different periods of duration.

Works made for hire are those created by an employee in the scope of their employment, or work specifically commissioned through a signed writing and meeting one of nine statutory conditions.⁵⁰ In this instance, the duration of copyright extends 95 years from the year of its first publication or 120 years from the year of its creation, whichever expires first.⁵¹

Accordingly, at any time during the author's life, and 70 years beyond, the rights to reproduce and distribute a copyrighted work either can be retained by the copyright holder, or transferred to a publisher to print, publish and sale the book to benefit economically. Similarly, the right to prepare a derivative work can be licensed to a film production company to make a motion picture, or to another writer to turn the book into a play.⁵² Motion pictures like "The Pelican Brief" and "Inherit the Wind" are notable examples of both derivative works and works made for hire⁵³ and how the "bundle of separate economic interests and specific individual rights" flow from copyright.



But What Happens If Someone Uses My Work Without My Permission?

After copyright protection expires, original works enter what is called the public domain. Once in the public domain, no one can claim any longer exclusive rights in an original work and it can be used without prior authorization. Otherwise, use without permission raises the possibility of infringement.

"Anyone who violates any of the exclusive rights of the copyright owner as provided by sections 106 through 122 ... is an infringer of the copyright or right of the author, as the case may be."⁵⁴ A copyright owner may bring a civil action against the infringer and seek specific remedies allowed by law.

Generally, an infringement action requires the plaintiff to first show (1) a valid ownership interest in the relevant copyrights, (2) that the defendants have actually copied their works and (3) the copying is unlawful because of a substantial similarity between the defendant's works and "protectable elements" of the copyrighted work.⁵⁵ The certificate issued by the Registrar of Copyrights is *prima facie* evidence of copyright.⁵⁶

Copyright owners may recover on the theory that the infringement of a protected work was either direct, contributory or vicarious.⁵⁷ Direct infringement stems from a violation of the exclusive section 106 rights. A contributory infringement "arises against one who intentionally induces or encourages the direct infringement of another."⁵⁸ Anyone who profits from another's direct infringement while declining to exercise the right to stop or limit it, is liable on the theory of vicarious copyright infringement.⁵⁹

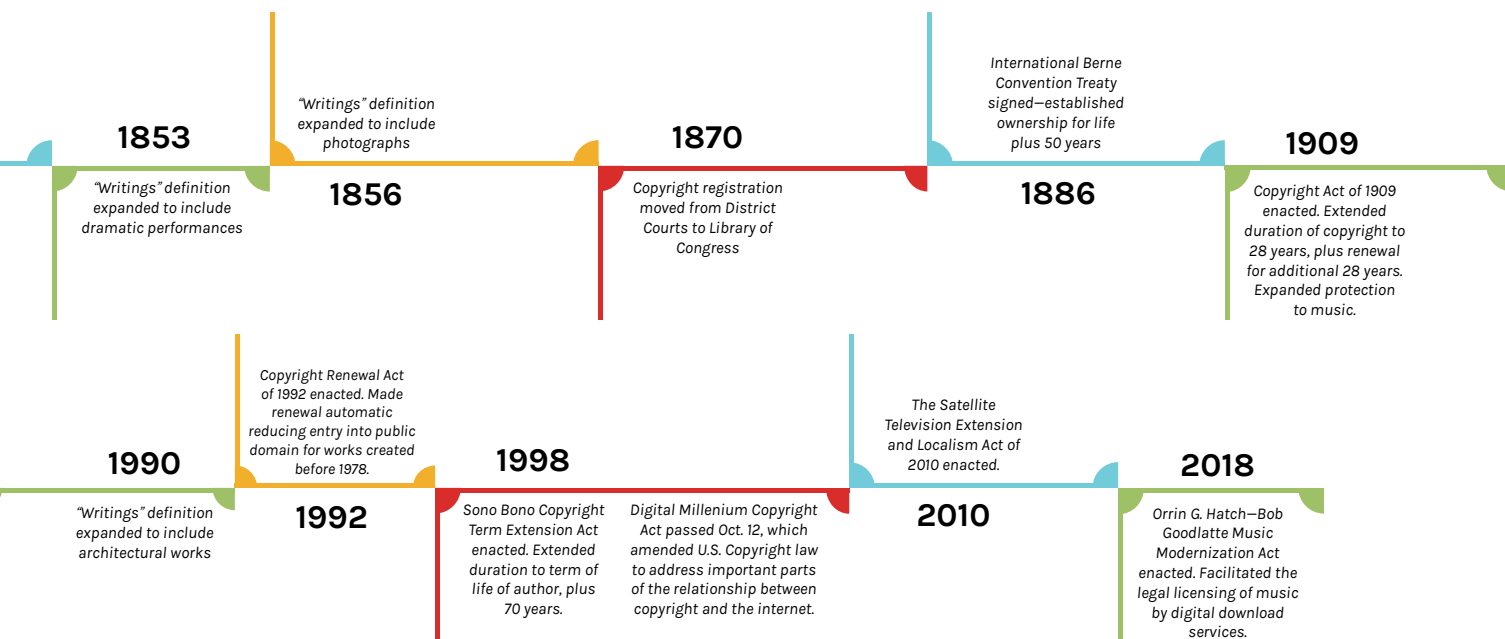
Remedies for an infringement action include injunctive relief, or the election to recover either actual damages and any additional profits or statutory damages.⁶⁰ Statutory damages are reserved, however, only for those who have secured proof of registration.⁶¹

Despite the bundle of rights afforded by copyright law, one important limitation exists, one which forms the primary defense in many actions for infringement. Copyright laws have long sanctioned uses by others to achieve the ultimate aim of the concept. To that end, the doctrine of fair use limits the copyright monopoly in furtherance of a broadened social utility.

Throw Your Hands In the Air, and Wave Them If You Think That's Fair (Fair Use, That Is)

Copyrighted material can be used without prior authorization of the copyright holder in specific circumstances under a doctrine called fair use. It was traditionally defined as "a privilege in others than the owner of the copyright to use the copyrighted material in a reasonable manner with his consent."⁶²

One hundred thirty-five years after its judicially crafted birth,⁶³ the fair use doctrine was codified in the Copyright Act of 1976. In relevant part, the law informs that "[t]he fair use of a copyrighted work ... for purposes such as criticism, comment, news reporting, teaching ... scholarship, or research, is not an infringement of copyright."⁶⁴ Moreover, to aid in determining what constitutes fair use, the law directs courts to examine (1) the purpose and character of the use of the copyrighted work, including whether the use is of a commercial nature or is for nonprofit educational purposes; (2) the nature of the copyrighted work itself; (3) the amount and substantiality of the portion of the copyrighted work used; and (4) the effect of the use upon



the potential market for or value of the copyrighted work.”⁶⁵

Courts repeatedly view the factors as an “illustrative and not limitative function of the examples given”⁶⁶ allowing for a more “open-ended and context-sensitive inquiry.”⁶⁷ Similarly, courts do not treat the factors “in isolation, one from another. All are to be explored and the results weighed together, in light of the purposes of copyright.”⁶⁸ Yet, the first factor is perceived to be “the heart of the fair use inquiry.”⁶⁹

In evaluating the first factor, courts routinely look to see if the secondary work “adds something new, with a further purpose or different character, altering the first with new expression, meaning, or message ... in other words, whether and to what extent the new work is transformative.”⁷⁰ If a secondary work is determined to be transformative, then it likely will be characterized as fair use and be exempted from a charge of infringement.

In addition, First Amendment concerns are sometimes raised to bolster the assertion of fair use. In *Eldred v. Ashcroft*, the U.S. Supreme Court addressed the impact copyright law has on free speech.⁷¹ Rejecting the call to impose “uncommonly

strict scrutiny on a copyright scheme that incorporates its own speech-protective ... safeguards”⁷² the Court distinguished protection of that order from “the free speech concerns present when the government compels or burdens the communication of particular facts and ideas.”⁷³ In the main, courts are satisfied that “the idea/expression dichotomy and the fair use doctrine, coupled together, present the most important limitation on copyright law.”⁷⁴

Conclusion

Creation begets creation. That is the accepted premise of the copyright concept. Copyright offers the attendant reward of ownership rights as an inducement to create in the first instance, which, when harmonized with the expected use of others, kindles a progressive creation in the second instance. Often spoken of as having twin aims, copyright in fact reaches for one objective with two codependent hands. If not a true partnership, then a sort of magnetic pairing exists between the creator of original works and society at large.

Imagination and creativity are the soul’s wish list. That catalogue of tangible

products flowing revealed from the mind, is our first real estate. It is an ever-appreciating asset upon which meaningful human advancement depends. It is a registry of holdings deserving of legal approbation and furtherance. If indeed, “[t]he useful arts are reproductions or new combinations by the wit of man, of the same natural benefactors”⁷⁵ then “the postponed expectations of the world”⁷⁶ can ill afford anything less than the sweet cadence and fervent procession of ideas come to life.

Yes, it is your copyright. So, write on, my colleagues. Right on! ●



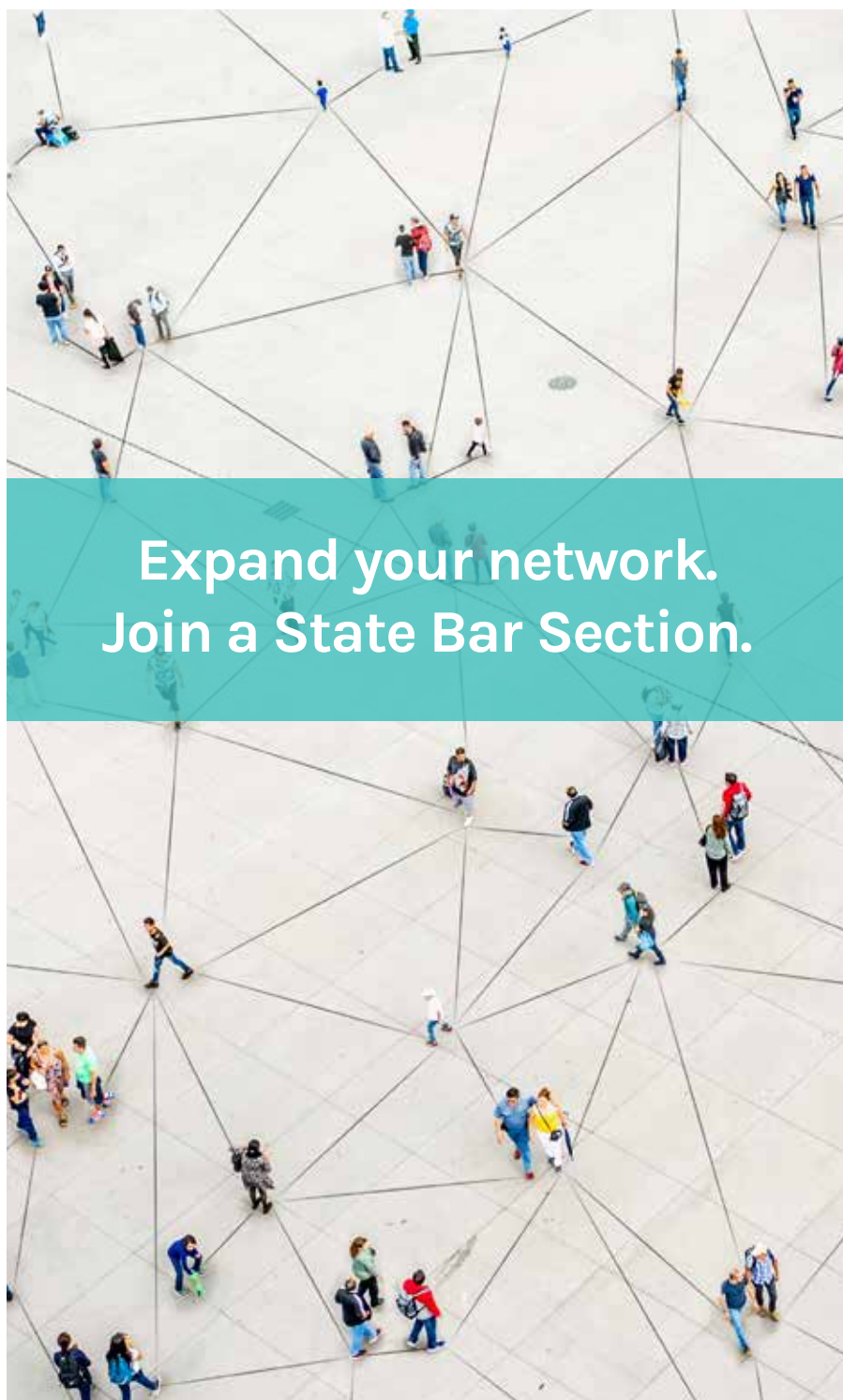
Derrick Alexander Pope, an adjunct professor of business law in the Stetson School of Business at Mercer University, is the copyright

owner of seven literary works, including three books, a blog, one soundtrack recording, two trademarks and one podcast. He is currently working to expand his intellectual property with the addition of a book and a documentary. He can be reached at dalexanderpope@att.net.

Endnotes

1. JOHN ADAMS, VI. A DISSERTATION ON THE CANON AND THE FEUDAL LAW, No. 4, 21 October 1765, available at *Founders Online*, U.S. National Archives, <https://founders.archives.gov/documents/Adams/06-01-02-0052-0007> (Emphasis added). *See also*, JOHN ADAMS, A DISSERTATION ON THE CANON AND THE FEUDAL LAW, in 1 Papers of John Adams, 123-128 (Robert J. Taylor ed., 1977). *See also*, DAVID MCCULLOUGH, JOHN ADAMS, 60, 2001).
2. U. S. CONST. ART I, §8, CL. 8. 17 U.S.C. §102 (2018). *See, infra*, text accompanying notes 43-52.
3. PRINCE, ELECTRIC CHAIR, COPYRIGHT © 1989 Controversy Music/WB Music Corp ASCAP.
“U whispered something
It took my mind out like a
G flat major with an E in the bass”
4. JOHN SHELTON LAWRENCE & BERNARD TIMBERG, FAIR USE AND FREE INQUIRY: COPYRIGHT LAW AND THE NEW MEDIA 4 (2d. ed., Ablex Publishing Corporation 1989).
5. Intellectual property is generally defined as “any product or result of a mental process that is given legal protection against unauthorized use.” CONSTANCE E. BAGLEY, MANAGERS AND THE LEGAL ENVIRONMENT: STRATEGIES FOR BUSINESS, 288 (9th ed., Cengage Learning 2019).
6. U. S. CONST. art I, §8, cl. 8. (Emphasis added).
7. CATHERINE DRINKER BOWEN, MIRACLE AT PHILADELPHIA: THE STORY OF THE CONSTITUTIONAL CONVENTION, MAY TO SEPTEMBER 1787, 11, 1966. Seventy-four delegates were named to the Convention, but its final roll call included only fifty-five. *Id.*
8. The Federal Convention began on Monday, May 14, 1787, and concluded with the signing of the Constitution on Monday, September 17, 1787. George Washington served as President of the Convention and William Jackson was elected Secretary. Georgia had two delegates to the Convention; Abraham Baldwin and William Few. *Id.* at 17, 27 - 29, 32, 244 and 324.
9. THE FEDERALIST PAPERS, x (Clinton Rossiter, ed., 1961). “The Constitution was the joint work of a half dozen or more superior men, yet even today, in part because of the notes he kept of the proceedings of the Convention, few historians begrudge Madison the title ‘Father of the Constitution.’”
10. BRUCE W. BIGBEE, GENESIS OF AMERICAN PATENT AND COPYRIGHT LAW, 126 (1967). Madison and Pinckney presented their respective proposals on Saturday, August 18. Madison’s draft offered “to secure to literary authors their copy right for a limited time to encourage by permission and provisions, the advancement of useful knowledge.” Pinckney sought “to grant patents for useful inventions and to secure to Author’s exclusive rights.”
11. IRAH DONNER, THE COPYRIGHT CLAUSE OF THE U.S. CONSTITUTION: WHY DID THE FRAMERS INCLUDE IT WITH UNANIMOUS APPROVAL?, 36 THE AMERICAN LAW JOURNAL OF LEGAL HISTORY, 361 (1992). “At the time of the Constitutional Convention, twelve of the thirteen states had already enacted copyright laws ... The Articles of Confederation contained no provision for copyright.” Delaware was the only state without a copyright law.
12. “Men of industry or of talents in any, have a right to the property of their productions, and it encourages invention and improvement to secure it to them by certain laws. *Id.* at 371. (Letter from Rev. Samuel Stanhope Smith urging the public to encourage projects like Noah Webster’s textbook. *See also, id.* at 372. “There is certainly no kind of property, in the nature of things, so much his own, as the works which a person originates from his own creative imagination.” (1783 letter from Joel Barlow, classmate of Noah Webster, to Elias Boudinot).
13. *Id.* at 374.
14. *Id.* at 375. Other motives included the Framers’ interest in the United States being culturally competitive with other countries in the world. “There was a general feeling that the copyright laws would encourage authors to write and would be one avenue of attaining this goal.” *Id.* at 362. From the founding of the Nation and throughout its existence, lawyers have been a main ingredient in the recipe of civil democracy. As a nod to the special nature of the lawyering endeavor and its distinctive kinship to the American temperament, one view interestingly holds that “America. . .did not arise naturally. . . but was made. . .crafted by lawyers and statesmen.” *See*, JAY WINIK, THE GREAT UPHEAVAL: AMERICA AND THE BIRTH OF THE MODERN WORLD 1788 - 1800, 55, (2007). (Emphasis added).
15. THE FEDERALIST PAPERS, *supra* note 9, No. 43 at 271-272 (James Madison). “The utility of this power will scarcely be questioned. The copyright of authors has been solemnly adjudged in Great Britain to be a right of common law. The right to useful inventions seems with equal reason to belong to the inventors. The public good fully coincides in both cases with claims of individuals. The States cannot separately make effectual provision for either of the cases, and most of them have anticipated the decision of this point by laws passed at the instance of Congress.”
16. Act of May 31, 1790, ch.15, §1, 1 Stat., 124 (1790).
17. For example, musical compositions were added in 1831. Dramatic performances were added in 1853. 1865 saw the inclusion of photographs, with computer programs being added in 1980, and architectural works in 1990. *See* Timeline accompanying this article.
18. Act of May 31, 1790, ch.15, §2, 1 Stat., 124, 124 *supra* note 16.
19. BIGBEE, *supra* note 10, at 155. District Courts were the original site for registering works and continued until 1870 when the responsibility was given to the Library of Congress where it remains today.
20. There have been a number of significant revisions to the Copyright Act of 1790 addressing either the duration of the term of copyrights, expanding the subject matter of copyrights, or providing for the advent of new technologies. *See* Timeline accompanying this article.
21. Pierre N. Leval, *Toward a Fair Use*, 103 HARV. L. REV. 1105, 1107 (1990). “The copyright is not an inevitable, divine, or natural right that confers on authors the absolute ownership of their creations. It is designed rather to *stimulate activity and progress in the arts for the intellectual enrichment of the public*. (Emphasis added). *See also*, Triangle Publications v. Knight-Ridder Newspapers, 449 F. Supp. 875, 882 (1978). “The primary purpose of the Copyright Act is to stimulate creativity for the public welfare and to preserve for the creator the right to retain the work unpublished or to publish and derive monetary compensation therefrom.”

