

February 2023

Volume 28, Number 4

GEORGIA BAR JOURNAL

Standing on Broad
Shoulders: The Lives
and Legacy of Georgia's
First Black Lawyers

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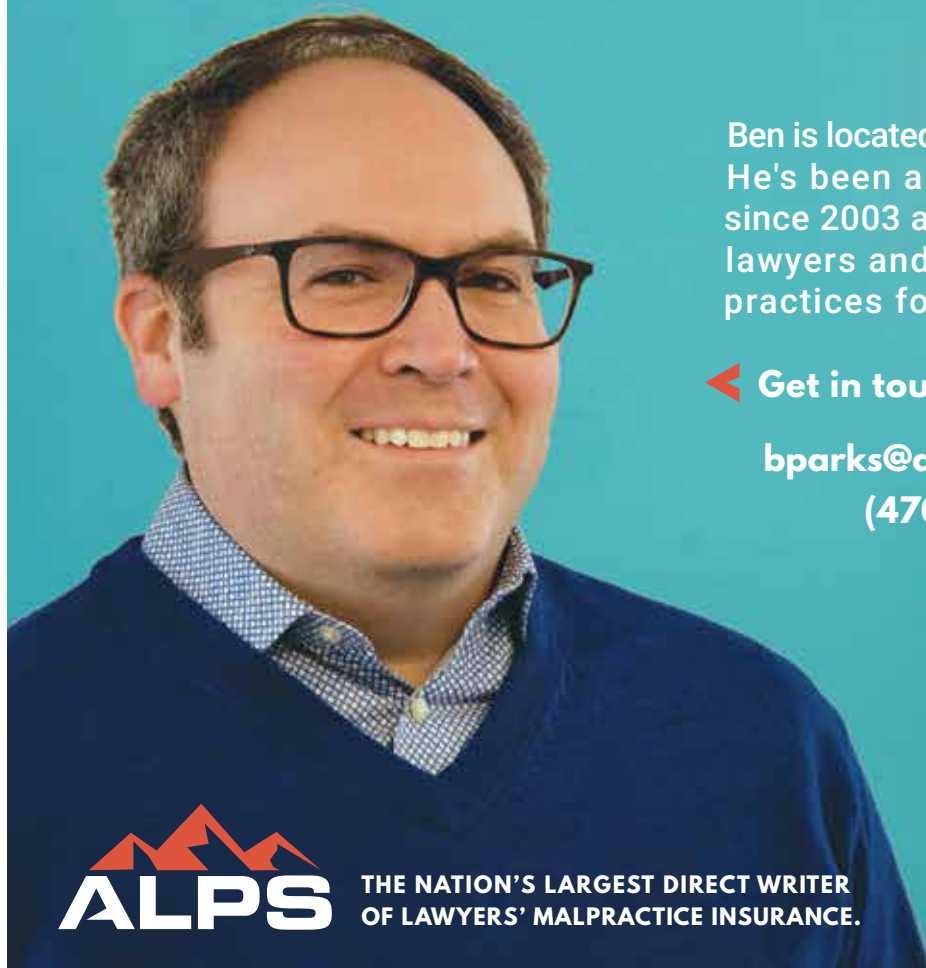
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The *Georgia Bar Journal* welcomes the submission of news about local and voluntary bar association happenings, Bar members, law firms and topics of interest to attorneys in Georgia. Please send news releases and other information to: Jada Pettus,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

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The February Issue

Welcome to the February edition of the Georgia Bar Journal. In this issue, State Bar of Georgia President Sarah B. “Sally” Akins kicks things off with her article “Making a Strong CLE Program Stronger.” Akins writes that one of her goals for the remainder of the 2022-23 Bar year is to find and implement ways to enhance the Bar’s already outstanding CLE program. This involves looking for innovative content, considering new means of content delivery and being mindful of affordability. The State Bar and ICLE have also been reviewing and analyzing the results from a recent CLE satisfaction survey.

Joy White, member of the State Bar of Georgia Attorney Wellness Committee, also addresses professional growth and personal challenges in her article, “The Case for More Self-Love in the Legal Profession.” White writes, “unfortunately, many attorneys struggle to realize that they can’t love their work or anyone else until they love themselves.” She stresses the importance of self-love, which is accepting and loving yourself for who you are while ensuring your actions and behaviors follow suit.

Our legal article this edition is Don Samuel and Scott Grubman’s “Who Should Guard the Attorney-Client Privilege When Documents are Seized by Law Enforcement?” Samuel and Grubman write about filter teams and how these professionals can help protect attorney-client privilege. There are, however, many legal questions

surrounding filter teams due to the current, relevant laws being in flux.

If you’re interested in Georgia’s legal history, be sure to check out our feature articles. In “Standing on Broad Shoulders: The Lives and Legacies of Georgia’s First Black Lawyers,” Hon. John Browning writes about leading figures such as Aaron Bradley, Rev. James Simms and Edwin Belcher. You’ll learn about Styles Hutchins (admitted 1878) and Judson Lyons (admitted 1884), the first two African American men to practice law in Georgia. For more on Georgia’s legal history, you can read Wilber Caldwell’s article “The Dodge County Courthouse at Eastman: The Grand Old Courthouses of Georgia.”

Another piece I’d like to highlight is Nkoyo-Ene Effiong’s “Better Clients Are a Compelling Brand Away.” Effiong, director of the Law Practice Management Program, writes about your professional brand as the personality of your law practice. It’s a distinct identity for your business in the mind of consumers. Effiong explains the importance of creating a strong, authentic brand and walks readers through the process of professional branding. Whether you need advice on branding, technology, firm finances or organization, the Law Practice Management Program has the services and training. Read Sheila Baldwin’s article, “The Law Practice Management Program,” to learn more about this valuable Bar resource.

Thank you to our *Georgia Bar Journal* readers, and we’ll see you in April. ●



MEGAN HODGKISS

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Making a Strong CLE Program Stronger



**SARAH B.
"SALLY" AKINS**

President
State Bar of Georgia
president@gabar.org

One of my goals for the remainder of this Bar year is to seek ways through which we can enhance our already outstanding continuing legal education (CLE) program and implement those improvements.

Under the leadership of Director Dee Dee Worley and with support from the Commission on Continuing Lawyer Competency (CCLC), our CLE Department manages and regulates the mandatory CLE program and related rules enforced by the Supreme Court of Georgia. Our charge is to produce and promote a high-quality, comprehensive and innovative CLE program that is relevant to the professional needs of Georgia lawyers and conveniently available to them at affordable costs.

To continue meeting this objective, we are constantly looking for ways to include innovative and up-to-date CLE programming, including ethics and professionalism courses. This includes a consideration of nontraditional and interactive presentation methods to make CLE sessions more appealing, as well as greater use of legal educators, judges and diverse subject matter experts as CLE speakers.