22. *Harper & Row Publishers, Inc. v. Nation Enterprises*, 471 U.S. 539, 545-456(1985).
23. Copyright Act of 1976. Pub. L. No. 94-553, 90 Stat. 2541 (codified at 17 U.S.C. §102 (a) (2018)). (Emphasis added). This version of the law is considered the basic framework of current copyright law. The phrase, now known or later, allows the law to keep pace with emergent technology.
24. *Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 345 (1991). *Cf.*, PIERRE N. LEVAL, *supra* note 21, at 1109. "... all intellectual creative activity is in part derivative. There is no such thing as a wholly original thought or invention. Each advance stands on the building blocks fashioned by prior thinkers."
25. 17 U.S.C. §102 (a). The eight categories are: (1) Literary works; (2) Musical works, including any accompanying words; (3) Dramatic works, including any accompanying music; (4) Pantomimes and choreographic works; (5) Pictorial, graphic, and sculptural works; (6) Motion pictures and other audiovisual works; (7) Sound recordings; and (8) Architectural works.
26. *Id.* at §102 (b). In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work. To the contrary, patent law is directly concerned with process, systems and methods of operation. *See*, 35 U.S.C. §101 (2018).
27. *Proverbs* 11:29 (King James Bible)
28. *Inherit the Wind*. Copyright © 1955 Jerome Lawrence & Robert Edwin Lee (Registration for Dramatic Work and Music, Registration No: DP0000002380/ August 25, 1955).
29. *Inherit the Wind*. Copyright © 1988 United Artists Pictures, Inc., successor in interest to Lomitas Productions, Inc. (Renewal Registration for Motion Picture, Registration No: LP00000017779/September 2, 1960).
30. *Inherit the Wind*. Copyright© 2014 L. Lincoln Clark (pseudonym of Lou Clark) (Registration for Literary Text, Registration No: TX0008006700).
31. The idea/expression dichotomy sometimes invokes First Amendment concerns and it has been a mainstay



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- in the judicial balance between the dual constitutional aims of copyright protection. *See, infra*, text accompanying notes 71-74.
32. 17 U.S.C. §408(a).
 33. 37 C.F.R. §202.2 (c) (4) (2021). The page immediately following the title page, either side of the front cover or the first page of the main body of the work are among the several other positions notice can appear in a book.
 34. 17 U.S.C. §401 (b). *See also*, 37 C.F.R. §202.2 (c) (3) (i) (2021) governing the acceptability of notices being dependent on its being “permanently legible to an ordinary user of the work” and “affixed...in such manner and position...not concealed from view.”
 35. LEE WILSON, *FAIR USE, FREE USE AND USE BY PERMISSION: HOW TO HANDLE COPYRIGHTS IN ALL MEDIA* 14, (Allworth Press 2005).
 36. 17 U.S.C. §408 (a).
 37. *Id.* at §408 (b).
 38. 37 C.F.R. §202.3 (b) (2) (i) (2022), available at <https://copyright.gov/registration/>.
 39. 17 U.S.C. §411.
 40. 37 C.F.R. §202.5(b).
 41. *Id.* at §202.5(c).
 42. 17 U.S.C. §410(c).
 43. LAWRENCE & TIMBERG, *supra* note 4 at 305.
 44. Harper & Row Publishers, Inc., *supra* note 22.
 45. 17 U.S.C. §106. The exclusive rights are: (1) to **reproduce** the copyrighted work in copies or phonorecords; (2) to **prepare derivative works** based upon the copyrighted work; (3) to **distribute copies** or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending; (4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to **perform** the copyrighted work publicly; (5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to **display** the copyrighted work publicly; and (6) in the case of sound recordings, to **perform** the copyrighted work publicly by means of a digital audio transmission. *See also*, Eldred v. Ashcroft, 537 U.S. 186 (2003).
 46. Penguin Random House, LLC v. Colting, 270 F. Supp. 3d 736, 753 (S.D.N.Y. 2017). “... the fact that any given author has decided not to exploit certain rights does not mean that others gain the right to exploit them.” *Id.*
 47. 17 U.S.C. §201 (d).
 48. Sonny Bono Copyright Term Extension Act of 1998, Pub. L. 105-298, 112 Stat. 2827, codified at 17 U.S.C. §302 (a). In the case of joint authors, the rights expire seventy years after the death of the last surviving author. *Id.* at §302(b).
 49. Copyright Renewal Act of 1992, Pub. L. No. 102-307, 106 Stat. 264 (1992).
 50. 17 U.S.C. §101. A “work made for hire” is (1) a work prepared by an employee within the scope of employment; or (2) the nine categories must be commissioned as a: (1) Contribution to a collective work; (2) Part of a motion picture or other audiovisual work; (3) Translation; (4) Supplementary work; (5) Compilation; (6) Instructional text; (7) Test; (8) Answer material for a test; or (9) Atlas.
 51. 17 U.S.C. §302 (a). This duration applies also to anonymous and pseudonymous works.
 52. A license gives another permission to use protected works for a specific purpose for a set time, whereas a grant, conveyance, or assignment could otherwise be construed as outright transfer of the right to ownership. Practitioners should take great care when conveying these rights to be on guard against unintended forfeiture.
 53. *The Pelican Brief*. Copyright © 1992 by John Grisham (*book/literary work*) (Registration No: TX0003266464/March 5, 1992). | *The Pelican Brief*. Copyright © 1993 by Warner Brothers, a division of Time Warner Entertainment, LP. (*Motion picture*) (Registration No: PAu001803075/October 26, 1993). *Inherit the Wind*. Copyright © 1955 by Jerome Lawrence & Robert Edwin Lee (*dramatic work/stage play*) (Registration No: DP0000002380/August 25, 1955). | *Inherit the Wind*. Copyright © 1988 United Artists Pictures, Inc., successor in interest to Lomitas Productions, Inc. (*Motion picture*) (Renewal Registration for Motion Picture, Registration No: LP00000017779/September 2, 1960).
 54. 17 U.S.C. §501 (a).
 55. Penguin Random House, LLC, *supra* note 43 at 744.
 56. *See, supra*, text accompanying note 42.
 57. BAGLEY, *supra*, note 5 at 300. *See also*, Cambridge Univ. Press v. Patton, 769 F. 3d 1232 (11th Cir. 2014).
 58. Cambridge Univ. Press v. Patton, 769 F. 3d 1232, 1291 (11th Cir. 2014).
 59. *Id.* at note 7.
 60. 17 U.S.C. §502, 504.
 61. 17 U.S.C. §411 (a). *See also*, Fourth Estate Public Benefit Corp. v. Wall-Street.com, LLC, 139 S. Ct. 881, 887 (2019). “[a]lthough an owner’s rights exist apart from registration ... registration is akin to an administrative exhaustion requirement that the owner must satisfy before suing to enforce ownership rights.”
 62. Harper & Row Publishers, *supra* note 42, at 549.
 63. Folsom v. Marsh, 9 F. Cas. 343 (1841).
 64. 17 U.S.C. §107 (a).
 65. *Id.*
 66. Cariou v. Prince, 714 F. 3d 694, 705 (2013) (quoting Campbell v. Acuff-Rose Music, Inc. 510 U.S. 569, 578 (1994)).
 67. *Id.* *See also*, Google LLC v. Oracle America, Inc., 114 S. Ct. 1183, 1197 (2021). “The fair use concept is a flexible concept which courts must apply in light of the sometimes conflicting aims of copyright law, and its application may very well depend upon context.”
 68. Campbell, at 510 U.S. at 578.
 69. Cariou, 714 F. 3d at 705 (quoting Blanch v. Koons, 467 F. 3d 244, 251 (2006)). *See also supra*, note 22, Pierre N. Leval, *TOWARD A FAIR USE*, 103 Harv. L. Rev. 1105, 1116 (1990). “Factor One is *the soul of fair use*.” (emphasis added).
 70. *Id.* Cariou 714 F. 3d at 705.
 71. Eldred v. Ashcroft, 537 U.S. 186 (2003).
 72. *Id.* at 219.
 73. *Id.*
 74. Cambridge University Press 769 F.3d at 1256 n.18, holding the copying of select materials of a copyrighted textbook by professors at Georgia State University to be fair use. “[t]he idea/expression dichotomy ‘strikes a definitional balance between the First Amendment and the Copyright Act by permitting free communication of facts while still protecting an author’s expression.”
 75. RALPH WALDO EMERSON, *NATURE, THE ESSENTIAL WRITINGS OF RALPH WALDO EMERSON* 8 (2000).
 76. *Id.* THE AMERICAN SCHOLAR at 43.

The Habersham County Courthouse at Clarkesville: The Grand Old Courthouses of Georgia

BY WILBER W. CALDWELL

Habersham County was created from the Cherokee Cession of 1818. Early records indicate that the county's first court sessions were held in the open a few miles from present day Clarkesville, which was laid out and designated the county seat in 1823. The first Habersham County Courthouse was a small wooden building built in 1821. This structure was still standing in 1979, but sadly it has since been demolished. It is unclear whether the old frame building was erected expressly as a courthouse, or whether it was a private residence used by the early court. Whatever the case, in 1829, Adiel Sherwood describes Clarkesville as having a "courthouse, a jail and 33 houses and stores." In 1832, only three years after Sherwood's publication, a monumental, if not graceful, brick courthouse was erected on Clarkesville's square.

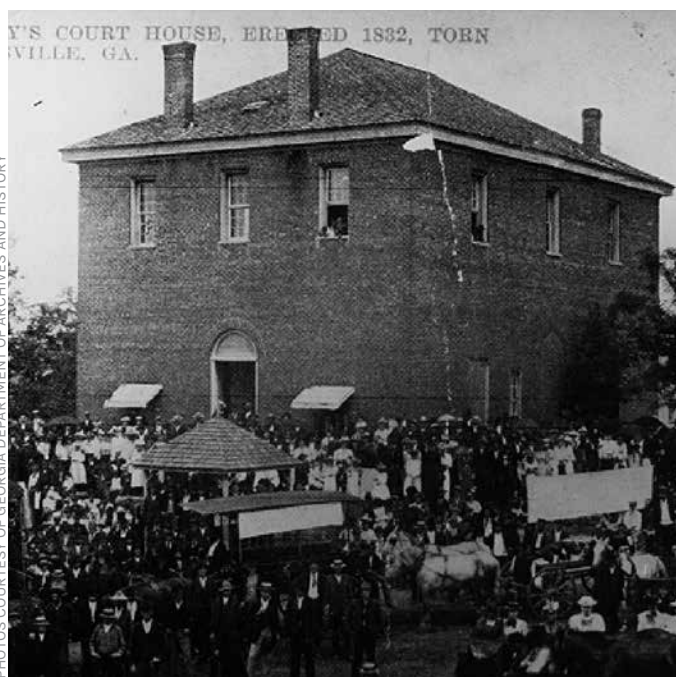
In 1828, the discovery of gold in a narrow band stretching from Rabun County southwestward through Habersham, White and Lumpkin counties attracted population to the virtually unsettled mountain regions of Georgia and precipitated the abrupt removal of nearly 14,000 Cherokee Indians in 1835. On the eastern edge of this vast wilderness, Habersham

County was only 10 years old when prospectors began to flood her theretofore-virgin forests in search of instant fortune. For the next 20 years, mining activity was brisk in North Georgia. As late as 1849, George White, in his "Statistics of the State of Georgia," lists six major mining sites in Habersham County. In the same 1849 text, White describes a massive courthouse as a building "of brick, but not very well arranged."

Thirty years later, according to Sholes' 1879 *Gazetteer of Georgia*, Clarkesville had a population of about 400, and enjoyed a modest success as a mountain resort. As the turn of the century approached, Clarkesville was still a very remote place. In a sense, it was the rural and detached quality of her mountain setting that set in motion the odd progression of events that ended in the creation this courthouse. Fifty years after Clarkesville was laid out, the town of Toccoa appeared along the newly laid rails of The Atlanta and Richmond Air Line in the eastern part of Habersham County. Twenty-five years later, Toccoa had mushroomed into a city of more than 2,000, while Clarkesville languished, counting less than a quarter of that number. By 1897, enormous pressures to

move the courthouse from Clarkesville to Toccoa had developed, and in that year, the matter came to a vote. It was the classic confrontation of town against country. It pitted modernity against tradition, materialism against agrarian ideals, New South zeal against Old South intransigence and commercial America against the frontier. With the help of the rural vote, Clarkesville fended off the upstart challenge in an emotional political battle fought in this mountainous backwater of rural Georgia.

As much loved as the old 1832 courthouse at Clarkesville was, in the minds of many, the building represented the town's unprogressive character. Accordingly, as pressure from Toccoa mounted in 1897, county officers commissioned Atlanta architect Andrew J. Bryan to design a new court building in order to strengthen Clarkesville's grip on the county seat. To counter this tactic, the "Courthouse Club" of Toccoa offered to build a new court building in that city at no cost to the taxpayers. At the same time, Toccoans attacked county officials in Clarkesville, charging that they had acted without legal authority in the hiring of Bryan. The architect later had to sue Habersham



The Habersham County Courthouse at Clarkesville, erected in 1832, James W. Golucke, architect.



The Habersham County Courthouse, built circa 1950.

County for his \$880 charge for services. A few weeks later, Clarkesville defeated Toccoa in a countywide election and the county seat remained unchanged.

After Clarkesville's victory, county officials continued to press for the construction of a new courthouse to cement Clarkesville's hold on the county seat, and to replace the relic on the town square. Needless to say, Toccoa residents were not anxious to be taxed to pay for a new building in Clarkesville. Owing to the high emotions that accompanied this situation, two different accounts of subsequent events survive. Both accounts agree that the old 1832 Habersham County Courthouse was demolished in January of 1898. Most agree that it was blown up, some say with a firebomb, some say with dynamite. This tactic of gaining support for courthouse construction is not unique to Clarkesville. Similar accounts and rumors surrounded the destruction of the c.1852 Whitfield County Courthouse at Dalton in 1892. Likewise the old courthouses at Baxley and at McRae were reportedly illegally razed in advance of elections to ratify and approve financing for the construction of new buildings.

However, the old Habersham County Courthouse came to be demolished, a new

courthouse became a necessity, rather than a point of contention. And while residents of Toccoa and a conservative rural population might have condemned their leaders' tactics, they were suddenly hard pressed to oppose the construction of a new court building for Habersham County. Bryan's controversial design was abandoned, and Atlanta architect James Golucke was retained. The building was completed before the end of 1898.

Most of the early Romanesque Revival court buildings erected in Georgia reflected the style's powerfully picturesque asymmetrical tradition. Many incorporated stone banding and decoration in the Richardsonian mode. But as this building illustrates, a trend toward symmetry was emerging as the new century approached. R. H. Hunt's 1894 Elbert County Courthouse was among the first examples, and Georgia's preeminent Picturesque courthouse designers, Bruce and Morgan, had designed a symmetrical Romanesque court building at Forsyth (1896) before James Golucke began his plans for Clarkesville. Perhaps here at Clarkesville, we find an echo of an older and more fundamental pre-Richardsonian American Romanesque Revival mixed with the American brick vernacular. This style, sometimes referred to as The Ameri-

can Round Windowed Style, may have sprung from the German Rundbogenstil. Still in the end, it seems more likely that Golucke's simplicity here in Clarkesville was rooted more in a turn-of-the-century return to symmetry coupled with a limited budget than in historical revivalism.

James W. Golucke's 1898 Habersham County Courthouse was badly damaged by fire in 1923, and was faithfully restored in that year. Much to the dismay of most present day residents of Clarkesville, the old building was demolished in the mid-1960s to make way for the present courthouse. ●

Excerpted by **Wilber W. Caldwell**, "The Courthouse and the Depot, The Architecture of Hope in an Age of Despair, A Narrative Guide to Railroad Expansion and its Impact on Public Architecture in Georgia, 1833-1910," (Macon: Mercer University Press, 2001). Hardback, 624 pages, 300 photos, 33 maps, three Appendices, complete Index. This book is available for \$50 from book sellers or for \$40 from the Mercer University Press at www.mupress.org or call the Mercer Press at 800-342-0841 inside Georgia or 800-637-2378 outside Georgia.

NOT CROSS

CRIME SCENE DO

Killian's Folly

The Editorial Board of the *Georgia Bar Journal* is proud to present, "Killian's Folly," by Hon. Lori B. Duff of Loganville, as the winner of the *Journal's* 31st Annual Fiction Writing Competition.

BY HON. LORI B. DUFF

The purposes of the Fiction Writing Competition are to enhance interest in the *Journal*, to encourage excellence in writing by members of the Bar and to provide an innovative vehicle for the illustration of the life and work of lawyers. As in years past, this year's entries reflected a wide range of topics and literary styles. In accordance with the competition's rules, the Editorial Board selected the winning story through a process of reading each story without knowledge of the author's identity and then scoring each entry. The story with the highest cumulative score was selected as the winner. The Editorial Board congratulates Duff and all of the other entrants for their participation and excellent writing.

"I need for you to shoot me. Shoot to kill."

Duke blinked at his lawyer. "What are you talking about?"

Albert Killian Jr. reached into his desk drawer and pulled out a Beretta 9mm pistol and a box of ammunition. He put them on the desk in front of Duke and said, "Here. This is enough for you to take practice shots. Get the feel for it."

"I'm a lot of things, Mr. Killian, but I ain't a murderer."

"This isn't murder, Duke, it's suicide."

"Then why do you need me to pull the trigger?"

Killian adjusted his tie. The less information he gave to Duke, the better. "Because. If I pull the trigger, my insurance policy won't pay out. It has to look like murder. The whole point of this is to make sure Trey gets the money."

Duke looked around the office. Killian knew the mahogany furniture and the oriental rugs wouldn't look like they were owned by a person whose kid needed money. "What's in it for me?"

"Fifty thou. Cash. Twenty-five now. Today, if you agree, and 25 after the deed's done."

Duke let out a low whistle. Fifty K was a lot of rent money and bottles of bourbon for a guy like Duke. "Why me?"

"Because you owe me. Your sorry ass isn't in jail because of me. No one will suspect you—you're a thief, not a murderer. We have no beef. Our only connection is professional. You avoid violence when you can. Because I know, due to our previous dealings, that you're an honorable crook, in that you know how to keep your damn mouth shut."

A different kind of man would not have taken all of that as a compliment, but Duke was not a different kind of man, and Killian knew it. Duke *was* a thief. He *was* a crook. He hated fighting. He prided himself on his refusal to rat anyone else out. He honest-to-God looked proud that Killian had noticed this about him.

"I don't want you to die, Mr. Killian. Who'll bail me out when I need it?"

"That's the thing, isn't it? You don't care if I die because I'm Albert Killian, you care if I die because of what I can do for you when I'm alive. You know what the difference is between you and me, Duke?"

Killian knew he'd taken Duke by surprise with this proposal. Lawyers generally got you out of trouble, not into it.

Duke looked at Killian like it was a rhetorical question, but Killian expected an answer and waited for one. Duke shook his head. "The difference is that my daddy had money and your daddy didn't. And let me tell you—that's the only difference. When I die, my picture will be in the paper and there'll be some story about me, and when you die, unless the police are involved somehow, there won't be. Why is that, Duke? Is it because I'm a better man?"

Duke opened up his mouth to answer, but Killian kept right on talking. "No, I'm not. In fact, in a lot of ways, you're the better man. You're honest about who you are." Killian filled his chest with air and let it out slowly, through pursed lips. "Do we have a deal? Will you help me?"

"I don't know, Mr. Killian."

Killian reached underneath his desk and pulled out an insulated lunch bag. He pushed it across the desk to Duke. "Go ahead. Look inside."

Duke unzipped the sack and peered in it. Killian was betting his life that Duke had never seen so much cash in one place.

"You can count it if you want to. It's all there. Twenty-five thousand."

Duke looked up. "I trust you."

"Then you're a fool."

Duke reached his hand in the bag and stirred it around. Money had its own smell. It was a good smell and it lifted out of the bag in waves. "You're not going to tell me why?"

"Just trust that I have my reasons. Not everything that looks good is good, Duke, and that's all I'm going to say about that."

"Exactly how would you—we—pull it off?"

"Sunday evening is New Year's Eve. You'd come by my house about nine or ten o'clock. Park in the gas station at the corner and come around back through the power lines. I'll meet you in the back yard. Three shots. Here," he tapped his chest over his heart, like he was pledging allegiance. "Here," he tapped his Adam's apple, "and here." He tapped the center of his forehead.

"If one doesn't get me, another will. I won't fight you, so get as close as you want. I want to go quick. No one around here will notice the sound of a stray bullet on New Year's Eve. I'll have a note in my right hip pocket that will tell you where to find the rest of the money. Then you leave and get on with your life. Eventually, someone will find me. If the coyotes find me first, well, serves me right. I don't care."

Killian knew he'd taken Duke by surprise with this proposal. Lawyers generally got you out of trouble, not into it. He watched the younger man try to think it through, so he helped him along. "It can't go wrong. Everyone knows where Killian Hall is. It's behind a fence and there are no neighbors within eyesight. New Year's Eve is full of firecrackers and fireworks and firearms. The sound of a few extra gunshots won't make anyone take notice."

Duke's features concentrated in the center of his face, his eyebrows pulled together in thought, his mouth pursed. Killian felt like he was nibbling on his hook, and he only had to get the bastard to bite. "The only real question is whether or not you can pull it off. You know how to handle a gun?"

Killian figured he could. Every boy in Bold Rock, Georgia, learned how to fire a gun before he learned how to multiply and divide.

"Yes, sir," Duke said. "I been hunting long as I can remember. I kilt plenty of

deer and possum.” His chest puffed up as he said, “I even once put a bullet through the skull of our dog to put it out of its own misery.”

There it was: the hook was in the fish’s mouth. Killian felt the same surge of adrenaline he felt in a courtroom when he knew he had a witness cornered. “This is no different. Killing that dog was a mercy and you knew it. It’s the same here. I’m miserable, Duke. Help me end it.” Killian’s gaze was steady. He bore into Duke’s eyes until Duke finally said, “I’ll do it.”

Duke put out his hand. Killian shook it briefly and gave it back to him.

“Thank you,” Killian said. “You’re a good man for doing this for me.”



After Duke left with the gun, the ammunition and the lunch sack, Killian sat back in his chair, feeling nothing but relief. How many times had his father told him? A man had nothing but his name, and Killian knew that he wouldn’t have his for much longer.

He took the bottle of Xanax out of his desk drawer and put a bar underneath his tongue, then another when the first one started to dissolve. He liked the bitter taste; he felt like he deserved it. He picked at the label on the bottle with his thumbnail. That was the real difference between him and Duke—his money and his reputation could buy him a prescription for anything he wanted from a legitimate doctor. Duke and his ilk had to buy it on the street and risk arrest. Killian wasn’t a pill head. He was an important man from an important family. Even if their behavior was the same.

When Katie died, taking their son Joseph with her in the fiery wreck of her car, Killian found himself the single parent of teenaged Trey. Trey was resentful enough before the death of his mother and little brother. Killian had to keep his business running, had to manage his clients and had to be there for his son. Trey couldn’t know that he cried himself to sleep every night in the too-big, empty king-sized bed.

Trey fell apart—Killian had to keep it together. Trey got in fights at school, got brought home by the scruff of his neck by

the local cops, stinking of weed and cheap beer. Lecture after lecture—did he understand his privilege? Did he understand that only being Albert Killian III was what kept him out of jail? Nothing changed his behavior. Counseling was expensive. Discreet rehab facilities were even more so when the weed moved on to cocaine.

His law practice did well. He had family money and Katie’s life insurance, but that only went so far. Keeping up the Killian estate and the large old house with the Killian Law Offices was no small task in the best of times. These were not the best of times.

What made the most sense was selling Killian Hall. It was a grand old place, an antebellum mansion sitting on 48 acres. It had more bedrooms than Killian would ever need and tricky plumbing, impossible to cool in the summer and near as hard to heat in the winter. But selling the old house wasn’t just selling a house. It was selling the family ghosts. Killians had lived in the house since it was built, more than 200 years ago. Hell, the address was on Killian Road. Generations of Killians had been born and died in that house. He couldn’t be the one to lose it, no matter how much money he would make from the sale.

So he lay awake at night, missing Katie and listening to his father’s spirit telling him how he’d failed. Generations of Killian men had been lawyers and judges in Bold Rock. Killian men were supposed to add to the Killian wealth. But here he was, depleting it for his out-of-control son, too sad and pathetic himself to earn replacement money.

At his annual check-up that first year, Dr. Ford said casually, “How are you doing since Katie ...” and for the first time since her funeral, he cried in front of another man. That was when he learned about Xanax, the drug that numbed, allowed him to think what he wanted to think, permitted him to function. Dr. Ford was generous with the prescriptions.

Then Killian threw his back out and got some hydrocodone at the ER. Hydrocodone was better than scotch for taking the edge off the real pain, which wasn’t anywhere near his back.

To keep it up, he had to rob Peter to pay Paul. Shuffling money from one account to another. He had to keep a certain amount invested in the local bank, or people would talk. Confidentiality only went so far. He couldn’t have anyone say that he was the one who had lost the family fortune, not with Daddy’s voice always in his ear, whispering warnings, making threats. Reputation mattered. He was a Killian. He was not just a Killian, he was the steward of the Killian name.

And now it had come to this. He’d taken money out of Hannah Adair’s settlement to pay for Trey’s latest round of rehab with the sure knowledge that he could put it back when he settled Robin Bradley’s case. But, like all Ponzi schemes, it had collapsed. It was only a matter of time before his clients—and the State Bar—figured out what he’d done. No doubt he’d be disbarred, cut off from the only inadequate source of income he had and publicly shamed. There wasn’t enough Xanax at the pharmacy to take his mind off that worry.

He didn’t see another way out of it. After Katie’s death, he’d upped his life insurance to \$5 million. The money would go to a trust managed by Killian’s cousin, who would see to it that Trey didn’t snort it up his nose or do anything foolish with it. Like Killian had. Without a lawyer in the family, the law building could be sold or rented out. That should carry Trey through. He’d be better off without his wreck of a father, anyway. The boy was 19, nearly 20. Trey seemed to be sober, for now, and anyone would be a better babysitter than his father had been.

Killian looked around his office. All this history here, and now it was in the hands of a petty thief like Duke Evans, sold for the price of a new truck. If he were a better man, he’d make sure all his paperwork was in order, his clients taken care of. But he couldn’t make himself care, not anymore. The more screwups he left behind, the more suspects there’d be for his ostensible murder.



For the rest of the week, it looked like he did work but all he actually did was stir around papers on his desk. Not much

went on in the legal world the week between Christmas and New Year's, anyway. There were no court appearances, no meetings, depositions or mediations. On Friday at noon, he told his assistant to go home, snapped off the lights on the Christmas tree in the lobby and set the alarm for the last time.

When he suggested to Trey that he go to Evergreen Hospital's New Year's Retreat, he put an extra bar of Xanax under his tongue, prepared for a fight. Instead, Trey stared at him with those hazel eyes of his that looked exactly like his mother's and said, "That's not the worst idea you've ever had."

Killian was so surprised by this response that he said, "What?"

Trey blew a one-syllable laugh out of the side of his mouth, another habit of Katie's he mimicked, and said, "Evergreen wasn't the worst rehab you sent me to, old man. The other guys there, they ... didn't suck. Caleb said his parents were making him go."

"I had a whole speech prepared about New Year's being a dangerous holiday, what with everyone drinking and partying, and maybe it being best for you to be somewhere away from all that."

"You can give it if you want," Trey said, "but if you're willing to pony up the cash, I'm willing to go."

Killian didn't trust this at all. Trey was not a compliant person. He'd never gone anywhere without a fight. But there wasn't anything to fight with here. Killian needed Trey gone New Year's Eve. Trey could not intercept Duke, and he could not be the one to find Killian's body. Let it be the lawn guy or the maid. So he just said, "Okay then, I'll make the arrangements."

Saturday morning, Killian walked Trey out to the car for his drive to Evergreen. He felt like he should say something. This was the last time he would see his son. But he knew if he said something too far out of character, he might blow the whole thing. Instead, he hugged him briefly, clapped him on the back and said, "You're a good kid."

Trey gave him a skeptical look. "What's wrong with you? You high?"

Killian considered the question. It was early enough in the day that he hadn't had much of his medicine, and anyway,

he didn't consider what he ever felt 'high.' High was pleasurable, soaring, happy. The best Killian ever felt was less bad. He laughed ruefully. "No. Not high. I'm just proud of you. Be safe."

Trey gave a little salute and climbed into his Jeep, peeling out of the driveway a tad faster than safety allowed.

Killian looked at his watch. He had about 36 hours left in which to go about his business, looking normal to the outside world. Stan Braverman was having a dinner party tonight. He could go, have a couple of drinks, tell dirty jokes and give a dozen people reason to say, "But I just saw him! He didn't seem worried about anything!"

That was one of the good things about having been a trial lawyer for more than 25 years. No one seemed to realize how much of a performance art it was. It surprised Killian that more lawyers didn't go into acting as a second career—the leap was a short one. Years publicly pretending that all his clients were saints and all his opposing counsel were buddies meant that, at least in small chunks, Killian could make anybody believe anything about him if he wanted to.

He went inside, swallowed a couple of Vicodin, and took a nap until it was time to get ready for Stan's party.

On Sunday, Killian slept as late as he could, which was about 10 in the morning. He got up and made coffee out of habit and, as he poured himself a cup, realized that he would never make himself coffee again. He didn't feel one way or another about it, just drank his coffee in the peaceful quiet of Sunday morning, his eyes skimming over the newsprint of the *Atlanta Journal-Constitution* and not taking in a word of it.

So much of Sunday was routine. Killian wondered about the point of any of it. Why take a shower? Why did he need to be clean to be covered in blood in a few hours? Why shave? Why do a load of laundry and run the dishwasher? He even went to the grocery store, his normal Sunday afternoon habit, picking out fruit he knew he wouldn't eat and a loaf of bread that would go moldy on the countertop.

He lived on autopilot, not thinking, until he got to his last meal. He'd repre-

sented somebody once who was facing the death penalty. Killian had known that Jesse Divan was guilty of killing his parents and his wife, knew that Jesse felt no remorse. Killian didn't think the death penalty was the worst idea for this sociopath. He was beyond redemption. Killian thought that he wouldn't have any guilt administering the death penalty himself. But, when the judge declared the verdict, begging God to have mercy on Jesse's soul, Killian couldn't stop thinking that every time he looked at Jesse, his meaty arms covered with colorful tattoos, he was looking at a dead man.

What must it be like, he wondered then, to know your life had a definite expiration date, one not caused by disease or chance or the hand of God, but by your own foolish choices? How would it feel, he thought, looking at Jesse's imperturbable face, knowing it was in Jesse's future, to pick out your last meal? How would you go about choosing that kind of menu?

He supposed now he knew.

Killian's involvement with Jesse Divan's trial had introduced him to the folks at the Innocence Project, even though he explained to them that Jesse was anything but. One thing led to another. He found himself on the receiving end of a telephone call asking him if he wouldn't mind being host to a summer intern, a boy named Stephen Wells. Stephen, Killian was assured, was a highly intelligent and motivated young man despite his difficult family life. He had an interest in the law, and wanted to shadow a lawyer for a summer before applying to college in the fall. He wouldn't require any pay from Killian, just experience, and some forms to fill out that would give him high school credit and access to some grant money.

Killian hadn't wanted to do it. Trey was not doing well last spring and was fighting entry into Evergreen. The last thing Killian felt qualified to do was take on mentorship of another young man—he was doing such a bang-up job with the one who shared his genes.

"We promise you," Irv Seltzer said at the other end of the phone. Killian noted the royal 'we' and wondered if that was Irv distancing himself personally from the promise. "Stephen will give



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you more than you give him. We were impressed with the work you did on the Divan case. That was a tough one, given the evidence against him. You're a compassionate man, even with those who don't deserve compassion. And Stephen does."

"I don't know, Irv."

"Just meet the kid. I'll bring him out. If you're not charmed in the first 10 minutes, we'll go away and never ask again."

Killian couldn't say no to that, even though he knew it was a setup. Seltzer was going to make him say no to the kid's face. They met at the Waffle House, Killian ordering coffee and bacon, Stephen looking at Seltzer for permission before he ordered anything. Seltzer patted the kid's hand. "Don't worry, it's on me. Order whatever you like." Stephen's face split into a huge grin, the size of which Killian hadn't seen on Trey's face since before Katie died.

Stephen was a high school junior who had his sights set on Morehouse. He'd be the first in his family to go to college.

When Killian asked him why he was interested in the law, Stephen said, "My mama says you can't change nothing by yelling at it. You gotta get in the inside and change it from there. The law seemed like the best way to get inside of things, you know what I mean?"

Killian looked at Stephen, his brown eyes wide, the curly lashes like little antennae wanting to sweep up all the information around him. He nodded. "Yeah, I think I do." He wouldn't say no. Stephen was his for the summer.

Stephen stepped in when Trey went away. Trey went to Evergreen and Stephen came to the office. The first 30 days of rehab were always in isolation so the program could do its alleged magic, and Stephen filled that void. The place where worry would be was instead filled with explaining the minutiae of law to someone who absorbed it with questioning wonder.

For the first week, Stephen said nothing beyond a mumbled, "yessir," or "no sir," or the occasional, "why?" Killian loved the 'whys' the best because they

indicated Stephen was paying attention, and they got Killian's own brain working. He'd been doing what he'd been doing for so long that he had quit thinking about why. Why indeed?

Over time, Stephen talked more, and the more Stephen talked the more Killian asked him questions. It started with the basics. Where did he live? Where did he go to school? Eventually, after hearing so many worshipful stories about Stephen's mama, Killian dared to ask about his father.

Stephen's normally bright face clouded over. "You think I'm one of those typical fatherless black boys whose daddy ran out on him before he was born, don't you?"

Killian held up his hands in a defensive manner. "Stephen. I don't think you're typical anything. I... I... I think you're an amazing young man. I'm simply curious."

Stephen studied his face. He didn't look like he believed Killian, but he took a breath and huffed it out before answering anyway. "My mama and my daddy were high school sweethearts. My daddy wanted to go to college, but he couldn't afford

it. So he joined the Army, so he could get them to pay for it. Right after he inks the papers, damn George W. Bush declares war on Iraq, even though Iraq didn't have a damn thing to do with 9/11. He goes straight from basic to Iraq. Mama and Daddy didn't have time to get married, but they had time to say their goodbyes, and that's where I came from. It wasn't six months later that Daddy got blowed up by some bomb. Now I ain't got no daddy, and no social security or military benefits neither, because they ain't got married before I was born."

The muscles in Stephen's jaw worked. His face, normally rounded and boyish, looked angular and manly, angry.

"I'm sorry," Killian said.

"Yeah, well, ain't nothing you can do about it."

There wasn't, except that Killian could do everything he could to make sure Stephen's life wasn't wasted in the same way. He'd make sure Stephen got into Morehouse. Not that he had any pull, but surely his recommendation couldn't hurt. He'd recommend him for scholarships. He'd help him with his essays and coach him for his interviews. All the things he would have done with Trey, had Trey not smoked and snorted up his future.

And it had worked. A couple of weeks ago, on Dec. 15, Stephen called Killian to tell him he would be a Morehouse man, and was being considered for a scholarship. He qualified for the Zell Miller Scholarship in any event, so he could make this happen. Killian was just as proud as he would have been of Trey.

Trey really wasn't doing badly, not anymore. At Evergreen he'd gotten sober and taken GED classes. When he'd gotten out, he'd taken the test and passed it. He could go to college now if he wanted, but was taking it "one day at a time," as he kept saying, delivering pizzas and driving for DoorDash. Staying busy to stay out of trouble. Never in his lifetime did Killian think he'd be proud of his adult son for being able to keep a pizza delivery job for

the better part of a fiscal quarter, but here he was.