Toward this goal, the State Bar recently distributed a member survey on CLE satisfaction. We received a tremendous response to the survey and are presently compiling and analyzing the results.

Member value is always a top priority when it comes to CLE programming and delivery. That is why we are engaged

in a fresh review of how we offer CLE programs, which includes consideration of expanding our recorded sessions for rebroadcast, alternative scheduling that meets the needs of busy Bar members, greater accessibility for all members regardless of geographical location or firm size and, of course, pricing considerations that could include more discount offers.

The term CLE refers to the annual fulfillment of continuing legal education hours required of State Bar members. You will also often hear about ICLE, which is the Institute of Continuing Legal Education, the Bar's provider of CLE programming. Previously a separate organization based in Athens, ICLE was brought in-house as a program of the State Bar of Georgia five years ago.

Integrating ICLE into the State Bar not only created an additional revenue source, allowing us to continue providing quality CLE programming at an affordable price to Georgia lawyers, but we were also able to consolidate services and have ICLE staff and services in the location where most in-person CLE seminars take place, namely the third-floor conference center at the Bar's downtown Atlanta headquarters.

All ICLE activities are designed to promote a well-organized, properly planned and adequately supported program of continuing legal education to provide Bar members a means of enhancing their skills and keeping abreast of develop-

OFFICERS' BLOCK

In this issue of the Georgia Bar Journal, we asked our State Bar of Georgia officers, "What behavior or personality trait do you most attribute your success to, and why?"

ments in the law, as well as engaging in the study and research of the law in order to fulfill our responsibilities to the legal profession, the courts and the public.

Starting in March 2020, the COVID-19 pandemic forced the legal profession and justice system—along with the rest of society—into new ways of delivering services. Teleconference technology introduced a new way of holding court proceedings that had previously been conducted exclusively in-person. The same was true for CLE programs where physical attendance was required.

Originally a reaction to a global health emergency, the concept of offering CLE programming via livestream demonstrated other benefits for Bar members. In October 2021, CCLC permanently changed the regulation related to distance learning. Lawyers can now complete all or any portion of their CLE requirement through approved distance learning CLE programs.

Attorneys can, of course, attend in-person CLE courses but are no longer required to attend an in-person CLE course to complete their CLE requirement. The CCLC made this change to allow lawyers more flexibility, to lower costs for lawyers by reducing travel-related expenses for attorneys who live in remote locations or far from learning centers, and to allow lawyers more opportunity to participate in courses that directly interest them.



SARAH B. "SALLY" AKINS

President

The willingness to listen. Without taking into consideration the thoughts, suggestions and concerns of others, it is hard to succeed at anything. "Courage is what it takes to stand up and speak. Courage is also what it takes to sit down and listen."—Winston Churchill



HON. J. ANTONIO "TONY" DELCAMPO

President-Elect

I believe tenacity and having a good attitude is essential for success in life and in the practice of law. I have never allowed anyone else to dictate what I can or cannot achieve. Having the right mindset and the tenacity to stick with a goal has been essential in my attaining my professional goals.



IVY N. CADLE

Treasurer

I find people fascinating. I'm curious to know where we agree, where we disagree and what is possible.



ELIZABETH L. FITE

Immediate Past President

My resilience and ability to read the room are the keys to my success as a litigator. Turning obstacles into opportunities and *actually* listening to what people are (and, notably, are not) saying will carry you far. (Emphasis in original.)



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In addition to livestream programming, ICLE maintains a library of webcasts with new content uploaded periodically for members to fulfill CLE requirements virtually through on-demand webcasts. You can find a listing of available webcasts on the Bar's website.

Having access to effective and affordable CLE programming is already one of the most popular benefits for State Bar members. In his October 2022 article for the *Georgia Bar Journal*, Executive

Director Damon Elmore shared some of the responses he had received from Bar members when they were asked about their most-used benefits.

Albert Reichert Jr. of Macon said, "The CLE programs, such as the Fiduciary Law Institute, are my most-used State Bar benefit. They are first class, and they have the added benefit of getting to know one's fellow lawyers better. They promote collegiality and learning. One never stops learning how to practice law."

Madalyn Davis of Atlanta concurred that ICLE programs were her most-used Bar resource. "Trying to find ways to satisfy all the requirements for CLE (would be) exhausting if the State Bar did not provide excellent programs and information," Davis said. "The ICLE programs provided by the Bar are superior in content, access and location than other places that offer CLE. I have never regretted attendance at a State Bar CLE and have always walked away with better connections—professionally and personally—and pages of notes of new knowledge."

The State Bar of Georgia is committed to the professional development of our members by providing quality legal education courses through ICLE and a dedicated group of staff to help maintain your CLE status reports and standings through CCLC. If you have questions about your CLE transcript, deadlines, regulations or rules, you may contact the CLE Department at 404-527-8710 or cle@gabar.org. If you have questions for ICLE, send them to icle@gabar.org or call 678-529-6688.

If you completed and submitted the recent CLE member survey, thank you. If not, I'd love to have your feedback on enhancing CLE programming. We need to hear from Bar members in communities around the state as to what additions or other changes you would like to see so that our continuing legal education program can efficiently and effectively meet the needs of all of our fellow Georgia lawyers. Please email me at president@gabar.org. ●



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**RONALD EDWARD
"RON" DANIELS**

YLD President
State Bar of Georgia
ron@danielstaylorlaw.com

Diamonds are the YLD's Best Friend

Dear reader, I hope you will excuse this article deviating from what I typically write.¹ As the 76th YLD president, I am proud to be serving during our 75th (aka diamond) anniversary.

Working for the Profession and the Public

Our organization's history begins on May 31, 1947, when the Younger Lawyers Section of the State Bar of Georgia was created at the Annual Meeting.² Since then, the YLD has lived up to its motto of working for the profession and the public. The YLD was instrumental in the founding of Georgia Legal Services Program in 1971, and our members have continued to support pro bono and legal aid efforts with both our time and money. We have completed countless community service projects—from painting playground equipment, to sorting food at food banks, to packing personal hygiene kits for unhoused people and more.

The YLD is also the source of the Georgia High School Mock Trial Program. Founded in 1987, it has grown into a nationally recognized educational program. Georgia hosted the National High School Mock Trial Competition most recently in Athens in May 2019, marking the third time that the national competition was held in our state.

Another project credited to the YLD is the rewrite of Georgia's Juvenile Justice

Code. In 2004, the YLD secured funding to create a model juvenile code, and the YLD's Juvenile Law Committee spearheaded an entire overhaul of the previous code. The governor's Criminal Justice Reform Council focused on reforms to Georgia's juvenile law and legislation was passed unanimously by the Georgia General Assembly during the 2013 legislative session to rewrite and recognize Georgia's juvenile law.