Trey could not keep up their home, or even his car insurance, on what he made. He needed the payout Killian's 'murder' would get him. It seemed to Killian the only thing that could keep him stable. Having a father the subject of a scandal, his father in jail, his father headlining the local papers for weeks or months on end couldn't possibly be of benefit. But having a father safely buried underground, with a big whacking pile of money able to take care of his needs for the rest of his life? That could help.



And so finally, finally Sunday evening came. Killian went out back near the firepit where he said he'd be. He lit a fire and sat back in the chair. He'd swallowed two Vicodin before coming outside and slipped a bar of Xanax under his tongue. He kept another in his pocket in case he needed it. He popped a cork on a bottle of champagne, poured himself a glass and lit his cigar with his father's monogrammed lighter he had in his jacket pocket.

For the first time since Katie died, he felt at peace. He wasn't afraid of death, only dying. He didn't like pain. He didn't like getting into fights as a kid, always avoided them if he could. He'd been punched in the nose once, by Billy Caferty, when he was eight. The memory of that sting and the taste of blood dripping down his throat was enough to strengthen his negotiating skills. Even if his father hadn't been the Great and Powerful Judge Albert Killian, he probably still would have gone to law school.

He wrapped his lips around the cigar, filling his mouth with the aromatic smoke, and checked himself for regrets. None. Everything he touched seemed better off without him. His law practice was already down the toilet. His real estate couldn't stay in the family without the insurance money. Trey would be better off with a trust fund Killian couldn't

screw up, and a father with sainted memory. Even Stephen was set and ready to go with a promising future. The only thing left to do was get himself out of the way, end the pain, end the charade, end the failure.

Killian washed the cigar smoke down with champagne and poured himself another glass. He'd only finished half of it when he heard footsteps coming from the power lines behind him. He put the glass and the cigar down on the table next to him and waited. His heart was pounding—not with fear, with excitement. He was ready. He didn't know if he believed in an afterlife, didn't know if he'd see Katie and Joseph again, didn't know if he'd rot in Hell or contemplate his sins in Purgatory. He considered it most likely that it would all be over. There would be a blissful, blank nothingness. No worry, no concerns, just worms and bacteria eating his flesh and finally making some use out of him by fertilizing the earth. Maybe he could nourish a rosebush. Then he could be something beautiful.

The footsteps got louder and Duke stepped around him. "Hey, Duke," Killian said.

"Hey, Mr. Killian." Duke was standing next to the fire, and Killian could only see him in outline in the brightness of the flames.

"What are you waiting for, Duke?"

"You sure you want me to do this?"

"I've never been more sure of anything in my life. I want to die, Duke. I need you to help me. Remember: here, here and here." Killian tapped his chest, neck and head. "I don't care what order."

"You got the money?"

"I've got it hidden." Killian dug in his pants pocket and took out the note. "This here tells you where." Off in the distance, someone fired off a pistol in the air. One, two, three times. A prelude.

Duke reached out his hand to get the note and Killian snatched his hand back. "Ah, ah, ah—no. You don't get this until it's done. I can't have you chickening out

and taking the money anyway. You can take this note out of my cold, dead hand." Killian started laughing and couldn't stop. How many times in his life had he used that phrase as a joke?

Duke stared at him, slack-jawed. "You okay, Mr. Killian?"

"No, no Duke. I'm not okay," Killian said, wiping tears away with the back of his hand. He couldn't tell if the tears came from all the laughing or from somewhere else. "But you're gonna make it okay. Remember." He tapped his chest, his neck and his head again.

Duke took a deep breath and pulled the pistol out of his jacket pocket. He checked the clip and put it back in the gun, flipped the safety and took aim. A beatific smile spread across Killian's face. "Aim true, Duke."

Duke's arm began to shake. "Your smile is creeping me out. I ain't never shot at a person."

Killian's smile grew wider. "Then don't think of me as a person. Think of me as a 10-point buck you're going to hang on your wall."

Duke closed his eyes and squeezed the trigger. The recoil jerked his hand. He opened his eyes as Killian screamed. Killian had his hand up at the side of his head.

"You missed! You missed, you dumb little turd! You just shot my ear off!"

Duke froze.

"Don't just stand there. Try again!"

Duke went to raise his arm for another shot, as a shadowy blur ran across his peripheral vision and tackled him. The gun went off again as he fell, hitting Killian in the meat of his calf and ricocheting against his shinbone. Killian felt exquisite pain, saw an explosion of light and then the relief of nothing.



Killian woke to the sound of a high-pitched whine. He opened his eyes and saw an unfamiliar drop-tile ceiling. Lord, that whine was annoying. He couldn't

think. He tried to plug his ears with his hands and found his left arm cuffed to a bedrail. His right arm was attached to an IV and banded with a blood pressure cuff, which suddenly filled with air. He closed his eyes again, trying to piece together what had gotten him here, listening to the sound of the blood pressure machine. The noise of it hitting his eardrums made him realize that the whining noise was coming from the inside of his head.

A nurse came in and said quietly, "Mr. Killian, you awake?"

"Depends," Killian said, realizing that, like everything else, he had failed at his suicide.

"Oh, a funny man." She came over and checked the readings on the blood pressure machine, then jiggled the IV bag. "How you feeling?"

"I don't know. I can't think with that whining noise."

"I don't hear a whining noise."

"It's in my head, I think."

"Well, baby, you got your ear shot off at close range. That'll make anyone's ears ring for a few days."

Duke. That useless piece of ... that's what happened. But why was Killian cuffed to the bed?

"How does your leg feel?"

"My leg?"

The nurse thumped where his leg should be but the noise sounded plastic. He looked down and realized he was wearing a complicated looking brace halfway up his left thigh, and his leg was slightly elevated by a sling.

Oh God. "I feel like I don't have a leg."

"You will."

"What happened?" Killian pulled at the restraint on his left arm. "Why?"

"That's not my story to tell, baby." She put her hand on his forehead the way his mother used to and said, "My name's Cheryl. I'm on till 7. Push this button if you need me before I come back to check on you."

Killian watched her leave the room, then heard her say to someone outside,

"He's up. Seems to be lucid." He heard the scrape of a chair against the linoleum and then a woman walked in the room. After blinking a few times, Killian recognized her.

She stuck out her hand and then, apparently realizing Killian's immobility, took it back. "Mr. Killian? I'm Detective Casey Evanovich. We've met before. I don't know if you remember me."

"I do," he said. "You were on the Haviland case a couple of years ago. You did a bang-up job, if I remember correctly."

"Thank you, sir," she said, dragging a chair from against the wall over to his bed. "Do you feel up to talking?"

"Depends if you feel like talking to me, and what you want me to talk about."

"I just want to ask you some questions about the night before last."

The night before last? Jesus Christ, how long had he been out?

"Before I answer anything, I need to know if I'm free to leave, and if not, why not." He jiggled the hand attached to the bed.

Evanovich looked at him with quick, intelligent eyes. "What do you remember?"

"Am I free to leave?" He rattled his left arm again.

"No."

"Then shouldn't you be telling me all about how I have the right to remain silent, and how if I choose to waive that right, that what I say can be used against me?"

Evanovich's eyes rolled skyward. But she read him his Miranda rights nonetheless, then asked again, "What do you remember?"

"Not much. Wanna tell me what crime you think I committed? Wanna tell me why you think I'm a flight risk, when I only have one working leg and I'm plugged into all this machinery?" He jangled the cuff again.

"You're being charged with attempted murder."

Killian barked a laugh that set loose a lightning bolt of pain across his head. "Attempted murder? I haven't looked in a

mirror, but it seems like I look more like the victim than the perp.”

“You’re that, too,” Evanovich said, not without sympathy.

What did she know? It was time to end this conversation. “I don’t want to talk anymore without my lawyer here.” Who would his lawyer be? Gil Roberts was a good defense lawyer, but he knew Gil too well. He needed someone who could advise him dispassionately. He could tell the truth better to someone he didn’t know. Maybe he’d hire one of those ponytailed lawyers from Atlanta who were always on TV.

“You want to call your lawyer now?”

“No,” Killian said, realizing the truth of his words as he spoke them. “Everything hurts. I feel like shit and I’m tired. I want to go back to sleep.” He was unconscious before Evanovich was all the way out the door.



When he woke up, who knows how many hours or days later, Stephen sat in the chair formerly occupied by Evanovich. Killian blinked at him for a few moments before deciding that he was not a hallucination. “Stephen,” he croaked. His throat was dry. Without being asked, Stephen reached for the plastic cup on the tray next to the bed and stuck the straw in Killian’s mouth. Killian took a few reviving sips, then pushed the cup away with his relatively free hand.

Stephen sat there a few moments, working his jaw. Finally, he said, “Mr. Killian, why?”

“Why what?” Killian could guess what, but knew from years of questioning people that the best way to get information was to feign ignorance. Besides, he was only half pretending. He didn’t know what Stephen knew, how he got to the hospital, how he came to be cuffed to the bed under police guard. There was a lot of the story Killian was missing. Maybe Stephen knew.

“Why did you want that man to shoot you?”

How in the hell could Stephen know that? Killian stared at him dumbly.

“I came by your house on New Year’s Eve. I didn’t expect you to be home. I was just gonna drop off a basket to say thanks. My mama made some of her collards and black-eyed peas for good luck, and there was some of them in there, with some cornbread. You know, for all you done for me. Taking me serious. Encouraging me. I wanted you to start the new year knowing I appreciated you.

“Then I heard some noise in the backyard. Shouting. I started walking around the house, and I heard a gunshot. I didn’t think, just tackled that dude pointing the gun at you. Punched him square in the face and took it from him, called 9-1-1.”

Killian considered for a moment. “I guess you saved my life.” Oh, Stephen.

“I guess so.” Stephen licked his lips. “But the news says you didn’t want me to. The news says the dude who shot you is in jail for shooting you. But he tried to say that you hired him to do it, and there was some kinda note in your hand that proved it was true.”

Goddamn Duke. Sung after all.

“You gonna tell me the truth, Mr. Killian?”

Killian fought against the crushing weight sitting on his chest to take in breath to speak. “No, Stephen, I’m not. But I’m not going to lie to you, either. I respect you too much for that.”

“I think you owe me the truth.”

“I probably do.” Killian pressed the button to make Cheryl come in the room. “But you’re not going to get it.” The blood pressure cuff started to tighten around his arm again.

Cheryl came in and checked the blood pressure machine. “A little high,” she said. She looked suspiciously at Stephen. “Who’s he?”

“A friend of mine,” Killian said. “The best intern I ever had.”

Cheryl raised a skeptical eyebrow at Stephen, which caused him to click his tongue and turn his head.

“It’s true,” Killian said. “He’s a good man. You can blame my being here alive on him. He can tell you how he rescued me.”

Cheryl shook her head and picked up Killian’s wrist to feel his pulse. “What can I do for you, baby?”

“Everything hurts.”

Cheryl checked the white board near the door. “It’s time for another dose of morphine if you want it.”

“Please.”

Stephen and Killian just stared at each other, while Cheryl left the room. Killian wondered vaguely what day it was and if anyone had told Trey what had happened. Why was Stephen here and not Trey? Just the thought was enough to unleash another barrel of pain in his head.

Cheryl came back pushing a computer cart and carrying a small vial. She clicked the keyboard, scanned the bar code on the vial, clicked some more keys, then emptied its contents into the IV port at Killian’s wrist. He felt the prickly warmth of it pulse through his circulatory system. Within a minute he was asleep, transported to a dark, dreamless world where nothing mattered and no one asked anything of him.

Finally, finally: peace. ●

Author’s note: this story was written to highlight the importance of psychological wellness in the legal community. If only Albert Killian had ‘used his 6’ after the death of his wife, or if he had identified his needs to the Lawyer Assistance Program, the events in this story might not have taken place.



Hon. Lori B. Duff currently serves as the presiding judge in the city of Loganville, and is the 10th Judicial District representative to the Council

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A Conversation with Chief Justice David E. Nahmias

In this installment of the “Georgia Lawyer Spotlight,” Editorial Board member Jacob E. Daly interviews Chief Justice David E. Nahmias, Supreme Court of Georgia, as his retirement from the bench draws closer.

BY JACOB E. DALY

The transcript of this interview has been edited for clarity and brevity.

Now that your retirement from the Supreme Court is imminent, how do you assess your tenure and your impact on the development of Georgia law?

I think I brought back to the Court a focus on constitutional and statutory text as originally understood. That is how our Court and virtually every other American court understood judicial roles until progressive political thinkers started telling judges they should be policymakers. I think textualism and originalism have become a real focus of our Court, and the Court of Appeals,

and that has a significant impact on how judges decide cases. Second, I tried very hard to make sure that our opinions were consistent and clear, because one of the biggest problems for any legal system is when you have binding appellate cases that are slightly different from one another on a point. That leaves nobody sure what the law is, and worse, you can't really figure out what the law is unless you are willing not only to take the case to court but also to take it past the trial court to the Court of Appeals and finally to the Supreme Court for us to say, “Oh, yeah, we did not mean what we said in this one opinion, but we meant what we said in this other opinion.”

Trying to get the law clear and consistent has been important.

How is originalism different on the federal and state levels?

Another thing that has happened, and this is partly me but really a lot of my newer colleagues, is reviving the idea that we have a state constitution that is different than the federal constitution. There's a lot more in Georgia's Constitution, and we have had 10 constitutions in Georgia. The most recent was adopted in 1983. It is a lot easier to figure out the original meaning of the 1983 Georgia Constitution than the 1789 U.S. Constitution. But it also creates complications, because

when you have language that is in the 1983 Georgia Constitution but was also in the Georgia Constitutions of 1777, 1868 or 1877, that creates some interpretive issues that we explored in a series of opinions that Justice Nels Peterson wrote about DUI self-incrimination issues. That has been another significant development in the jurisprudence of the Supreme Court of Georgia.

Why are textualism and originalism important?

If you tell judges to do what *they* think is reasonable, they will do what they think is right, because every judge on Earth thinks he or she is a reasonable person. That's just an open invitation for judges to not follow the language of statutes, but rather what they think is the best solution to a case. We have some cases from our Court that say that is how you should do it, but we have not cited any of those cases in the last 13 years because they are subject to a devastating rebuttal on the ground that you can't let judges just do what they think is reasonable. That is very different than saying the way you interpret legal text is you read it as it most naturally should be read. A good example of this is a case about the apportionment statute we decided last year. The statute said one provision of it applies when there is "more than one" defendant. There were very strong arguments about that making no sense, but the text said "more than one," and it's impossible to read "more than one" to mean "one." So we followed the text. Predictably, the Legislature amended the statute this year, and that is how the process is supposed to work. We apply what legislators write down and vote into law, and then if they do not like the answer, they can change it. If I was predicting what they would have wanted, I would have just changed the language, but that is not the role of the courts.

You have been credited with changing the vibrancy of oral argument in the Supreme

When advocates get hard questions, it's not a nice feeling, but I think the good advocates love questions and enjoy hard questions because they realize those are the questions the judges are going to be grappling with as they come to a decision in the case.

Court. How has oral argument changed during your tenure, and has it become what you think it ought to be?

I don't know that much about what it was like before me other than from people telling me. But I think the Court had a reputation of being a cold bench where you got very few questions. I never have understood why an advocate would want that. You get your chance to write out what you want to say in your briefs, and you should expect the judges to read the briefs, which are frankly the most important part of appellate advocacy. If oral argument was basically reading your brief to the Court, that to me would be a humongous waste of time for everybody involved, and so I have always thought oral argument is for the judges to tell the advocates what their issues and concerns are and to give the advocates a chance to answer them.

When advocates get hard questions, it's not a nice feeling, but I think the good advocates love questions and enjoy hard questions because they realize those are the questions the judges are going to be grappling with as they come to a decision in the case. I think the worst thing, if you



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are an advocate in front of an appellate court, is to stand there talking and have the judges just staring into space. I do not know what good that does for anybody. If you are representing the appellee and that's happening, you should say, "If there are no other questions, I'll sit down," because if you keep talking, the only thing that's going to happen is you will provoke somebody into asking you a question that makes your life harder.

How useful is oral argument to the Supreme Court's decision-making process?

In cases where we need oral argument, which is a bunch of cases, it can be very useful. We have a significant number of cases, particularly the ones that come here on direct appeal, that don't need oral argument because the issues are not novel or particularly difficult. But in granted certiorari cases, it's really useful to have someone to answer our questions. It changes the result more than people think. Because we have so many cases, I don't think we're as focused and have done all the research and reached a fairly firm decision before we walk into oral argument. So you have more of an opportunity. When I clerked at the U.S. Supreme Court, I only saw one case the whole term I was there where I thought the argument made a difference in the result. There is much more opportunity for that here, but oral argument is even more important to how opinions are written.

Tell us about Justice Antonin Scalia, what it was like to work for him, and perhaps something about him that a lot of people might not know?

He was great to work for. One reason was because he didn't like a lot of memos and paper. He liked to talk to his law clerks about issues, and that was really fun. Also, it's a lot easier and less burdensome to talk to somebody about an issue rather than writing a memo, particularly a memo for a Supreme Court justice where you want to make sure it's accurate and triple-checked. Something

that came out to the public later in his career was that, in person, he was delightful and funny and charming, which is why he got along with almost everybody and was fun to be around. When I was with him, he was a tennis player, and we played a couple of times. He did not move well, but he had a lot of tricky shots. Late in his career, he had become a hunter, which would have shocked me at the time I worked for him. Hunting became his passion toward the end of his career, and I think that was because when you get out hunting, you're about as far away from Washington and politics and courts as you could be. You're out in the wilderness, usually with a bunch of people who couldn't care less about any of that stuff, and I think he really enjoyed that.

Are there any habits or practices that you adopted from him?

I spent a year with Justice Scalia and never saw him express any desire other than to try to figure out what the right answer to the legal question was, even when the answer was a result that he did not like personally. I think that is a measure of a good judge. If you're not reaching results that you don't like some of the time, then that should be a hint to you that you're not actually following the law.

What are some of your suggested do's and don'ts for attorneys practicing in the Supreme Court?

The biggest "do" is be completely accurate about the facts and the law, and the biggest "don't" is don't omit or misrepresent anything, factually or legally. We're really busy, and we generally take it on faith that if something is in a brief and you say it's in the record or in the cases you cite, then you are right, but we do check citations, particularly when it comes to the opinion-writing process. The first factual misstatement or misstatement about what a case held that I find, I can't trust another thing that lawyer says—and not just in that case. I

remember it, because if you don't get it accurate, then how do I know anything else you say is accurate? People will make mistakes, but the good lawyers send a letter the next day and acknowledge that they may have said something that wasn't accurate. Some lawyers think they should not admit that they got something wrong. There is no better indication of professionalism and ethics than a lawyer telling a court, "I messed something up and I want to correct it."