YLD Signature Fundraiser

The YLD has organized a Signature Fundraiser benefiting charitable organizations since 2007. The YLD and its supporters have raised more than \$800,000 for those organizations while also having a good time and building better friendships among our members.

Georgia Legal Food Frenzy

One in eight children in Georgia are at risk for hunger, and food banks are working around the clock to meet an overall 30% increase in need. Working with Georgia's Attorney General and Feeding Georgia (formerly known as the Georgia Food Bank Association), the Legal Food Frenzy competition has raised the equivalent of 20 million meals since 2012. The Legal Food Frenzy helps keep Georgia's seven regional food banks stocked so they can feed more families. The 12th annual

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Middle Georgia Justice

Tipitina's Foundation

Georgia Leal Food Frenzy runs April 17-28, 2023. Visit galegalfoodfrenzy.org to register your firm, legal organization or department to compete.

Embracing Technology

The YLD has been at the forefront of embracing technology to better serve our members. Starting in 2017, we began

OFFICERS' BLOCK

In this issue of the Georgia Bar Journal, we asked our YLD officers, "What behavior or personality trait do you most attribute your success to, and why?"



RONALD EDWARD "RON" DANIELS | YLD President

"I want this job, I need it, I can do it. Everywhere I've been today there's always been something wrong, too young, too old, too short, too tall. Whatever the exception is, I can fix it. I can be older, I can be taller, I can be anything."—Brantley Foster in *"The Secret of My Success"*



BRITTANIE D. BROWNING | YLD President-Elect

A few different traits contributed to my success—one of which is organization. I love my planner and a good to-do list to check off tasks. Organization and those lists are helpful in my role as an officer for the YLD and in my practice to keep everything in order.



KENNETH MITCHELL JR. | YLD Treasurer

Conscientiousness. I always try my best to be conscientious about all sides of a situation and all possible arguments one can make. I believe that most of the successes I have had can be attributed to that trait because it minimizes the risk of overlooking important details.



VERONICA ROGUSKY COX | YLD Secretary

I attribute my success to my ability to make friends and my passion for connecting with fellow lawyers. It is their support, encouragement and advice that has enabled me to face life's challenges head on.



ELISSA B. HAYNES | YLD Immediate Past President

Creativity and persistence. Finding loopholes and new ways to either apply existing law or to create new law is key in my appellate practice. As for persistence, just ask my opposing counsel. When I believe in something, I do not back down.



JENA G. EMORY | YLD Newsletter Co-Editor

I do not pretend to be successful, but I have always believed that my ability to take a hit has paid off for me in my career. No one's life or career is perfect, but when I encounter a setback, I try to keep going.



VIRGINIA C. JOSEY | YLD Newsletter Co-Editor

I enjoy getting to know people and I am proud of my loyalty. I also think being fiercely competitive and enjoying my work contributes to my professional success.

The Good Lawyer Podcast Guests

Brandon Bullard	Hon. Amanda Heath
Ivy Cadle	Hon. Harold Melton
Harold T. Daniel Jr.	Brandon Peak
Mark Dietrichs	W. Ray Persons
Paula Frederick	Hon. Kathryn "Katie" Powers
Bill Gentry	Timothy Vaughn



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live streaming our meetings in a concerted effort to reach our members where they practice.

This year, we also launched "The Good Lawyers Podcast" where we try to answer the question: "What makes a good lawyer?" After serving as the host for season one, I have handed the microphone to the very capable Sarah Young. The first episode of season two is now available on Apple Podcasts, Google Podcasts and Spotify. I encourage you to subscribe today.

CLE Programs

The YLD and its more than 25 committees have been putting together top-notch CLE programs ranging from cutting edge topics like e-sports or changes to criminal trial practice methods due to the influence of podcasts, to more traditional programs featuring a variety of justices, judges, lawyers and even everyday people. We continue to innovate in response to our changing world and profession.³ We have begun to incorporate additional focus on mental and physical well-being to better support our members with the creation of the YLD Wellness Committee.

YLD Leadership Academy

Founded in 2006, the Young Lawyers Division Leadership Academy of the State

Bar of Georgia is a program for young lawyers who are interested in developing their leadership skills as well as learning more about their profession, their communities and their state.

The Leadership Academy counts more than 500 alumni. Those alumni members include solo practitioners, judicial law clerks, partners in large and small law firms, assistant district attorneys, public defenders, nonprofit lawyers, ADR specialists and in-house counsel for Fortune 500 companies. The benefits of having a friend and legal resource in practically every corner of the state and in any practice area cannot be overestimated.

Our Leadership Academy continues to build better leaders and future leaders for the profession and our state.

Disaster Legal Assistance

This isn't totally a highlight reel. There have been hard times along the way. We have experienced a pandemic, natural disasters, personal tragedies and more. We continue to support ABA efforts to provide legal assistance to victims within federally declared disaster areas by running a hotline where volunteer lawyers provide counseling, assistance and/or referrals to aid callers in their recovery. The Disaster Legal Services Hotline is a partnership between the ABA's Young Lawyers Division



PHOTO COURTESY OF THE GEORGIA GENERAL ASSEMBLY

On Feb. 8, 2023, the Young Lawyers Division of the State Bar of Georgia was recognized by the Georgia Senate with SR 100. Front row (left to right) YLD Newsletter Co-Editor Jena Emory, YLD President Ron Daniels, YLD President-Elect Brittanie Browning and Donovan Eason. Back row (left to right) James Banter, Taylor Dove, David Harding, Senate President Pro Tempore John Kennedy and Georgia Lt. Gov. Burt Jones.

and Georgia Team Ready, of which the State Bar of Georgia YLD is a member.

Awards and Accolades

As you might expect, the YLD has won a litany of awards and accolades over the last 75 years. The most recent is being acknowledged from the floor of the Georgia Senate on Feb. 8 with SR 100 “recognizing and commending the Young Lawyers Division of the State Bar of Georgia for its 75 years of service.”

Diamond Anniversary

Seventy-fifth anniversaries are historically known as the “diamond anniversary.” There are no less than 10 quotes or clichés I have thought about putting

in this space, but this is a time to be serious. So, instead, I borrow from what I said when I was sworn in last June: “This is the best organization in the world for young lawyers, and it will be for at least another 75 years.” ●

Endnotes

1. I must give credit to past president John Sammon for inspiring me to write this article celebrating our 75 years.
2. The Younger Lawyers Section was renamed Young Lawyers Division in 1998.
3. I cannot take credit for this. Our organization is thriving today because of the leadership of all our past presidents. I am especially thankful for the leadership of Will Davis, Bert Hummel and Elissa Haynes during the pandemic.

YLD PRESIDENTS WHO WENT ON TO SERVE AS PRESIDENT OF THE STATE BAR OF GEORGIA

William D. Barwick

YLD 1984-85 | State Bar 2003-04

Robert M. Brinson

YLD 1973-74 | State Bar 1986-87

A. James Elliott

YLD 1976-77 | State Bar 1988-89

Frank C. Jones

YLD 1956-57 | State Bar 1968-69

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YLD 1977-78 | State Bar 1991-92

Kirk M. McAlpin

YLD 1953-54 | State Bar 1979-80

John C. Sammon

YLD 1987-88 | State Bar 1993-94

Darrell L. Sutton

YLD 2013-14 | State Bar 2019-20

Advancing Your Legal Career



PHOTO BY EVAN BARTLESON PHOTOGRAPHY

DAMON E. ELMORE

Executive Director
State Bar of Georgia
damone@gabar.org

I am frequently asked for advice on how to advance one's career in the legal profession. With so many talented and hardworking attorneys competing for a limited number of positions, it can be difficult to stand out and succeed. I usually remind those asking that I may not be the best source for guidance, although I have been fortunate in the opportunities afforded me and the roles—legal, quasi-legal and business—that I have personally held. What I do know is that some things never change. Career development in the legal profession requires a combination of hard work, dedication and a willingness to continually learn and adapt.

Still, this discussion has come up several times over the past few months. It happened once with an attorney who is originally from Folkston, Georgia. It happened again over lunch with a leader in the attorney placement field. Finally, it happened again as part of the Corporate Counsel Institute in December. It was the presentation and discussion at that seminar that led to additional analysis and discussion with those directly involved with this process at varying points and their unique perspectives.

To get started, I solicited help from my old friend (like, back to my YLD days old), legal recruiter, networker extraordinaire, legal matchmaker and South Asian Bar Association of Georgia (SABA-GA) president-elect, Waqar Khawaja and his

friends over at SABA-GA. Their practices vary across the metro-Atlanta area.

I asked them a few questions and *some* of the answers are outlined here for those of you who may be wondering the same thing. Professional development is important to many of our members, and the continued growth of attorneys is essential to improving the quality of legal services.

How can lawyers stay up to date on developments in their field, and what are some ways to continually learn and grow as a professional?

Gautam Reddy, a partner in the area of construction law with Kilpatrick Townsend and Stockton, LLP, suggested a number of resources including the Georgia updates in this publication, as well as legal websites like Law360. But he went further to suggest, "In addition to online resources, joining a Bar section or professional organization related to your practice area is a great way to organically stay up to date. These organizations often host CLE events and panel discussions or publish newsletters that often touch on recent developments." His final suggestion was to be "consistently self-critical in a healthy manner."

Nithya Amaraneni, counsel at Cousins Properties, offered this: "I find it extremely helpful to subscribe to and read articles from the myriad of publications available

out there whether it's Law.com, JD Supra or articles from law firm practice groups. Some of these are paid subscriptions but if your firm or company is willing to pay, definitely jump on the chance. Another way to learn and grow is through CLEs."

What are some ways that lawyers can gain leadership skills, build a book of business or client roster and advance in their careers?

Suhail Seth, a partner at Polsinelli focused on mergers and acquisitions and corporate law, offered a few thoughts. He first reminded me that leadership skills and building a book of business are two separate things and should be discussed as such. But, on the business development side, he suggests:

It's cliché, but business development comes down to networking. As with all skills, networking takes time to perfect. Some may be natural at it (but not perfect) and others may not be as well equipped. It takes getting out of your comfort zone, putting yourself out there and a lot of patience. At the end of the day, 'networking' will lead to client development by virtue of relationship building—which takes time. Sure, some might hit a home run

on their first at bat, but more often than not, networking is akin to planting a seed and waiting for it to bear fruit. You will have to 'nurture' your plant, but if you put in the work and effort, you will eventually see it pay off. Finally, one characteristic/trait that I think is conducive to being an effective leader *and* networker: authenticity. Be authentic.

What strategies can lawyers use to advance their careers within their current firms or organizations?

Seth additionally advised, "Firms and companies advance people who both will represent them positively and will add value to the organization. Value will mean different things at different places, but for most organizations, this will mean business growth and profitability. Ask how you can contribute to either/both in addition to doing your work (and doing it well) and act accordingly."

What are some resources and organizations that can provide support and guidance for lawyers seeking to develop their careers?

Zain Haq, an associate with Kilpatrick focused on technology, privacy and cyber-

security, shared this: "Bar organizations are a great place to start. I've found that lawyers are, for the most part, willing to go out of their way to help others. Joining a bar organization allows you to meet lawyers with common backgrounds and/or interests and to develop a network of lawyers that can help you get to where you want to go. It can be very fulfilling to be in a room with like-minded people all striving toward a common goal."

I wholeheartedly agree.

How can lawyers balance their professional and personal lives, and what are some strategies for maintaining that proverbial work-life balance?

I do not know if we could have a career development discussion without the work/life balance question. So, when I posed this question to Parth Matalia, an associate at Jones Day working in the area of intellectual property, he offered this: "Everyone operates differently, so different techniques work for different attorneys. I think what worked well for me was to seek out good attorneys to work for who I knew would respect my time. One of my top priorities as a job-hunting law student was to find out (as much as it was possible) what kind of people I would be working for and whether their work style would fit with mine. For me, at least,



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



State Bar
of Georgia

I am willing to go the extra mile for attorneys like that when it does come time to buckle down.”

How can lawyers who want to switch practice areas or move to a new firm best position themselves to do so?

Amaraneni suggested, “No matter where your path takes you, one of the most important things is to work hard and learn as much as possible. While employment law and real estate might seem like complete opposite practice groups, if you have a good foundation in being a lawyer with base skills, the transition is smoother. The same goes for moving from a law firm to in-house. I made the transition about a year ago and have loved every minute. I found the transition to be seamless given my knowledge of my practice area and the skills I picked up by working very hard as an associate in a large law firm.”

What strategies can lawyers use to advance their careers within their current firms or organizations?

Rahul Garabadu, a senior voting rights attorney with the ACLU, suggested, “Keep an open mind about the types of work you’re given, especially as a new at-

“Don’t be afraid to manifest; people can sense and appreciate the enthusiasm of those speaking their goals into existence.”—Waqar Khawaja

torney. You will often find that the most interesting legal tasks don’t always look so interesting at first blush. But by staying open to tasks early on in your career, you can cast a broad net, and then make more informed choices about how you want to specialize in your field.”

What types of career paths are available to lawyers, and how do they differ from one another?