Number two on the "do" side is keep it as short as you can. You can't imagine how much paper flows around the Court. The reality is if your first two or three arguments, or maybe four or five in a really big case, aren't going to win for you, argument number 17 has no chance. Yet we get briefs where as many as 45 errors are enumerated, and that's just a waste of everyone's time. It's not good for your client. It dilutes attention to the issues that matter. Pick out your best arguments, present them in as quick a form as you can. If you're going to win, it's going to be based on one of those.

What are some of the issues facing the judiciary over the next several years?

COVID-19-related issues are going to be dominant in the judiciary for a while, which was the point I tried to make to the General Assembly in my State of the Judiciary address. We have significant backlogs of cases in the trial courts because we couldn't hold jury trials for a significant period of time. When we could hold jury trials, we could only hold a much lower number because of safety precautions. And the flow of new cases is as high as it's been, or even higher, because of increasing crime. So that's going to take several years to clear out. When backlogged cases clear out of the trial courts, they're going to flow into the appellate courts. And we still have issues that have been problems for years and years, like access to justice for poor and even middle-class Georgians.

What does the future hold for you?

I'm leaving partly because this is an election year, so I had to decide if I was willing to re-up for another six years. I'm getting remarried in July. I have a son who's going to be finishing his sophomore year in high school, so he's home only for a couple more years. My other son is going to Duke and will play football, and I want to be able to travel and see him play instead of reading opinions on the weekends. I'm going to take some time to recharge, but I'm also moving this summer for the first time in a long time. Next spring, I'm going to teach a class on state constitutional law at Emory, which is something I've wanted to do, but I haven't had the time to put a class together. And then I'll practice law, but I don't know what my platform will be. I don't know how much I'll practice or what particular area I'll practice in. I definitely have an interest in doing some things that are in the public interest, but whether that's from a law firm setting or law school setting or on my own, I don't know yet.

As a Duke alum, which 2022 retirement is the most momentous: yours or Coach K's?

I've gotten great enjoyment out of what Coach K was able to do with Duke, so that's a pretty easy question. And I will say, he is actually retiring. He's not going to coach basketball anymore. I am just retiring from the Court, but I am not retiring from being a lawyer. ●



Jacob E. Daly is of counsel with Freeman Mathis & Gary, LLP in Atlanta and a member of the Georgia Bar Journal Editorial Board. He

represents private companies, government entities and their employees in personal injury litigation with a focus on defending property owners, management companies and security companies in premises liability lawsuits.

Kudos



The American College of Tax Counsel announced the election of Richard Litwin of Litwin Law by its Board of Regents. Fellows of the American College of Tax Counsel are recognized for their accomplishments and professional achievements and for their dedication to improving the practice of tax law. The College communicates with Congress, the Treasury Department and the IRS on federal tax issues and through the filing of “friend of the court” briefs in selected tax cases.



Baker Donaldson announced the selection of Sheena K. Khawaja for the 2022 Leadership Council on Legal Diversity Pathfinder Program. The program is a seven-month professional program designed to train high-performing, early-career attorneys on foundational leadership and relationship-building, and provides participants with the opportunity to learn from top leaders in the legal profession along with experts in the fields of learning and development and executive coaching.

The Western Judicial Circuit District Attorney’s (DA) Office announced that its DA Data Dashboard is available for public use. The dashboard aims to provide the public with data to increase transparency about the operations of the district attorney’s office as well as enhance understanding surrounding the justice system.

On the Move

IN ATLANTA



Attorney Kevin J. Rubin announced the formation of Rubin Family Law, LLC. Rubin’s practice focuses on simple and complex actions for divorce, child custody, support and alimony, modification of previous orders, paternity and legitimation, prenuptial and postnuptial agreements, and contempt actions. The firm is located at 400 Interstate North Parkway SE, Suite 1175, Atlanta, GA 30339; 770-670-7200; www.rubinfamilylawllc.com.



Womble Bond Dickinson announced the addition of Rodney R. Miller as partner. Miller concentrates his practice on intellectual property matters, including due diligence, licensing and transactional work, patent office post-grant review and litigation. The firm is located at 271

17th St. NW, Suite 2400, Atlanta, GA 30363; 404-872-7000; Fax 404-888-7490; www.womblebondnickinson.com.



KINZINGER



MOORE

Hall Booth Smith, P.C., announced the addition of Alex Kinzinger, Christi R. Moore, Stuart Fallin Sumner and Andrew Tyner as associates. Kinzinger focuses her practice on health care and medical malpractice litigation defense. Moore concentrates her practice on general liability matters. Sumner focuses his practice on governmental liability and government affairs. Tyner focuses his practice on aging services, products liability and general liability claims. The firm is located at 191 Peachtree St. NE, Suite 2900, Atlanta, GA 30303; 404-954-5000; Fax 404-954-5020; www.hallboothsmith.com.



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Hall & Lampros, LLP, announced the addition of Rachel Berlin Benjamin and Brian J. Sutherland as partner, and Akil K. Secret as of counsel. Benjamin’s practice focuses on sexual harassment; age, race and disability discrimination; and other EEOC matters. Sutherland’s practice focuses on workplace discrimination, LGBTQ rights in the workplace and other EEOC matters. Secret focuses his practice on wrongful death, personal injury, civil rights and major criminal defense matters. The firm is located at 400 Galleria Parkway, Suite 1150, Atlanta, GA 30339; 404-876-8100; Fax 404-876-3477; www.hallandlampros.com.



Henning Mediation announced the addition of Ryan Mock as a panel member. Mock’s practice focuses on personal injury and wrongful death, medical malpractice, legal malpractice and other areas of professional negligence, nursing home litigation, premises liability, and automobile and trucking accidents. The firm is located at 3350 Riverwood Parkway, Suite 75, Atlanta, GA 30339; 770-955-2252; Fax 770-955-2494; www.henningmediation.com.



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Parker Poe announced the addition of Sherry H. Culves, Nina Gupta, Samantha P. Lewis, Brandon O. Moulard, Cheryl V. Shaw and Suzann M. Wilcox as partner; Kathryn L. Ams, Emily H. Breece, Laura Lashley, Elizabeth Phrampus, Kathy B. Solley and Laurant J. Warco as counsel; and Ashley A. Akins, Ralph Culpepper III, Jeffrey R. Daniel and MaryGrace Bell Kittrell as associates. Culves focuses her practice on education law, employment law, disability and special education, as well as general litigation. Gupta's practice focuses on employment and labor and disability and discrimination law. Lewis focuses her practice on education law, representing public and private educational entities, vendors, and professionals. Moulard focuses his practice on protecting educational institutions in federal and state litigation involving constitutional claims, employment disputes, state torts, student matters and contract suits. Shaw focuses her practice on commercial real estate, finance (public and private), contracts, SPLOST, public procurement, mergers, acquisitions, and education law. Wilcox's practice focuses on policy development, effective board governance, student issues, and the Family Educational Rights and Privacy Act. Ams' practice focuses on advising and training school district leaders on the latest trends in employment law and assists schools with compliance with employment laws. Breece focuses her practice on representing school districts, landlords, tenants, and private companies on commercial real estate transactions, including acquisitions and dispositions, development and leasing. Lashley focuses her practice on data privacy, charter schools and districts, education policy and transactional matter for school districts. Phrampus focuses her practice on workers' compensation litigation. Solley's practice focuses on advising clients on all legal aspects of employee

benefits, executive compensation and ERISA. Warco focuses on education law. Akins focuses her practice on representing school districts in the areas of education law and workers' compensation defense litigation. Culpepper focuses his practice on education law and employment litigation. Daniel focuses on litigation, Title IX investigations and regulatory compliance issues unique to the education industry. Kittrell focuses her practice on education law and uses her experience as a former teacher to serve school districts. The firm is located at 1075 Peachtree St. NE Suite 1500, Atlanta, GA 30309; 678-690-5750; www.parkerpoe.com.



Bovis, Kyle, Burch & Medlin, LLC announced the addition of Timothy Bennett as an associate. Bennett's practice focuses on workers' compensation defense and civil 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.

IN ALPHARETTA



HILDEBRANDT



KNOX



PERILLA

Partners Thomas Hildebrandt, Kenny Knox and Jason Perilla announced the formation of Perilla Knox & Hildebrandt LLP. Perilla's practice focuses on patent application preparation and prosecution in the electrical, software and mechanical fields. Knox focuses his practice on patent preparation, patent prosecution, trademarks, anti-counterfeiting, post-grant proceedings and litigation. Hildebrandt's practice focuses on patent preparation, patent prosecution, trademarks, licensing and portfolio management, and litigation support. The firm is located at 44 Milton Ave., Suite 144, Alpharetta, GA 30009; 770-927-7802; Fax 877-389-6779; www.pkhip.com.

IN ATHENS



James Bates Brannan & Grover LLP announced the addition of Shepard Smith as an associate. Shepard's practice focuses on insurance defense and general civil litigation, including business litigation, tort litigation and probate law. The firm is located at One Press Place, Suite 200, Athens, GA 30601; 706-215- 8321; Fax 706-215-8322; www.jamesbatesllp.com.

IN DECATUR



CANNELLA



SNYDER

Attorneys Tedra Cannella, Rob Snyder and Rory Weeks announced the formation of Cannella Snyder LLC. Cannella's practice focuses on products liability, breach of fiduciary duty, wrongful death, and trucking and automo-

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The State Bar of Georgia's public-facing member directory

The screenshot displays the 'LAWYER SEARCH RESULTS' page of the State Bar of Georgia's FIND A LAWYER directory. It features four lawyer profiles, each with a profile picture, name, title, and contact information. The profiles are:

- Alicia Johnson**, Johnson & Petty, LLC, Managing Partner. Active Member in Good Standing, Admitted 2000, Licensed in GA. Practice areas: Wrongful Termination, Employment Contracts. Status: Accepting New Clients.
- John Q. Lawyer**, Managing Partner. Active Member in Good Standing, Admitted 2009, Licensed in GA. Practice areas: Discrimination, Labor & Employment, Americans with Disabilities Act. Bio: John Lawyer is a magna cum laude graduate of the University of Georgia School of Law and has over a decade of litigation experience. John's practice focuses on counseling clients and litigating commercial and... read more. Status: Free Initial Consultation, Accepting New Clients, Fluent in Spanish.
- Alan Steinberg**, Legal Associate. Active Member in Good Standing, Admitted 1987, Licensed in GA. Practice areas: Whiteblowers, Employment Contracts.
- Sabine Valentino**, Attorney at Law. Active Member in Good Standing, Admitted 1995, Licensed in GA. Practice areas: Minimum Wage. Status: Accepting New Clients.

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bile wrecks. Snyder's practice focuses on representing plaintiffs in wrongful death, personal injury and whistleblower cases. Weeks focuses his practice on products liability, personal injury and appeals. The office is located at 315 W. Ponce de Leon Ave., Suite 885, Decatur, GA 30030; 404-800-4828; Fax 404-393-0365; cannellasnyder.com.

IN MACON



James Bates Brannan & Groover LLP announced Hays B. McQueen as partner. McQueen focuses his legal practice on business and corporate transactions, including contractual negotiations, corporate formation, mergers, acquisitions, and public and commercial financing. The firm is located at 231 Riverside Drive, Macon, GA 31201; 478-742-4280; Fax 478-742-8720; www.jamesbatesllp.com.

IN SAVANNAH



Brennan & Wasden announced the addition of Matthew Repella as an associate. Repella's practice focuses on professional liability defense and business litigation. The firm is located at 411 E. Liberty St., Savannah, GA 31401; 912-232-6700; Fax 912-232-0799; www.brennanwasden.com.



HunterMaclean announced Joshua S. Yellin was elected partner. Yellin focuses his practice on advising and assisting clients with all facets of commercial real estate transactions, including negotiating and drafting contracts, obtaining zoning and entitlements for developments, and negotiating leases. The firm is located at 200 E. Saint Julian St., Savannah, GA 31412; 912-236-0261; Fax 912-236-4936; www.huntermaclean.com.



Harris Lowry Manton LLP announced the addition of Caitlyn Clark as an associate. Clark's practice focuses on personal injury, medical malpractice, auto torts, premises liability and wrongful death. This firm is located at 410 E. Broughton St., Savannah, GA 3140; 912-207-8272; Fax: 912-651-1276; www.hlmlawfirm.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.

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



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.



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Have I Got a Lawyer for You!

BY PAULA FREDERICK

“Wow! That GetNewClientsNOW! group is aMAAAAZing,” your partner exclaims as she enters your office.

“I noticed that client intake is up; the receptionist is complaining that she can’t keep up with the calls,” you note. “Is that because of the lead generator?”

“Yep! Apparently, they join these on-line support groups for people who have lost a loved one in an accident, then they contact the members about hiring a lawyer! Brilliant!” your partner explains.

“Are they cold-calling people? That’s against the rules!” you respond.

“No idea.” Your partner replies. “I haven’t asked how they do it!”

“Ummm ... don’t you think you should?”

Is a lawyer responsible for a third party’s solicitation of clients on the lawyer’s behalf?

Maybe—and definitely, when the “third party” is an employee or a business paid by the lawyer.

In 2018, amendments to the Model Rules, the ABA defined “solicitation” as a communication seeking legal business, initiated by or on behalf of a law firm and aimed at a specific person known by the lawyer to need legal services in a particular matter (Model Rule 7.3(a)).

With limited exceptions, lawyers may not solicit business through live, in-person contact. The rationale for the prohibition is that it would not be fair for lawyers, trained in the art of persuasion, to unleash their persuasive superpowers on

unsuspecting laypeople who are in need of legal services.

Of course, lawyers are responsible for training employees to comply with the rules of professional conduct. But what about your well-meaning brother who convinces his neighbor to hire you while playing a round of golf? Or former clients who think so highly of you that they provide unsolicited referrals at cocktail parties?

A new ABA Formal Opinion defines when a lawyer is responsible for solicitations made on the lawyer’s behalf by third parties. (ABA Formal Opinion 501, April 13, 2022). The opinion finds that a lawyer must know about the conduct and request it or authorize it in some way in order to be held responsible for it; any other result would be “manifestly unfair and illogical.” On the other hand, the lawyer is responsible for ensuring that the tactics of a paid lead generator are consistent with the lawyer’s own obligations.

Georgia’s Disciplinary Rules Committee is considering amendments to the Georgia rules that would mirror the ABA Model; take a look at the website to review and comment on their proposal. ●



Paula Frederick

General Counsel
State Bar of Georgia
paulaf@gabar.org

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has a fool for a client.”*

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Attorney Discipline Summaries

February 15, 2022, through March 30, 2022

BY LEIGH BURGESS

Disbarments

Jerry Boykin

2325 Worthington Drive
Powder Springs, GA 30127
Admitted to the Bar 1973

On Feb. 15, 2022, the Supreme Court of Georgia accepted the petition for voluntary surrender of license of Jerry Boykin (State Bar No. 073250) which is tantamount to disbarment.

In his petition, Boykin, a member of the State Bar since 1973, stated that although he had been on disabled status with the Bar and unable to practice since 2018, he filed a petition to probate a will in 2020. Upon learning from the clerk of the probate court that the decedent had executed a subsequent will appointing co-executors, Boykin attempted to convince one of the executors to renounce his appointment in order to expedite the resolution of the estate, but the executor refused. Boykin then forged the executor's signature on an affidavit stating that the executor renounced the appointment, notarized the forged signature and filed the affidavit in the probate court. By this conduct, Boykin acknowledged that he violated Rules 5.5 (a) and 8.4 (a) (4) of the Georgia Rules of Professional Conduct. The maximum penalty for a violation of Rules 5.5 (a) and 8.4 (a) (4) is disbarment. In its response, the State Bar recommended the Court accept Boykin's petition.

Donald Richard Donovan

Paulding County Courthouse
280 Constitution Blvd.
Dallas, GA 30132
Admitted to the Bar 1979

On March 22, 2022, the Supreme Court of Georgia accepted the petition for voluntary surrender of license of Donald Richard Donovan (State Bar No. 225762) which is tantamount to disbarment.

While serving as District Attorney for Paulding County, Donovan was indicted on five felony counts, including allegations of bribery and false swearing. On Jan. 6, 2022, Donovan pleaded guilty to a reduced charge of one misdemeanor count of unprofessional conduct pursuant to the First Offender Act. In connection with that plea, he admitted that he knowingly made false statements in an affidavit he prepared in response to a sexual harassment complaint filed against him. Donovan was sentenced to 12 months on probation. One of the conditions of his sentence was that he surrender his law license. Donovan admitted that by his actions, he violated Rule 8.4 (a) (3) of the Georgia Rules of Professional Conduct. The maximum penalty for this violation is disbarment. The State Bar filed a response asking the Court to accept the petition because Donovan's misconduct warranted disbarment.

Mark Preston Jones

P.O. Box 427
Columbus, GA 31901
Admitted to the Bar 2007

On March 30, 2022, the Supreme Court of Georgia accepted the petition for voluntary surrender of license of Mark Preston Jones (State Bar No. 110107) which is tantamount to disbarment.

In his petition, Jones admitted that on Nov. 15, 2021, in the Superior Court of Muscogee County, he entered a guilty plea to influencing a witness, violation of oath by a public officer and two counts of attempted violation of oath by a public officer—all felonies under Georgia law. Jones admitted that as a result of his guilty plea, he violated Rule 8.4 (a) (2) (lawyer shall not be convicted of a felony) of the Georgia Rules of Professional Conduct. The maximum penalty for a violation of this rule is disbarment. The State Bar asked the Court to accept the petition. ●



Leigh Burgess

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Legal Tech TIPS

BY NKOYO-ENE R. EFFIONG
AND MIKE MONAHAN

1 Pomodoro Timer pomofocus.io or www.toptal.com/project-managers/tomato-timer

Ever had days when you had more tasks than time? The Pomodoro Technique is a time management method developed by Francesco Cirillo that uses a timer to break down work into intervals, traditionally 25 minutes in length, separated by short breaks. The Pomodoro timer allows you to work in these focused bursts so you can manage your time and energy on your busiest of days.