I have certainly seen how all this information was a part of my career development. But, to bring it back home, I wanted to hear from an expert on legal careers. Khawaja’s answer was very helpful, and I encourage you to look here and visit www.gabar.org/careeradvice for his complete answer and details.

He shared:

You’ve got a lot of options when it comes to career paths. Sure, you can go the traditional route of working at a big law firm or in-house, but there’s a whole bunch of other paths you can take as well. A lot of lawyers go into public interest, where you can work on issues that really matter to people. Lawyers also end up becoming judges, going into academia, working in government, compliance, mediation and arbitra-

tion, legal technology, or you could even become a legal recruiter, like me. And let me tell you, working in a legal-adjacent career can sometimes have you interacting with more lawyers than most practicing lawyers ever have the time to do. My advice is to keep an open mind and explore all the possibilities and options that align with your interests, skills and goals.

As a legal recruiter, my advice especially to young lawyers regarding the various types of career paths available would be as follows:

1. Do your research and explore your options.
2. Network and gain exposure to different views and potential opportunities.
3. Decide when to specialize or diversify.
4. Consider the work-life balance.
5. Keep an open mind.

Ultimately, the most important thing is to choose a career path that you are passionate about and that aligns with your interests, skills and goals. With the right mindset, research and guidance, you’ll be able to find the right fit for you.

How can lawyers who want to switch practice areas or move to a new firm best position themselves to do so?

Khawaja said, “Don’t be afraid to manifest; people can sense and appreciate the enthusiasm of those speaking their goals into existence. Additionally, stay current with the latest developments in your desired field. Furthermore, being proactive and reaching out to firms or recruiters that specialize in your desired practice area to express your interest and qualifications can increase your chances of success as well. Lastly, consulting with a mentor or experienced legal recruiter will help you establish a clear and effective plan to achieve your career goals.”

Conclusion

Whether you are just starting out in your legal career or are looking to take the next step in your professional development, I hope that these insights will be helpful to you. If you find the information interesting or if you have additional tips, email me at damone@gabar.org. I would love to hear from you. DEE ●

This is a condensed version of the discussion. For a full review of all answers and responses, visit www.gabar.org/careeradvice or www.linkedin.com/in/damoneelmore.



Who Should Guard the Attorney-Client Privilege When Documents Are Seized by Law Enforcement?

Some cases may involve seizures of computers and other devices that contain millions of communications. Filter teams can help protect attorney-client privilege, but the law is in flux on how they should function.

BY DON SAMUEL AND SCOTT GRUBMAN

In Georgia and most other jurisdictions, state and federal, a typical criminal case often involves seizures of computers and other devices that may contain millions of communications. How is the attorney-client privilege protected? Today, in one way or another these problems are addressed either by a filter team (sometimes referred to as a “taint team” or a “privilege team”), a special master or a magistrate judge. But the law is in flux how these “teams” or arbiters should be comprised and how they should function. This article addresses the rapidly developing law that governs the formation and implementation of filter teams.

The developing law reflects several factors, including the different locations from which the digital information is acquired. A search warrant executed at a law firm inevitably captures an enormous amount of privileged information involving scores of clients, many of whom have no relationship at all with the suspected criminal activity for which there was probable cause to seize the documents.¹

A search warrant targeting one lawyer (whether seeking information about the lawyer or a client),² results in the seizure of less privileged information. A search

that targets a business may be able to limit the privileged information that the agents are permitted to examine by sequestering the communications involving a specified number of lawyers who provide legal advice to the business.³ Yet, even accounting for these differences in the target and venue of the search, courts have examined the blueprint for filter teams and reached divergent views about what is necessary to protect the privilege holders without unduly hampering the efficiency of the law enforcement mission.

Though courts have been approving filter teams for the past 30 years at a common law pace, the evolution of the law went into overdrive with the 4th Circuit decision in *In re Search Warrant Issued June 13, 2019 (Baltimore Law Firm)*.⁴ From a criminal defense lawyer’s perspective, *Baltimore Law Firm* exemplifies the principle, “bad facts make great law.”

In *Baltimore Law Firm*, Lawyer “A” represented Client “A” (who was also a criminal defense lawyer); Client “A” represented a drug dealer. Law enforcement suspected that Lawyer “A” was corrupt and so was Client “A.” A search warrant was issued for Lawyer A’s law firm to seize evidence of Lawyer A’s corrupt rep-

resentation of Client A (who was allegedly corruptly representing the drug dealer).

In the search warrant application, prosecutors offered to utilize a filter team to ensure that the prosecution team would not be able to examine any seized privileged communications that were not subject to the crime-fraud exception.⁵ The prosecutors chose who would be on the filter team, which would be comprised of local prosecutors (albeit from a different division of the same U.S. attorney's office) and various law enforcement agents and paralegals. The filter team would promptly furnish to the prosecution team all documents deemed by the filter team to be non-privileged.⁶ Potentially privileged documents that the filter team believed could be redacted or that were subject to the crime-fraud exception would be reviewed with Lawyer A's lawyer. If an agreement could not be reached, the document would only be furnished to the prosecution team with a court order.

The search resulted in the seizure of more than 50,000 emails to and from Lawyer A, as well as other law firm lawyers' emails. Correspondence with numerous other clients was seized. Some of these clients had pending cases with

the U.S. attorney's office unrelated to Client A—yet only 116 emails related to Client A.⁷ The risk that privileged communications of clients and lawyers unrelated to either Lawyer A or Client A were reviewed was substantial. And the “filter” process was entirely too porous to prevent privileged information from reaching prosecutors and law enforcement agents throughout the district. The filter team was as reliably prophylactic as cigarette filters in preventing nicotine poisoning.

The district court denied the law firm's motion to enjoin the filter team process. An appeal was filed in the 4th Circuit which was heard on an expedited basis, and shortly after oral argument, the 4th Circuit reassigned the filter team's duties to a magistrate judge to review all seized materials, identify those not related to Client A and return them to the law firm, and conduct a privilege evaluation of the remaining materials. The filter team was abolished. After reviewing the importance of the attorney-client and work product privileges, the 4th Circuit held that it is a judicial function to enforce and protect the attorney-client privilege, not the job of law enforcement (and particularly DEA and IRS agents with no legal training). The court warned that it is never permissible to have the law enforcement fox in charge of the law firm hen house.⁸ Moreover, the law firm should have been part of the process of devising the protocol for reviewing potentially privileged documents, rather than allowing the government to present its plan to the trial court *ex parte* with no input from the law firm.⁹

The 4th Circuit lit the fuse, and now courts throughout the country are deciding how to monitor (or even permit) the filter team process that has become routine in white collar criminal prosecutions. In the 11th Circuit, courts have generally held that *Baltimore Law Firm* is limited to its unique (i.e., “bad”) facts, primarily the seizure of a substantial number of privileged communications of the

The Fourth Circuit lit the fuse, and now courts throughout the country are deciding how to monitor (or even permit) the filter team process that has become routine in white collar criminal prosecutions.

law firm's clients who had nothing to do with the crimes being investigated.¹⁰ But *Baltimore Law Firm* has had a substantial impact on the functioning of filter teams even in the jurisdictions that reject the *Baltimore Law Firm*'s apparent total abolition of filter teams.

Georgia Law

In Georgia, when a search warrant targets an attorney's office (but the attorney is not alleged to have been involved in wrongdoing), to ensure that the attorney-client and work product privileges are protected, Georgia law provides that special procedures must be used.¹¹ This code section focuses on cases in which the attorney is *not* under investigation, yet there is probable cause to believe the attorney possesses documentary evidence relating to another person's crime. The warrant application must state that absent the execution of a search warrant, there is probable cause to believe the documentary evidence that is sought will be destroyed or concealed.

Only a superior court judge is authorized to issue a search warrant directed at an attorney. When a law office is the location to be searched, the state must use a special master to conduct the search and conduct the initial privilege review. The statute also includes a specific exclusionary rule if the statute is violated.¹²

Should the filter team protocol be subject to court approval in advance of the search/seizure (for example, in the search warrant that is issued by the magistrate)?

Even before the ubiquitous filter team protocols became contentious, courts had divergent opinions about whether search warrants should include detailed explanations about the protocol for searching a computer—even when the seizure of privileged communications was not anticipated. Some courts required the use of

search terms or date limitations.¹³ Ways to minimize the “plain view” discovery of evidence that was not identified in the “to be seized” clause of the warrant were formulated.¹⁴ Standard language appeared in most computer search warrants dealing with the method of making a mirror image of the data and expediting the process to minimize the amount of time the IT experts stayed at the premises.¹⁵

Now, when searches are executed at businesses, or for other devices which are likely to include attorney-client communications, standard—almost boilerplate—language is included in the warrant about the use of a filter team.¹⁶

After the seizure, should the privilege holder be part of the formulation of the filter team protocol?

Rarely are the privilege holders invited to participate in formulating the filter team protocol unless the privilege holders challenge the search or the protocol that the government has proposed and the court orders the parties to meet and confer.¹⁷ Yet, the 4th Circuit in the *Baltimore Law Firm* case decried the *ex parte* proceedings that allowed the government to seek approval of the filter team process without any input from the law firm.¹⁸

In *United States v. Ritchey*,¹⁹ the magistrate judge held that there is no immutable requirement that a search warrant outline the filter team process that will be implemented. However, the court applauded the government's “typical” process of “seek[ing] court preapproval of its filter team protocol in an adversarial context or an informal, good faith resolution with the defendant Absent specific facts evidencing mishandling or other misconduct, courts have widely approved of filter team protocols formed through this process.”²⁰ The court condemned the government's unilateral creation of a protocol that did not apprise the privilege holder (or the court) about the process the filter team would follow.

Who should be conducting the filtering process?

This is usually a hotly contested issue. Of course, there should be no participation by any member of the filter team in the work of the prosecution team.²¹ Though most courts do not start with the belief that a special master is required, historically special masters have been used in unusual situations.²² If a filter team is deemed to have been too lax in protecting the privilege, a court may call an audible and direct that a special master take over.²³ If the court finds a filter team has failed to protect the privilege, the court may also utilize the exclusionary rule to deter future lapses and protect the privilege to the extent the genie can be put back in the bottle.²⁴

Nevertheless, the prevailing view is that the government is not categorically prohibited from utilizing a filter team; most courts have rejected the *Baltimore Law Firm* holding that the separation of powers doctrine requires the court, not the executive branch, to be the initial arbiter of privilege applicability.²⁵

The controversy more often has a narrower aperture and only addresses whether the privilege “wall” is more likely to function properly if the filter participants (agents and assistant U.S. attorneys) are from another jurisdiction. This is advisable not just to avoid colleagues in the same office being required to keep secrets from one another, but it also avoids having prosecutors in the “home” jurisdiction reading local attorneys' communications.²⁶

In particularly large cases with hundreds of thousands of emails to be reviewed, the Department of Justice will often use lawyers in their “special matters” unit that have the ability and know-how to sift through hundreds of thousands of emails and communicate with scores of privilege holders preparing privilege logs that may be hundreds of pages long.²⁷

Baltimore Law Firm, which condemned the practice of having any law enforcement agents participate in the decision-

making process on separation of powers grounds is the prevailing law in the 4th Circuit. But whether it is adopted by other circuits remains to be seen.

What process should be used by the filter team?

In *Korf*, the 11th Circuit approved the filter team protocol that provided the privilege-holder the opportunity to review all seized evidence and to prepare a privilege log before the filter team reviewed the evidence. If the privilege-holders and the government agreed on the release of any other documents to the investigative team, the disclosure was permitted. If the privilege-holder and the government could not agree on an item on the privilege log, then a court order would be necessary to release any document. Thus, nothing could be produced to the investigative team, absent either the privilege-holder's consent or the court's approval (with notice to the privilege-holder). No document could be provided to the investigative team inadvertently by the filter team or without the knowledge of the privilege-holder.

What should happen after the filter team finishes its initial review?

Most decisions in the past 10 years have required the disclosure of seized material to the privilege holder prior to disclosure of any information to the prosecution team. This is commonly referred to as the "objection process."²⁸ Some courts require the filter team to provide *all* information to the privilege holder prior to disclosing *anything* to the prosecution team. Other decisions permit the filter team to disclose unprivileged material to the prosecution team but requires disclosure of questionable documents (or documents possibly subject to the crime fraud exception) to the privilege-holder in an effort to reach agreement (and if no agreement is reached, the documents in dispute are provided to the court).

One exception to the rule that requires participation of the privilege holder in the disclosure process exists in cases of wiretaps. When a target's phone is wiretapped, a communication with an attorney may be intercepted; sometimes these calls are quickly minimized; other times, not. In either case, the question is whether the intercepted privileged communication can be provided to the prosecution team if the filter team determines that the communication was not privileged or was subject to the crime fraud exception. In *United States v. Scarfo*,²⁹ the 3rd Circuit approved the filter team's disclosure of the seized communications to the prosecution team without notifying the privilege holder that the interception had occurred, or that the filter team decided that the crime fraud exception applied.

What happens if the filter team discovers another crime in the documents being reviewed that are either privileged or not privileged?

If the incriminating evidence is privileged, it cannot be produced to the prosecution team. But is the filter team obligated to return the evidence to the privilege holder and keep the existence of a newly discovered crime a secret not only from the prosecutors in this case, but from all other investigators?