2 Camo reincubate.com/camo

Calling all content creators! If you have heard anything about showing up online, you have likely heard that high-quality video is a must. Whether it is showing up more clearly at Zoom hearings, during video consultations or in your social media marketing, you want to look your best. With Camo, you can use your phone as a webcam and look stunning on Zoom, Google Meet, Microsoft Teams, Slack, Chrome, and many other video apps. No more searching for expensive cameras or complicated setups. With Camo, you can plug and play.

3 GatherUp gatherup.com

Are you struggling to collect reviews and testimonials? As the owner of a law practice, you know how important it is to collect and share strong reviews. Gathering them can be cumbersome. GatherUp helps streamline that process. As a customer experience and online review engine, GatherUp assists you with gathering customer feedback and reviews and puts them in one place to drive sales for your business. It sends branded requests and reminders to your clients through email and text. GatherUp also monitors review sites and provides you with daily updates and notifications for new reviews. They offer a 14-day free trial, so you can take it for a test drive and see if it meets your needs.



Insight Timer

4 Insight Timer insighttimer.com

Insight Timer is the self-proclaimed number one free app for sleep, anxiety and stress. The app contains more than 130,000 guided meditations, 14,000 teachers and a meditation timer. According to their research, people spend more time on the Insight Timer than any competitors. If you are looking to make meditation a part of your daily productivity practice, Insight Timer may be a great place to start or start again.



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5 Namechk namechk.com

Lets you see where your typical username is still available! No more visiting domain after domain. You can also check to see if the username is trademarked. As a side benefit, if you have someone's username, you can see all the sites in which it is used.

6 Hear Any Muted TV www.tunity.com

The free app you never knew you needed: Tunity. In a restaurant with multiple sports channels all muted? At an airport gate with a muted TV? The video looks interesting, but what is being said? Tunity will give you the audio feed! The app is available in iTunes or the Playstore.

7 Turn Off the Tech (Well, mostly.)

You should learn to turn off notifications on devices and set out of office messages within your email accounts to keep vacation disruption to a minimum. We know it's easier said than done, but just stepping away from technology and interruptions is often the best tech tip you'll ever receive.

8 Traveling Spoon www.travelingspoon.com

The Traveling Spoon motto says it all: "Travel off the Eaten Path." With Traveling Spoon you can book a private meal or cooking class with the best home cooks around the world. Online and in-person cooking classes are available. Learn to cook new cuisines and travel from your own kitchen with our latest online cooking classes. The site indicates all its hosts are personally vetted. So, when you travel, learn the local food culture.



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Top Six Practices to Help You Regain Control of Your Law Practice—Part I

—

This article is the first in a two-part series outlining the top six mindsets and practices of excellent CEOs that will guide you along your journey. Be sure to read the next installment in the August issue of the *Georgia Bar Journal*.

BY NKOYO-ENE R. EFFIONG

Are you running your law practice, or is your law practice running you?

Running a law practice is not for the faint of heart. As a solo or small firm attorney, you undoubtedly wear many different hats and find yourself stretched/pulled in many different directions. At some point, this becomes unsustainable. You have to make a decision. Will you keep burning the candle at both ends, or will you develop new practices that generate better returns?



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If you want to run a sustainable law practice; if you want to make it home before dinner; if you want to live a particular lifestyle while practicing ethically, the choice is simple.

You have to pivot from an underpaid employee in your law practice to the CEO of your law practice.

Lucky for you, we dedicated our June and August articles to outlining the top six mindsets and practices of excellent CEOs that will guide you along your journey.

Ready to regain control and design your ideal law practice? Read on.

When you decided to hang a shingle, you likely had goals or expectations for life as a law firm owner. I was mesmerized by the idea of getting to call all the shots (and never having to reschedule my life because of a partner's interesting time management choices). Not too long into my journey, I found myself consumed with things to do that pulled me away from all the leisure time I thought I would have as the principal attorney of my firm. I was incredibly naive about what it takes to launch a law practice. I also could have saved myself some of the chaos by adopting a CEO mindset from the start.

Before we go too far, let us create a shared definition of what a CEO does. According to McKinsey and Company, the CEO controls the company's most significant moves and has six main elements of their role: setting the strategy, aligning the organization, leading the top team, working with the board, being the face of the company to external stakeholders, and managing one's own time and energy.¹ While not exactly applies to applies in the law firm context, these six elements provide solid insight into where you should be spending your time as the

owner/CEO of your legal business. Let's dig deeper into the first three.

Practice 1: Setting the Strategy

"I realized that for IBM to become a great company it would have to act like a great company long before it ever became one." —Tom Watson, founder, IBM

Setting the strategy requires you to spend time thinking about your vision for your law practice (where do you want the firm to be in five, 10, 15 years) and defining the path you will take to realize your vision (what will you do and not do to get there). Strategic planning also includes deciding where you will and will not allocate resources.

As the CEO of your law practice, you need to allocate sufficient time to work on your business' \$10,000/hr tasks. \$10,000/hr tasks are tasks that gives you the highest leverage, and returns on investment (ROI) over time are substantial.² These tasks include vision-setting, goal-setting, setting and reviewing your key performance indicators (KPIs), setting your budget, defining your marketing strategy and business development plans, hiring and developing your team. Other tasks like clearing your inbox, posting on social media, drafting form letters, running errands and the like are \$10–\$100 tasks that are necessary but are not the best use of your time.

What this means for you: Fire yourself from \$100/hr or less tasks.

If you plan to operate as the CEO of your business and avoid your law practice running you, you have to prioritize strategy over tasks. More importantly, you have to avoid tasks that have a low ROI. These tasks usually take up a reasonable amount



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of time and leave you feeling busy, but they are not a good use of your time. Notably, there is likely a tech tool or more appropriate person who can complete those tasks for you more efficiently.

Practice 2: Aligning Your Law Practice

“Process before tech. Tech before teams.”—Kimberly Y. Bennett, founder, K Bennett Law Firm

Aligning your law practice means managing the performance and health of your firm. Healthy law practices have systems and processes that create a consistent and replicable experience for the firm and its clients. As a solo or small firm lawyer, it is easy to get caught up in getting things done and ignore how things get done. Managing the performance and health of your firm begins with defining how your legal business functions. How do potential clients find you? How do they become clients of the firm? How do you manage each matter? How do you know when a task or matter is complete? How do you close files and manage former clients?

A fatal mistake that many lawyers make is rushing to adopt technology or hire an employee without fully understanding their firm’s processes and procedures. Without this clarity, they often select tools and team members that are either not the right investment or are the right investment in the wrong order or time.

What this means for you: Spend time defining your process.

The next time you open a new matter, onboard a client or team member, prepare an invoice, research an issue, whatever, write down (or dictate) the exact steps you take. You likely already have a process. Once you get it on paper, you can identify places where you can improve the process, leverage technology to automate the process or delegate (not abdicate) the task to someone else entirely.

Now that you are clearer on how your firm operates, you can make better decisions about what technology or team members your law practice needs right now.

Practice 3: Leading the Team

“A leader must inspire or his team will expire.”—Orrin Woodward

The dynamics of your team will strongly influence the success of your law practice. Great CEOs understand the importance of defining and managing team culture. This is especially relevant now when recruiting and retaining top talent is not so simple. Beyond getting the right people in the right roles, it is critical that you cultivate a culture that allows your team to perform optimally. Poor workplace culture, be it a function of individual or institutional biases or clunky group dynamics, can (and likely will) diminish your team’s effectiveness and processes. Human beings are social creatures, so ignoring this social aspect is detrimental. According to McKinsey & Company, effective ways to counteract this challenge are to ensure your team performs strongly as a unit, defend against and minimize the effects of biases, and coordinate decision making and resource allocation.³

What this means for you: Prioritize cohesion across a diverse team.

The data is clear—diverse and inclusive teams perform better.⁴ Before you can lead a diverse and inclusive team, you have to spend time crafting your talent strategy. A solid talent strategy will clearly define whom you are looking to hire, what behaviors you value, how you will search for talent, how you will manage and lead, and how you will set and measure talent goals, among other things. Beyond the talent strategy, you also need to be thoughtful about what leadership development and professional learning opportunities you will invest in for yourself and your team.

“When you stop growing, you start dying.”—William S. Burroughs

That completes our first three CEO practices. Look out for the August *Georgia Bar Journal* where we will discuss the remaining three CEO practices that will help you regain control of your law firm.

Want individualized support as you lean into your role as CEO of your law practice? Contact your Law Practice Management Program today!

Law Practice Management helps Bar members start, scale or sunset their law practices with less stress. Follow us on Instagram @gabarlpm or LinkedIn at bit.ly/lpmlinkedin. ●



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Endnotes

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Bar Benefit Providers Going Above and Beyond

Superior customer service goes hand in hand with an excellent product or service. In a time of need, it's good to find out that your business partners are true to their word and stand with you. We highly recommend all our members explore the offerings of our member benefits partners knowing that if you have a need, they will try their best to solve it for you.

BY SHEILA BALDWIN

"The goal as a company is to have customer service that is not just the best, but legendary." —Sam Walton, founder, Walmart and Sam's Club

The Law Practice Management Program is a one-stop-shop for marketing, technology, practice management and substantive law resources for solo and small firm lawyers. It is also the place where members have access to valuable member benefits including free access to Fastcase legal research, Member Benefits, Inc., our recommended insurance broker, and ReliaGuide enhanced member directory. The Member Benefits Committee vetted these companies for many years and with much consideration. One of the factors that led the Bar to forming a relationship with them was the stellar reputation and customer service that we learned about through the vetting process. We have found that each has lived up to their good reputation over the past years. Other state bar associations have partnered with these companies based partially on our experience. During the Bar's recent outage, we were especially grateful to the staff of Fastcase, Member Benefits, Inc., and ReliaGuide as they served our members with competence, efficiency and sensitivity, knowing that we depend on these services.

Fastcase

Fastcase, our most utilized member benefit with online access to legal research of cases, statutes, regulations, court rules and bar publications, supports our members well with a wide variety of options including a responsive help team, free CLE-approved webinars, on demand tutorials and user guides. The support team faced a unique challenge during the Bar's recent outage. Almost immediately members were calling to express concern about their inability to log into their Fastcase account. Concurrently the Bar reached out to Fastcase's vice president of Alliances & Business Development who quickly directed his team on how to respond to our members as they developed a plan to establish online access. Within 19 minutes, he and the Fastcase development team created a temporary access link allowing members almost uninterrupted access to all their usual content. Several days later they solved the problem of extending these accounts beyond a normal trial account time frame while the Bar administration worked to systematically restore the Bar's robust website that our members have come to expect.

We appreciate the efforts and ingenuity of our long-time legal research provider now more than ever.

Member Benefits, Inc.

The private health insurance exchange created by Member Benefits, Inc., and available to State Bar of Georgia members, spouses and employees continued to provide seamless support for our members. In fact, they have a full team of trained consultants specifically knowledgeable about insurance solutions that are available in Georgia from leading providers. Members were able to access the exchange and search for personal and firm solutions during the recent disruption by phone, email or chat, and schedule appointments with a consultant on an interactive calendar.

Educational resources are a big part of their customer support. A library of relevant materials, articles and FAQs are available on their website that speak to health insurance, business solutions, employee benefits, retirement plans and more. Recent health care news articles keep members on top of the fluctuating health insurance market and can be accessed on the bottom of their website.

ReliaGuide

ReliaGuide has partnered with the State Bar of Georgia since 2017 to provide an enhanced directory to complement our lawyer directory. ReliaGuide offers

potential clients an easy, credible and transparent way to locate the legal assistance they need. As a separate website, the Find A Lawyer directory remained live and increased support was provided to members through close collaboration of the State Bar member benefits and ReliaGuide teams.

Through this coordination, ReliaGuide continues to confirm statuses for potential employment, support applications for membership in other jurisdictions both nationally and internationally, confirm employment statuses, edit lawyer profiles, supply contact and license information to the courts, connect lawyers to one another and help find clients representation.

Conclusion

Superior customer service goes hand in hand with an excellent product or service. In a time of need it is good to find out that business partners are true to their word and stand with you. We highly recommend all our members explore the offerings of our member benefits partners knowing that if you have a need, they will try their best to solve it for you.

As always, please feel free to contact me with any questions or concerns regarding your benefits at 404-526-8618 or sheilab@gabar.org. ●



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The Power of Breath: From Stress Relief to Life Integration

The benefits from informed breathing practice could be significant and impact multiple dimensions of our lives and well-beings.

BY SAM E. SKELTON AND PLAMEN RUSSEV

The rapid-fire stressors we continuously encounter in our daily lives trigger substantial physiological responses. Our perception of these stressors activates the amygdala, which monitors for threats. It also stimulates our hypothalamus, which releases stress hormones into our bloodstream, and our sympathetic nervous system ramps up. The heart races, the breath quickens and becomes shallower, while our muscles tense in preparation for action. This is a very natural response.

However, before a sustained level of stress permeated our post-modern daily existence, the stress episodes tended to be shorter and give way to rest and relaxation in which the parasympathetic nervous system took over. The “sympathetic bias” of our current lives may cause certain populations of humans to become “bent toward responding in a chronically stressed state,”¹ which maintains the physiological responses to stress in the body much longer and more frequently than our biological evolution may be able to support. Scientists speculate that our environment has influenced us so much that it has caused the average respiratory rate to increase from 12 breaths per minute to 16,² thus likely contributing to sus-

taining longer and higher levels of stress.

Given the organic relationship between stress and breathing, both the latest science and ancient practices make a compelling case that prioritizing slow, deep breathing is one natural way to counteract stress—and its many resulting negative effects on the body—in a world predisposed toward stress. To find out more about breathing practice as a natural way to mitigate stress, I asked Plamen Russev, a practicing attorney, Wellness Committee and Lawyer Assistance Program member, and breathwork practitioner, some questions about breathwork.

How did you learn about and what was your first experience with breathwork?

Thanks to a gift from a dear friend, during my third year of law school, I experienced my first yoga class in a gentle, restorative style known as Svaroopa Yoga. I found this extremely beneficial for my overstimulated, overtaxed, and very tense body and mind. In those calming and supportive classes, I learned a type of breathing known as *ujjayi*, or ocean breath, because of the internal sound it creates, which is reminiscent of the ocean. I quickly came to appreciate how

this breath and its sound calmed my mind and helped relax my body. Soon thereafter, the teacher showed us a few other breathing techniques, such as breath of fire and alternate nostril breathing, and told us about a whole branch of yoga—*pranayama*—that is entirely devoted to the study and practice of breathing. I was intrigued when I found out how those different types of breathing, done for just a few minutes at a time, created not only different physical responses—but also different energy and emotional responses—in my body and mind. But the ocean breath became my favorite because of its gentle yet deep power in bringing peace to my stressed-out and exhausted third-year law student self.

In fact, I loved that breath so much that I started practicing it whenever I needed to take a break and refresh my senses or calm myself down. I did the ocean breath while reviewing my notes before stressful classes, during walks between study sessions and before going to sleep at night. So, on the night before the first day of the bar exam, when I found myself lying in bed wide awake, with my heart beating fast in anticipation of the challenging day ahead, it became crystal



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clear to me that I was not going to be able to sleep at all. And I decided to do my favorite ocean breath again—even if I had to do it all night instead of sleeping. As I closed my eyes and lay on my back in bed, listening to the sound of the ocean in my head and noticing the even rise and fall of my belly, my body started to relax and my mind stopped spinning. I did not really sleep that night but, when I opened my eyes in the morning, I felt surprisingly alert, awake and energized yet also calm for the big exam. I was delighted and fascinated to observe myself having very steady energy throughout the day, which helped me complete all work in time, with reasonably good confidence in my answers. By the time night came, I was completely exhausted and had no trouble at all falling sound asleep for a good rest before the second day of the exam.

In a few months, I found myself in another extremely challenging and stressful situation—having to do my first deal closing as a commercial lending first-year associate at Alston & Bird LLP. By then, I had started invoking the ocean breath whenever stress or worry arose in my body or mind, which was, in fact, many

times every day. I had entered the peculiar state in which most of my attention was on the innumerable documents and tasks at hand while another part of my awareness was deeply anchored in the steady ebb and flow of the ocean breath. As the closing stretched late into the night, my body and mind were clearly pushed to new limits. And when everything was finally over, I received the most unexpected compliment from the extremely capable and experienced paralegal who had seen hundreds, if not thousands, of closings and had been working with me to bring this very document-intensive, complicated deal to a close. She looked at me and said, “Congratulations on your first closing! You did it with great poise and calm. Have you really never done this before?” I was dumbfounded because my internal experience was of anything but poise and calm, but apparently that’s what it looked like on the outside ... thanks to my friend, the ocean breath.

So, what is breathwork exactly?

It is any pattern of breathing that we engage in intentionally (i.e., in which we pay attention to the act of breathing and how we are breathing, whether we only

observe or actively influence the breathing). Breathwork practices vary widely depending on the level of activity, frequency or intensity of breathing, breath duration, emphasis on different parts of the breath (inhale, exhale or pause between the two), practice length, breathing patterns, etc.

Can anyone do breathwork?

Almost anyone can do at least some form of breathwork. However, if there are special health concerns, usually about the heart, lungs, blood pressure, aneurysms or psychiatric conditions, one must check with their doctor first.

Can I do breathwork on my own?

Yes, there are a number of breathwork practices that are safe, effective and beneficial to do on one’s own, such as some of the foundational *pranayama* practices from yoga (e.g., yogic or belly breathing, equal breath, humming bee breath, alternate nostril breathing). Mindfulness practice also uses a variety of easily accessible breathing techniques, such as three mindful breaths, belly breathing, box breathing or 4-7-8 breath. However, please do not engage in complicated breathwork

types on your own, especially those that use unusual breath patterns, last long periods of time or require breath holding, before you have had live instruction and developed sufficient comfort or skill with the practice. Some of the more advanced breathwork practices can have powerful psycho-somatic effects or, if done incorrectly, can cause dizziness, fainting or other strong physical reactions.

Also, according to recent research, if someone is experiencing a heightened level of anxiety, they may not be able to do even simple breathwork on their own due to elevated levels of breathing-related catastrophizing and perceived resistance to breathing.³ In other words, when experiencing high anxiety, anxiety-reducing breathwork may not work without the help of a trained practitioner. This is very important to know so we can seek appropriate support, especially given our automatic habit as lawyers of resorting to self-help for almost everything concerning our health or well-being.

How can breathwork benefit us?

Active, deep breathing brings more oxygen into our bloodstream, tissues and cells, which helps with energy regulation and detoxification. Breathing has a direct effect on the nervous system as certain patterns of breath activate the sympathetic and others engage the parasympathetic nervous system. Thus, by changing the way we breathe, we can increase or decrease the physical and emotional experience of stress, improve our sleep and even find support in addressing certain addictive behaviors. Also, different emotional states impact our breathing in different ways. The next time you get angry, afraid or happy, take a moment to notice the frequency, pattern and depth of your breathing. Conversely, specific breathing patterns can alleviate the emotional toll of stress or provide support in reducing anxiety or alleviating depression. In addition, some breathwork practices can lead to spiritual or transcendent experiences, where we may sense a connection with something

larger than ourselves or a feeling that we are much more than our bodies, thoughts and emotions. In other words, because breathwork can benefit us in multiple dimensions of well-being, it is a very holistic and integrative practice.⁴

What is your current relationship with breathwork?

As I continued practicing law, I parallelly pursued my interest in human development and, in 2012, became a Soulful Breathwork⁵ practitioner, two years after obtaining my certification as an integral coach. I found that combining the philosophies, methodologies and perspectives of integral coaching and breathwork is especially effective in supporting continuous and comprehensive professional and personal growth and helps to clear the obstacles to creating a more integrated life.⁶ In facilitating individual and group breathwork sessions for more than 10 years now, I have witnessed and supported the physical, emotional and spiritual healing, and transformation of many different people. And it has been just as crucial to maintain my own breathwork practice throughout this time.

If there are no particularly challenging experiences in my life, I aim to have one self-guided hour-long Soulful Breathwork session every week, though it can be sufficient to have a session every two weeks or so for general maintenance. However, during especially intense periods of time, I have done a breathwork session every day, sometimes twice a day and sometimes two 60-minute sessions one right after the other. Recently, when my dad unexpectedly succumbed to COVID-19, I was gripped by such intense physical and emotional pain that I was able to move through mainly thanks to multiple short and intense breathwork sessions every day. Because I needed a shorter practice for immediate relief, I used primarily the Wim Hof Method⁷ whose combination of active breathing and breath holding I found

especially effective for the extreme levels of stress I experienced. As I continue to process the loss of my dad—and now have to reorganize the care for my mom who is in advanced stages of dementia—I have settled into starting the day with a minimum of 10 minutes of breathwork before I get out of bed. If I wake earlier than usual, I do a full one-hour session. On especially stressful days, I do short breathing sessions a few times throughout the day and once more before falling asleep.

How often should I do breathwork?

To a great extent, this depends on the type of breathwork, especially how long it takes to do a complete practice and how long its effects last. However, when it comes to the most basic practice—breath awareness—we can do that as many times during the day as we remember to do it and for as long as we are able to maintain our focus. However, don't be discouraged if you discover that you either forget to check in with your breath or you are distracted only after two or three breaths. As with most everything, it will take time—and *practice*—to cultivate the ability to maintain focus on a simple and seemingly boring activity like breathing.⁸

How can I use breathing techniques to help when I'm stressed and I don't have much time?

Since we must breathe to live, the opportunity to practice breathwork is always there. Therefore, we do not have to dedicate any special time for it. However, we do need to remember to do it and give it sufficient attention. If you are experiencing stress, try a simple breathing exercise that helps to calm down the sympathetic nervous system (which is activated by the stress) and engage the parasympathetic nervous system. In that exercise, you begin by paying attention to your breathing and then intentionally make your exhale longer than your inhale (e.g., if you inhale to the count of four, you exhale to the count of 5, 6, 7 or 8).⁹ If you find this difficult or impos-

sible to do, at least make sure that your inhalation and exhalation are of equal duration (e.g., four seconds each) and, if you are able, include a pause of the same length (four seconds) between each inhale and each exhale. This is known as “box breathing” and has a balancing effect on the nervous system.¹⁰

How can I use breathing techniques to help when I’m stressed and I do have time to devote to intentional breathing?

Stress limits the capacity to engage in any new or unfamiliar breathing practice, even if you have time, especially if you are on your own. This is because of the so called “amygdala hijack” that puts us in emergency survival mode, so most activities that require the use of our neocortex (i.e., the thinking brain), such as learning something new, will be significantly impeded because the neocortex is either “offline” or only partially accessible. However, one popular and fairly straight-forward practice is the Wim Hof Method for which you need about 10 minutes to begin experiencing beneficial effects.¹¹

Nevertheless, it is best to learn about and experiment with different breathwork styles when we are not stressed out and our ability to learn and retain new information and skills is optimal. Go to a local breathwork class—because of the physicality of the practice, it is best to experience it in person. Or, if you cannot do that, watch a breathwork documentary or instructional video and practice along, unless the video advises against that. In all cases, please observe the safety guidelines for the specific type of breathwork.

There are so many different types of breath techniques and practices we can draw upon in different situations, depending on our needs or the challenges we are facing. This great variety provides us with many access points to breathwork. Whatever appeals to you right now, try that and then commit to doing it for a while. Keep in mind that, as we grow, develop and are changed by

our practices, including breathwork, we may come across, open up to or actively seek other breathwork practices.

Conclusion

I learned so much helpful information from my discussion with Plamen. In conclusion, breath—and breathing practice—is not just a physical or mechanical act. It can have a deeper meaning and even be a spiritual experience. It is a fundamental interaction with our environment. With every inhale, we are filled and we receive; with every exhale, we release and are emptied. Every cycle of inhalation and exhalation—of air received and released, of filling and emptying our lungs—is a reminder to embrace what is coming in and release what is going out, not only in our breathing but also in our great life experience.

The rhythm of respiration—like our heartbeats—is literally the rhythm of life. While our hearts beat at a rhythm that we cannot consciously control, our breath is under our control. As described above, the benefits from informed breathing practice could be significant and impact multiple dimensions of our lives and well-beings. And the art of life is just to keep breathing through the receive-release cycle. Breathe in, breathe out; receive, release. ●

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.



Sam E. Skelton lives with his wife, Samantha, and three sons, Jackson (10), Grady (8), and Theo (10 months), in Hart County, Georgia. He currently performs a wide range of freelance legal research and writing services, as well as document drafting services, for attorneys in small and mid-sized firms. He can be reached at sameskelton@gmail.com.



Plamen Russev is a technology and commercial transactions attorney at Bryan Cave Leighton Paisner LLP, certified Integral Coach and breathwork practitioner, and a member of the State Bar of Georgia’s Attorney Wellness Committee and Lawyer Assistance Program.

Endnotes

1. See <https://www.discovermagazine.com/health/deep-slow-breathing-an-antidote-to-our-age-of-anxiety>.
2. See <https://www.nature.com/articles/s41598-019-42552-9>.
3. See People with heightened anxiety have altered perceptions of their breathing, study finds, by Eric Dolan, PsyPost, Dec 15, 2021, <https://www.psypost.org/2021/12/people-with-heightened-anxiety-have-altered-perceptions-of-their-breathing-study-finds-62174>.
4. See What is Breathwork, by Emily Cronkleton, Healthline, April 29, 2019, <https://www.healthline.com/health/breathwork?c=502993894646>; and 15 Breathwork Benefits: The Science Behind Breathing Practices, Othership, August 19, 2021, <https://www.othership.us/resources/breathwork-benefits>.
5. See <https://soulfulpower.com/breathwork-training/>.
6. See Designing and Living an Integrated Life, by Plamen Russev, GBJ February 2021.
7. See <https://www.wimhofmethod.com/breathing-exercises>.
8. If this sounds very similar to mindfulness, you’re right – a foundational mindfulness practice is breath awareness. For more on that, see *Mindfulness Meditation to Combat Stress and Promote Civility in the Law*, by Danielle “Dani” Berry, GBJ April 2020.
9. A slightly more complex version of this is the “4-7-8 breath”, emphasizing the rest and relaxation effects of this breathing technique. See <https://www.verywellmind.com/what-is-4-7-8-breathing-5204438>.
10. See <https://www.webmd.com/balance/what-is-box-breathing>.
11. See <https://www.wimhofmethod.com/breathing-exercises>.

Five Tips for Writing Success as a New Lawyer or Law Student Clerk

This installment of “Writing Matters” shares tips designed to support newer lawyers and law clerks in finding legal writing success.

BY DAVID HRICK AND KAREN J. SNEDDON

Our columns are usually designed to be of use and interest to writers of any experience level. This installment shares five tips designed to support newer lawyers and law clerks find legal writing success. Even if you are not a newly licensed lawyer, recent law school graduate, summer associate or law student clerk, this installment may still help you re-discover tips to become a more efficient and effective legal writer.

1 Ask for guidance and suggestions.

No one expects a newly licensed lawyer, recent law school graduate, summer associate or law student clerk to have tackled every project. Don't be afraid to ask the assigning lawyer for guidance and suggestions. That may be as simple as the question: *What advice would you give to me to get you what you need?*

Questions can come up after the initial assignment, and, if so, feel free to ask more questions then. Good lawyers know that what may be known or apparent to an experienced lawyer may be unknown or confusing to a newer lawyer. It's better to ask for guidance and suggestions instead of devoting hours of unproductive time spent

preparing something that was not what was needed. As the project progresses, continue to ask questions. Asking questions is a sign of self-awareness, not insecurity.

2 Consult the form bank.

Guidance can be provided in a form bank. Reinventing the wheel is usually a bad idea in legal writing. Finding what has worked before is usually the best place to start, whether it is a contract, motion, brief or even a memorandum or letter to opposing counsel. Many lawyers maintain a form bank with examples of previous documents. Forms can also be found on court websites, online and in form books.

In addition to recognizing the benefit of forms, remember the pitfalls. Make sure that you are using the appropriate form for the particular project. Any form should be used only after carefully proofreading it and making necessary changes. For example, a will form may have been written for a female testator, and so pronouns or other words need to be changed. Or, a form for a motion may have been written for a single defendant case, but is needed for one with multiple defendants. If so, that may require changing “its” to

“their,” and other proofreading for subject-verb agreement.

Forms that cite to case law or other authorities need to be checked for currency. A case may have been overruled, a statute amended or a better authority may have been issued, one more helpful to this client. Forms provide a helpful starting point, but only just that.

3 Recognize that your billing records are persuasive writing.

Keeping track of your time may be a novel experience for newly licensed lawyers or summer clerks. For that reason, the value of creating contemporaneous and informative entries may not be appreciated. Time records are persuasive writing—with two audiences. Their direct supervisor likely will read the time records to assess how much can properly be billed to the client, and the client ultimately will read those records and assess whether the money was well spent.

So, for example, the “worked on matter” or “reviewed documents” are neither meaningful nor persuasive. “Analyzed facts concerning contacts with Georgia to assess personal jurisdiction” or “reviewed



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defendant's production to assess damages and causation" are much more likely to be evaluated as valuable. Billing records, particularly for those seeking a job over the summer, should be understood to be the critical persuasive writing that they are. Recognizing the importance of maintaining descriptive and accurate billing records ensures that you create meaningful records.

4 Understand that this may be new to you but routine for your audience.

A newly licensed lawyer or summer associate asked to write a brief or motion may not appreciate that. Almost every subject is new to them, but the same is not true of the judge. Unnecessary amounts of time may be spent researching a "new" subject, and then writing sections of briefs or motions that state what an experienced judge already knows.

A good example is the burden on the movant, or the standard of review in an appellate brief. For most motions, most judges know the burden and so in a brief or motion only needs a couple of sentences, not a couple of pages, to frame the subject. A federal judge likely does

not need a treatise on the burden facing a defendant moving for summary judgment on a plaintiff's claim, for example. Likewise, a federal appellate court assessing whether a district court properly denied a motion for new trial does not need a lengthy explication of the "against the great weight" standard. Those standards are not familiar, and indeed may be entirely new to many new lawyers and clerks. It is important to understand that fact, and to determine whether the burden or standard of review is in need of greater explication before writing a lengthy section that will end up deleted and discarded. Don't assume that new to you means new to your audience.

5 Proofread and then print it and proofread it again, and then do it one more time.

In past columns, we have emphasized the need for proofreading, and for using different strategies to proofread effectively. Proofreading on a paper copy often reveals mistakes, glitches and typos that aren't caught on the screen. Newly licensed lawyers or summer associates may not appreciate the benefit of reading, pen in hand, and marking up and improving

any legal document. Just as billing records are persuasive, so too are well-written, error-free drafts for review. Allocate sufficient time for proofreading.

Conclusion

Becoming an expert legal writer is a process. These five tips make find particular resonance with newly licensed lawyers, recent law school graduates, summer associates and law clerks. But all legal writers benefit from reminders about tips and strategies to be efficient and effective. ●



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.

22nd Annual Justice Robert Benham Awards for Community Service

The Chief Justice's Commission on Professionalism is pleased to recognize lawyers and judges who have made significant contributions to their communities and who demonstrate the positive contributions of members of the Bar beyond their legal or official work.

BY KARLISE Y. GRIER

The idea that community service is a component of professionalism has existed as long as the Chief Justice's Commission on Professionalism (Commission) has existed. In a May 1989 article, former Supreme Court of Georgia Chief Justice Harold G. Clarke discussed the relationship between community service and professionalism as a debt that lawyers owed to society.¹ Justice Clarke posited, "Each lawyer owes a debt to the client, the law, the system of justice, fellow lawyers, and the public."² He then asserted, "The last and perhaps most important debt to be discussed is the one owed to the public. Professionalism burdens lawyers with a duty to serve and to lead. The grand tradition of the legal profession insists that lawyers not shrink from leadership roles. By nature and training, lawyers possess qualities which uniquely fit them for positions of leadership in both the public and private sector."³

On March 19, the Commission recognized those lawyers who in the grand tradition of the legal profession have offered themselves for service and leadership at the 22nd Annual Justice Robert Benham Awards for Community Service. Since 1998, the Commission has presented the

awards to honor lawyers and judges in Georgia who have made significant contributions to their communities and who demonstrate the positive contributions of members of the Bar beyond their legal or official work. Service may be made in any field, including but not limited to: social service, education, faith-based efforts, sports, recreation, the arts or politics. The selection committee generally believes that community or public service is not service to a bar association; however, community service can be done through bar-sponsored or related activities or projects.

Award Recognition

Awards are presented to selected attorneys in the judicial districts of Georgia from which nominations are received. The 2022 award recipients were Lindsay Beth Gardner, managing attorney, Georgia Bureau of Investigation, Marietta; Michael D. St. Amand, partner, Gray, Rust, St. Amand, Moffett & Brieske, LLP, Atlanta; and Paul E. Weathington, senior partner, Weathington, LLC, Atlanta.

The Lifetime Achievement Award—the highest recognition the Commission bestows—is reserved for a lawyer or judge

who, in addition to meeting the criteria for receiving the Justice Robert Benham Award for Community Service, has demonstrated an extraordinarily long and distinguished commitment to volunteer participation in the community throughout his or her legal career. The recipients of the 2022 Lifetime Achievement Award were Richard Gerakitis, partner, Troutman Pepper Hamilton Sanders LLP, Atlanta; and S. Wade Malone, partner, Nelson Mullins, Atlanta.

The awards ceremony, which was held at the Loudermilk Conference Center, was perhaps more special this year because it was the first time in two years that some people had been able to gather with others for such an event. During his remarks, Chief Justice David E. Nahmias observed, "A few days ago, on March 14, we marked the two-year anniversary of Gov. Kemp's declaration of the first-ever statewide Public Health Emergency and Chief Justice Melton's declaration of the first-ever Statewide Judicial Emergency Order. ... I don't think any of us imagined two years ago that we would still be dealing with so many consequences of this new disease. But I'm glad that we're now at a point



Justice Robert Benham,
Supreme Court of Georgia
1990-2020

PHOTO PROVIDED BY JOHN DISNEY, THE DAILY REPORT

where we can safely have gatherings like this one to celebrate together some of the best work that Georgia lawyers are doing in their communities.”

Chief Justice Nahmias also shared that over many years he had witnessed how individual lawyers could use their talents and energy to create tremendously positive impacts on their communities. He also noted that what made the five lawyers the Commission had recognized this year so special was the effect that their remarkable, dedicated and diverse service had on the lives of so many people outside their practices. Justice Shawn Ellen LaGrue who serves as an advisor to the Chief Justice’s Commission on Professionalism and Justice Verda M. Colvin, the most recent addition to the Court, also attended the awards ceremony.

The Commission was especially grateful that Justice Robert Benham, although retired, attended the ceremony with his wife, Nell. Before asking the crowd to stand to acknowledge Justice Benham, Chief Justice Nahmias said, “I wish every Georgia lawyer had the opportunity to learn about professionalism by working with and just watching Justice Benham as I did for more than a decade.”

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Adwoa Ghartey-Tagoe Seymour



Front row (left to right): Karlise Y. Grier, executive director, Chief Justice's Commission on Professionalism; Justice Robert Benham (retired), Supreme Court of Georgia; Chief Justice David E. Nahmias, Supreme Court of Georgia. Back row (left to right): Lindsay Beth Gardner; Justice Shawn Ellen LaGrue, Supreme Court of Georgia, accepting for Paul E. Weathington; Michael D. St. Amand; S. Wade Malone; and Richard Gerakitis.

Thanks and Appreciation

The awards ceremony was successful because of the hard work of many individuals whom I would like to thank. First, the Commission appreciates the work of the Benham Awards selection committee members who determined the award recipients. The members of the selection committee were Janet G. Watts, Watts & Watts, Jonesboro; Hon. Joshua Clark Bell, Bell/Payne, LLC, Whigham; John Michael Dugan, DRL Law LLC, Greensboro; Laverne Lewis Gaskins, Law Office of Laverne Lewis Gaskins, P.C., Augusta; Michael Hobbs, Troutman Pepper, Atlanta; Hon. Joy Lampley-Fortson, U.S. Department of Justice, Atlanta; Chung H. Lee, The Law Office of Lee & Associates PC, Duluth; William J. Liss, WXIA-TV/11Alive, Atlanta; Jennifer Mock, The Mock Law Firm, LLC, Statesboro; Hon. Herbert E. Phipps, Court of Appeals of Georgia (Retired), Albany; Cindy Wang, Georgia Department of Juvenile Justice, Decatur; Hon. Brenda Carol Youmas, Macon. In addition to the selection committee, several individuals volunteered to ensure the awards program was a success. Christopher J. Chan, partner, Eversheds Sutherland (US) LLP, and LaToya Sim-

one Williams, Houston Circuit Public Defenders Office, served as the co-chairs for the planning committee. Adwoa Ghartey-Tagoe Seymour, vice president of litigation, Albertsons Companies, Inc., was an advisor to the planning committee. Additionally, individuals who volunteered to assist during the evening of the awards ceremony were Christopher O. Brock, a 3L at the University of Georgia School of Law; Hon. Tabitha Ponder, judge, Magistrate Court of Cobb County; Samantha Beskin-Schemer, Beskin & Beskin, P.C.; and Paula Myrick, a legal professional in the metro-Atlanta community.