What if the privileged document establishes guilt of the privilege-holder of a violent crime in the past for which some other person has been wrongfully convicted? It is one thing to ask the perennial question about a defense lawyer's ethical obligation to keep this information within the privilege. But does the filter team have the same obligation?

For example, assume the filter team reviews a memo (in an insider trading case), in which a suspect reports to the lawyer, "I bribed the mayor and three county commissioners in order to win the contract to repair the county's sewers." Is the filter team barred from do-

ing anything with that document that was lawfully obtained (by authority of a search warrant) and lawfully examined (by authority of the filter team process)? Are the filter team members allowed to make "derivative use" of the information? Can the agents on the filter team subpoena bank records of the county commissioners or the suspect? Can the agents on the filter team ask the defendant if he is willing to have a voluntary conversation about some matters that have come to the attention of the agents? Or are the filter team members limited to the review of "insider trading" documents?

Are these questions all answered by considering the fruit of the poisonous tree doctrine, and, if so, how large is the orchard and how close to the tree must the fruit fall to be suppressed? Or is this scenario akin to the plain view doctrine? Just because the document may be subject to the exclusionary rule, is the filter team sworn to secrecy in all venues from disclosing criminal conduct it discovers during a legitimate search that is authorized by a federal magistrate? Plain view is customarily relied upon to legitimate the discovery of unexpected evidence during a computer search.³⁰ But plain view assumes the law enforcement officer is in a place the officer is entitled to be. But nobody is supposed to be in a position where an observation of privileged documents should be possible—and certainly not a law enforcement officer.

More problematic is the choice confronting the privilege holder if it is learned that seized documents reveal another crime with documents that are not privileged but have not been unearthed by the filter team. This possibility presents a strategic problem for the defense. Should the privilege holder "whistle by the graveyard" and hope the incriminating nature of the document is not discovered by the prosecution team? Unless the privilege holder is allowed to challenge the breadth of the search (seizing documents that were not within the scope of the warrant), there is no basis to challenge

the filter team's authority to present the non-privileged documents to the investigating team. Yet, unless the incriminating evidence is a needle in a haystack that the investigating team may not find, the lure to challenge the production of the incriminating document to the prosecutors may be too much to ignore.

What happens to documents that are unquestionably not within the "to be seized" clause of the warrant, but are not privileged? Are those documents provided to the prosecution team? Should the filter team be responsible for also filtering documents that should never have been seized?

Courts have wrestled with the interplay between the plain view doctrine and computer searches for decades. There is no practical way for searching agents to avoid "viewing" various documents or images on a computer that are not within the "to be seized" clause of a search warrant.³¹ Ironically, a filter team may be the solution in many cases if the filter team is charged not only with filtering privileged information, but also filtering documents—and returning the documents to the owner—that are not within the "to be seized" clause of a warrant.

In a recent district court opinion, the court approved a protocol that required the government to begin the review process—even before the filter team gains access to the documents—by limiting the seizure to documents that had relevant search terms.

First, a FBI forensic analyst not associated with either the investigative team or the filter team would run certain search terms against the content of the phone to identify responsive materials without reviewing any of the underlying materials themselves. ... Any materials not captured by the search terms would be deemed non-responsive and

would be returned to [the privilege holder] without either the filter team or the investigative team ever reviewing them.³²

In short, the court created a pre-filter team filter.

What is the procedure for challenging the process pursuant to Fed.R.Crim.P. 41 or in a civil action?

The recent *Trump* and *Mar-A Lago* litigation³³ has highlighted some courts' reluctance to involve the judicial branch in the executive branch's investigation of criminal matters. District courts have no general equitable authority to supervise federal criminal investigations. Prior to indictment, the executive branch—Department of Justice—is in charge unless exceptional circumstances are shown to necessitate the court's intervention.³⁴

Richey v. Smith identified four factors that would authorize the court's intervention during the investigatory phase of a criminal case, in particular, to require the government to return seized property: (1) whether the government has displayed a callous disregard for the constitutional rights of the plaintiff; (2) whether the plaintiff has an individual interest in and need for the material; (3) whether the plaintiff would be irreparably injured by denial of the return of the property; and (4) whether the plaintiff has an adequate remedy at law.³⁵ The *Trump* decision in the 11th Circuit held that there was no jurisdiction for the federal court to intervene in the investigation—based on the appellate Court's conclusion that *Trump* did not satisfy even one of the *Richey* factors.³⁶

The 11th Circuit explained why a civil case seeking equitable relief is the appropriate procedural mechanism for challenging the filter team protocol in *Korf*. Because seeking equitable relief does not challenge the validity of the search or seizure under the Fourth Amendment, the proceeding is not linked to any criminal

prosecution.³⁷ The 11th Circuit concluded, "The damage from any error in the district court [regarding the filter team process] would be 'definitive and complete,' if interlocutory review is not available, and would outweigh any 'disruption caused by the immediate appeal.' ... 'The whole point of privilege is privacy.' ... So the Intervenor's interests in preventing the government's wrongful review of their privileged materials lie in safeguarding their privacy. ... Once the government improperly reviews privileged materials, the damage to the Intervenor's interests is 'definitive and complete.'"³⁸

Trump, on the other hand failed to articulate any misconduct on the part of the government and offered no specifics about an irreparable injury that would result from the court's failure to intervene in the criminal investigation. For that reason, his civil case was dismissed by the 11th Circuit.³⁹

Conclusion

The evolution of the filter team process is ongoing. As the circuits come to grips with the protocols that authorize prosecutors to make the initial privilege determinations (a determination that in all other contexts is a judicial function), and the courts' involvement in what has traditionally been the executive branch investigative function (reviewing seized evidence), nothing should be taken for granted by either the defense or the prosecution. ●



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Journal, including most recently “The Truth, the Whole Truth and Nothing But the Truth—Well ... Not Exactly. Trial Attorney Ethical Problems,” in the October 2021 publication. He is a past-president of the Georgia Association of Criminal Defense Lawyers and serves on the COVID-19 Task Force created by the Supreme Court of Georgia.