Commission Chair Chief Justice David E. Nahmias, Justice Shawn Ellen LaGrue and Justice Robert Benham provided guidance and leadership for the awards ceremony throughout the planning process. The Commission could not have hosted the awards ceremony without generosity of the 24 sponsors who supported the event. I am grateful that the members, advisors and liaisons of the Commission continue to understand the role and importance of the awards ceremony in the Commission's work to promote and enhance professionalism among Georgia's lawyers and judges.

Finally, I want to thank Commission staff members Cheyenne Scipio, administrative and communications specialist, and intern Jordyn Irons for providing staff support for the 22nd Annual Justice Robert Benham Awards for Community Service.

The program book and photographs from the ceremony are available at cjcpga.org/benhamcsa22/. ●



Karlise Y. Grier

Executive Director
Chief Justice's Commission
on Professionalism

kygrier@cjcpga.org

Endnotes

1. See Harold G. Clarke, *Professionalism: Repaying the Debt*, 25 Ga. St. B. J. 170 (1989), <http://cjcpga.org/wp-content/uploads/2022/02/25-GSBJ-170-1989-Professionalism-Repaying-the-Debt.-Harold-Clarke-ethics-minimum.pdf>.
2. *Id.*
3. *Id.* at 173.

Justice Robert Benham Award for Community Service: 2022 Honorees



Richard Gerakitis

Lifetime Achievement Award

Has served on the Board of Directors for the YMCA of Metro Atlanta (Metro Y) since the end of 2007; served as secretary of the Metro Y Operating Board since 2013 and served as secretary to the Executive Committee of the Operating Board since 2015.

Served twice as president in 1993-94 and again in 2012-13 of the Rotary Club of Atlanta West End; served on the Mercer School of Law Board of Visitors from 2012 to 2018; served on the Mercer University School of Law Alumni Association Board twice, from 1986-88 and again from 2005 to 2012; served as general counsel for the Christian Council of Metropolitan Atlanta from 1991 to 1994, and the Georgia State Golf Association from 2011 to 2014; served as chairman of the State Bar of Georgia Clients' Security Fund for five years.



S. Wade Malone

Lifetime Achievement Award

Created, in partnership with the Atlanta Bar Association, the Summer Law Internship Program (SLIP). Now 30 years later, this innovative program has provided more than 850 paid internships to Atlanta area high school students, provided rigorous legal education, and connected interns with life-

long mentors. Forty-five former Atlanta Bar Association Summer Law Interns have gone to law school. Seventeen former Interns are presently in law school. One former intern currently serves as a superior court judge. A second former intern currently serves as a district attorney. A third former intern currently serves as a regional director for the U.S. Securities and Exchange Commission.



Lindsay Beth Gardner

Fundraised for numerous Cobb County Bar Association's Younger Lawyers Division (Cobb YLD) fundraising events, including:

the Cobb YLD's March Madness event to benefit the Cobb Accountability Courts; the Cobb Bar's golf tournaments to benefit the Children's Emergency Fund; and the Cobb Bar's Sleighbells on the Square event. Choreographed routines and headlined performances for the Cobb YLD competitors in the Justice Jam lip sync competition benefiting the Cobb Legal Aid office, winning three years in a row; participated in Communities In Schools' Annual Adult Spelling Bee.



Michael D. St. Amand

Started a Cub Scout Pack in 2008 and led the pack until 2012. Has volunteered with Big Brothers/Big Sisters as a Big Brother since 1985.

Regularly visited children at Georgia Regional Hospital during the holiday season as part of the Atlanta Bar Association Santa Project. Volunteered as a food-rescue driver for Second Helpings for more than 15 years. Volunteered for Rick McDevitt Youth Center in Peoplestown and the Jerusalem House.



Paul E. Weathington

Has served for 12 years as the Team 6 Usher Captain for a 60+ member usher team; Serves as pro bono attorney for the American

Junior Golf Association and the Atlanta Junior Golf Association; emeritus member of the Touchdown Club of Atlanta Board of Directors; authored and published seven children's books and has visited preschools and elementary schools to read to children and emphasize the importance of reading and literacy.

**partial list of honoree accomplishments*

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.

W. DENT ACREE

Atlanta, Georgia
University of Georgia
School of Law (1960)
Admitted 1960
Died March 2022

JANET MARIE ANSORGE

Atlanta, Georgia
Emory University School
of Law (1973)
Admitted 1973
Died September 2021

HAROLD L. ARWOOD JR.

Jupiter, Florida
Emory University School
of Law (1964)
Admitted 1964
Died August 2021

BARNEY L. BRANNEN JR.

Lebanon, New Hampshire
University of Georgia
School of Law (1959)
Admitted 1959
Died April 2022

JAMES DAVID BROYLES

Atlanta, Georgia
Woodrow Wilson College
of Law (1974)
Admitted 1975
Died April 2022

JOHN MICHAEL COLEMAN

Athens, Georgia
University of Georgia
School of Law (1980)
Admitted 1981
Died December 2021

HERVEY JOSEPH COLETTE

Forest Park, Georgia
University of Georgia
School of Law (2005)
Admitted 2005
Died March 2022

NEAL L. CONNER JR.

Waycross, Georgia
University of Georgia
School of Law (1968)
Admitted 1968
Died December 2021

ALLISON PAIGE COPLEIN

Atlanta, Georgia
Emory University School
of Law (1994)
Admitted 1994
Died April 2022

STEVEN LAWRENCE CRAIG

Palm Beach Gardens,
Florida
Mercer University Walter
F. George School of Law
(1966)
Admitted 1967
Died September 2021

JAMES ROLAND DEWITT

Macon, Georgia
Woodrow Wilson College
of Law (1979)
Admitted 1979
Died March 2022

STEPHEN ELLIOT DRAPER

Atlanta, Georgia
Georgia State University
College of Law (1992)
Admitted 1992
Died February 2022

GILLIAN GILLERS

Decatur, Georgia
Yale Law School (2013)
Admitted 2015
Died September 2021

MANLEY RUSSELL GILLIS

Douglas, Georgia
University of Florida Levin
College of Law (1991)
Admitted 1991
Died February 2022

DAVID KENDALL GINN

Johns Creek, Georgia
University of Georgia
School of Law (1971)
Admitted 1972
Died April 2022

FRANK THOMAS GOMEZ

Marietta, Georgia
Georgia State University
College of Law (1988)
Admitted 1989
Died December 2021

LESTER H. HAMMOND III

Atlanta, Georgia
Atlanta's John Marshall
Law School (1976)
Admitted 1976
Died February 2022

RYAN MITCHELL HORN

Duluth, Georgia
South Texas College of
Law Houston (2012)
Admitted 2013
Died December 2021

SEAN ANTONE HUNT

Memphis, Tennessee
Vanderbilt Law School
(1993)
Admitted 1994
Died November 2021

WILLIAM H. ISON

Jonesboro, Georgia
Atlanta's John Marshall
School of Law (1968)
Admitted 1968
Died April 2022

WANDA GAY JOHNSON

Forsyth, Georgia
Mercer University Walter
F. George School of Law
(1992)
Admitted 1992
Died February 2022

**PATRICIA STEPHENS
JOHNSON**

Northville, Michigan
Michigan State University
College of Law (1982)
Admitted 2008
Died December 2022

MORTON P. LEVINE

Atlanta, Georgia
University of Georgia
School of Law (1953)
Admitted 1953
Died April 2022

FRANCES DEBORAH KATZ

Decatur, Georgia
New England Law | Boston
(2008)
Admitted 2009
Died September 2021

**THOMAS EDWIN
LAWRENCE JR.**

Signal Mountain,
Tennessee
Emory University School
of Law (1971)
Admitted 1971
Died October 2021

JERRY A. LUMLEY

Macon, Georgia
University of Georgia
School of Law (1982)
Admitted 1982
Died March 2022

STEVEN J. MARTIN

Smyrna, Georgia
Emory University School
of Law (1970)
Admitted 1970
Died March 2022

LEVIS A. MCCONNELL JR.
Perry, Georgia
University School of Law
(1969)
Admitted 1970
Died November 2021

MICHAEL MCGOVERN
Atlanta, Georgia
University of Illinois
College of Law (1972)
Admitted 1972
Died March 2022

**STEWART THOMAS
MORAN III**
Atlanta, Georgia
Boston University School
of Law (2008)
Admitted 2014
Died April 2022

DONALD BRUCE NAPIER
Brunswick, Georgia
University of Georgia
School of Law (1973)
Admitted 1973
Died February 2022

H. ANDREW OWEN JR.
Stone Mountain, Georgia
Emory University School
of Law (1971)
Admitted 1971
Died April 2022

**ROBERT STEPHEN
POYDASHEFF III**
Atlanta, Georgia
Mercer University Walter
F. George School of Law
(2021)
Admitted 2021
Died March 2022

TINA MARIE RICHARDS
Athens, Georgia
Atlanta's John Marshall
Law School (1992)
Admitted 1993
Died March 2022

FRANK E. RIGGS JR.
Atlanta, Georgia
University of Virginia
School of Law (1974)
Admitted 1974
Died April 2022

JOHN G. RUNYAN
Thomasville, Georgia
Atlanta Law School (1977)
Admitted 1983
Died March 2022

EDWARD SCOTT SELL III
Macon, Georgia
University of Georgia
School of Law (1965)
Admitted 1964
Died December 2021

ARTHUR J. SHELFER JR.
Thomasville, Georgia
Emory University School
of Law (1974)
Admitted 1974
Died October 2020

RONALD EHLBERT SMITH
Atlanta, Georgia
Nova Southeastern
University Law School
(1980)
Admitted 1994
Died April 2022

ROBERT B. STRUBLE
Toccoa, Georgia
University of Georgia
School of Law (1954)
Admitted 1954
Died February 2022

CLAUDE T. SULLIVAN JR.
Atlanta, Georgia
University of Virginia
School of Law (1968)
Admitted 1968
Died February 2022

DAN C. TATE
Washington, D.C.
University of Georgia
School of Law (1969)
Admitted 1970
Died March 2022

KARIN A. VERDON
Denver, Colorado
University of Michigan
Law School (1971)
Admitted 1985
Died March 2022

**BREYUNA LYNISE
WILLIAMS**
Atlanta, Georgia
Howard University School
of Law (2005)
Admitted 2008
Died March 2022

DAVID D. WILLOUGHBY
Atlanta, Georgia
Vanderbilt Law School
(1985)
Admitted 1985
Died April 2022

ELLEN ZELLNER
Forsyth, Georgia
Atlanta Law School (1965)
Admitted 1972
Died March 2022

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.

The Significant Lawyer: The Pursuit of Purpose and Professionalism

By Hon. William S. Duffey Jr.
185 pages, Mercer University Press

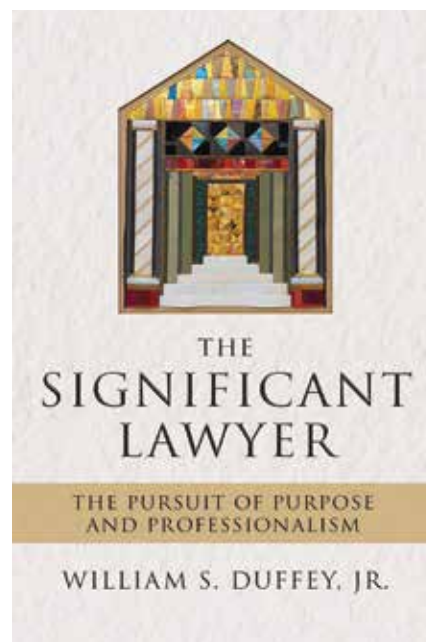
REVIEWED BY KEVIN PATRICK

“The Significant Lawyer: The Pursuit of Purpose and Professionalism” begins with a quote from Hon. Griffin B. Bell about his belief that “honorable service is the highest conduct of a lawyer.” These initial remarks about honoring the profession establish the framework of Hon. William S. Duffey Jr.’s book about the true meaning of the practice of law and the paramount importance of professionalism throughout a legal career. Judge Duffey draws on his experiences of more than 40 years in practice, including 14 on the federal bench, to illustrate the importance of alignment to lead a fulfilling and meaningful legal career.

After these introductory remarks, Duffey first examines “Lost Lawyers” and reflects on the ways the legal profession has oftentimes prioritized profits above the profession itself. Judge Duffey then transitions to “The Aligned Lawyer,” which reveals one of the greatest satisfactions in life is aligning conduct with values. He asks the readers to consider their own personal and professional values. Building on this theme, Judge Duffey explores the shared values of the profession. For

example, Duffey returns to “A Lawyer’s Creed” and reminds the readers that the practice of law is not merely a commercial job, but rather a true calling to engage in a noble profession.

Duffey helps define aligned lawyers in the ensuing chapter of his book by reflecting on people, like his own father, Judge Bell and others, that embody the characteristics of aligned individuals and lawyers. They all share the traits of honesty, integrity and fairness. Judge Duffey returns to influences, such as intrusive technology, uncivil opposing counsel and demanding clients, that can disrupt a lawyer’s alignment. Within this framework, Duffey discusses ways to successfully serve clients by developing trusting relationships, understanding the personal impacts of litigation, and diligently forging and sustaining bonds with clients. Not only does an aligned lawyer develop those bonds with clients, but aligned lawyers also understand the importance of productive relationships with opposing counsel. Duffey insightfully comments, “You’re the master of your reputation.” What is more, Duffey stresses the impor-



tance of ensuring that the personal values of a lawyer align with the culture of a firm or workplace.

Aligned lawyers also have an understanding and appreciation of the unique role of the federal judiciary. Duffey reminds lawyers of the stress and strain on judges, which range from the environment itself to the management of a large docket. He offers six principal ways lawyers can improve (and even repair) their relationship and reputation with the court, such as adhering to all applicable court rules and conducting oneself with honesty and candor. As a judge, he recognized the importance of managing and mentoring younger lawyers. Duffey strongly encourages active mentoring through day-to-day engagement, as well as collaborative and meaningful work assignments.

In the final chapters of his book, Duffey explores priorities and pivots in the context of his own practice. He offers a useful reference to understanding time quadrants and the application of them to a balanced life. Duffey's perspectives on alignment signal that it is not a static condition; instead, proper alignment takes a constant inventory of values. He focuses on the first steps in achieving alignment as a lawyer, which requires evaluating one's personal goals. In conclusion, Duffey challenges the reader: "Be true to your values. Fight for your purpose. Be relentless. Finish well."

Along with reading "The Significant Lawyer: The Pursuit of Purpose and Professionalism," the reviewer had the distinct privilege of speaking with Duffey and attending his CLE through the Chief Justice's Commission on Professionalism.

"Be true to your values. Fight for your purpose. Be relentless. Finish well."— Hon. William S. Duffey Jr.

The reviewer also appreciates the illustration of the courthouse quilt on the cover of the book because it reminds us that we have a obligation to adhere to the creed of professionalism and commitment of justice in our democracy. Furthermore, the various endorsements of this book, especially those of Hon. Robert B. Fiske Jr. and Richard A. "Doc" Schneider, are a testament to Duffey's stature in the legal community. Duffey has truly crafted a masterful work and his continued service to the legal profession will shape generations of future lawyers. "The Significant Lawyer" is a must read for all members of the State Bar of Georgia and those seeking to enter the legal profession. ●



Kevin Patrick is the principal and founder of Kevin Patrick Law, LLC. His firm exclusively handles personal injury cases. Kevin is an AV-rated

trial lawyer. He serves in various leadership capacities with the State Bar of Georgia, the Georgia Trial Lawyers Association and the Atlanta Bar Association. Kevin also actively volunteers in the community with organizations, such as the Georgia Center for Child Advocacy.

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

JUNE

- 24 Workers' Compensation for the General Practitioner**
Bar Center | Atlanta, Ga.
6 CLE
Register at www.iclega-attend.org/events/workers-compensation-gp/

JULY

- 14-16 Fiduciary Law Institute**
Omni Amelia Island Resort |
Fernandina Beach, Fl.
12 CLE
Register at www.iclega-attend.org/events/fiduciary-law-institute/

AUGUST

- 23 Beginning Lawyers Program**
Bar Center | Atlanta, Ga.
6 CLE
- 30 Group Mentoring**
Bar Center | Atlanta, Ga.
No CLE
- 31 Restrictive Covenants and Trade Secrets**
Bar Center | Atlanta, Ga.
6 CLE

SEPTEMBER

- 7-8 Institute of City and County Attorneys**
Georgia Center for Continuing Education |
Athens, Ga.
12 CLE
- 22-23 Solo & Small Firm Institute**
Bar Center | Atlanta, Ga.
12 CLE

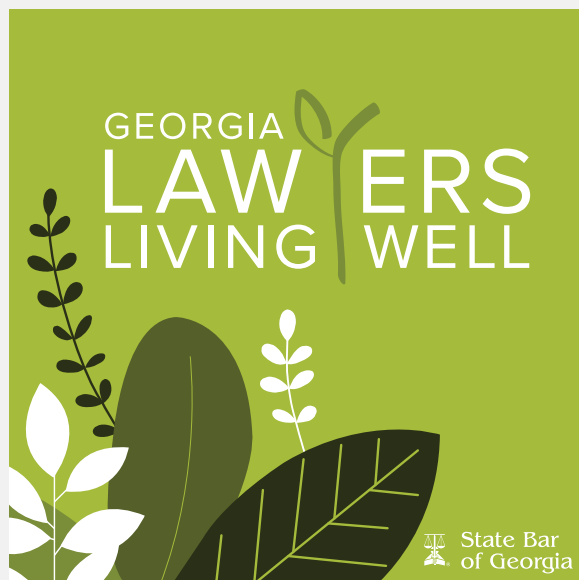
OCTOBER

- 6-8 Workers' Compensation Law Institute**
Jekyll Island Convention Center |
Jekyll Island, Ga.
12 CLE
- 18 Group Mentoring**
Bar Center | Atlanta, Ga.
No CLE
- 28 Jury Trials in Divorce**
Bar Center | Atlanta, Ga.
6 CLE

NOVEMBER

- 11 Adoption Law**
Bar Center | Atlanta, Ga.
6 CLE

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



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