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Endnotes

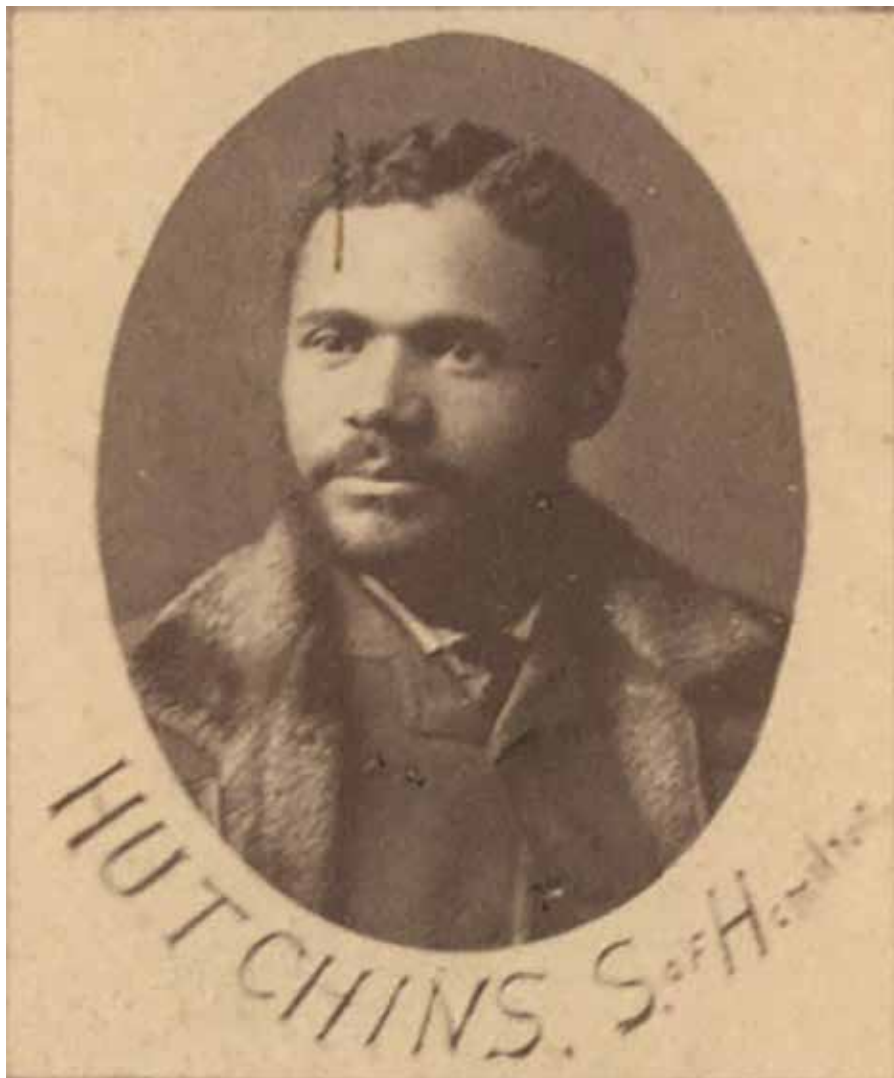
1. In re Search Warrant Issued June 13, 2019 (Baltimore Law Firm), 942 F.3d 159 (4th Cir. 2019).
2. In re Search Warrants, 2021 WL 5917983 (N.D. Ga. 2021) (Grimberg, J.).
3. In re Sealed Search Warrant and Application for Warrant (Korf), 11 F.4th 1235 (11th Cir. 2021) (hereinafter *Korf*).
4. 942 F.3d 159 (4th Cir. 2019) (hereinafter *Baltimore Law Firm*).
5. If a communication between a client and an attorney is in furtherance of the commission of a crime, the crime-fraud exception to the privilege applies. In re Grand Jury Subpoena, 2 F.4th 1339 (11th Cir. 2021); United States v. Zolin, 491 U.S. 554 (1989). Determining whether the crime-fraud exception applies involves a two-part test: (1) there must be a prima facie showing that the client was engaged in criminal or fraudulent conduct when they sought the advice of counsel, that they were planning such conduct when they sought the advice of counsel or that they committed a crime or fraud subsequent to receiving the benefit of counsel's advice; and (2) there must be a showing that the attorney's assistance was obtained in furtherance of the criminal or fraudulent activity, or was closely related to it. In re Grand Jury Subpoena, 2 F.4th 1339, 1345 (11th Cir. 2021).
6. Prior to the appeal to the Fourth Circuit, this provision was modified, and the non-privileged documents were first furnished to the law firm prior to

- the documents being provided to the prosecution team.
7. The record revealed that 99.8% of the 52,000 emails seized by the government were not from Client A, were not sent to Client A and did not mention Client A's surname.
 8. The Court relied heavily on the earlier Sixth Circuit opinion in *In re Grand Jury Subpoenas*, 454 F.3d 511 (6th Cir. 2006), which held that the privilege holder has the right to make the initial assessment whether documents subpoenaed by the grand jury are covered by the attorney-client privilege, not the government. There is obviously a difference between the use of a filter team when the documents are already in the possession of the government by virtue of a search warrant seizure and when the documents are still in the possession of the privilege holder (or an attorney) when the issue arises in the context of a grand jury subpoena.
 9. 942 F.3d at 178-179.
 10. *See, e.g.*, *In re Sealed Search Warrant and Application for a Warrant*, 11 F.4th 1235 (11th Cir. 2021); *In re Search Warrant (Beard)*, 1:19-mc-1299-TCB (N.D.Ga. April 28, 2020) (the suspect was represented by one of the authors of this article); *In re Search Warrants*, 2021 WL 5917983 (N.D. Ga. 2021) (Judge Grimberg).
 11. O.C.G.A. § 17-5-32.
 12. O.C.G.A. § 17-5-32(d).
 13. *See, e.g.*, *United States v. Khanani*, 502 F.3d 1281 (11th Cir. 2007); *United States v. Kow*, 58 F.3d 423, 427 (9th Cir. 1995); *In re Search of 3817 W. West End*, 321 F.Supp.2d 953, 962 (N.D.Ill. 2004); *United States v. Triumph Capital Group, Inc.*, 211 F.R.D. 31 (D. Conn. 2002); *United States v. Blake*, 868 F.3d 960 (11th Cir. 2017) (limiting scope of search of Facebook account); *United States v. Mercery*, 2022 WL 585144 (M.D.Ga. 2022) (limiting search of Instagram account).
 14. *See, e.g.*, *United States v. Loera*, 923 F.3d 907 (10th Cir. 2019); *United States v. Upham*, 168 F.3d 532, 535 (1st Cir. 1999); *United States v. Comprehensive Drug Testing, Inc.*, 621 F.3d 1162, 1178 (9th Cir. 2010) (*en banc*) (Judge Kozinski, concurring); *In re U.S.'s Application for a Search Warrant (Cunnius)*, 770 F.Supp.2d 1138 (W.D.Wash. 2011).
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 23. *Trump v. United States*, 22-13005 (11th Cir. 2022); *United States v. Noriega*, 752 F. Supp. 1032, 1033 (S.D. Fla. 1990).
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One of the authors of this article was involved in a case where the filter team was given copies of the author's emails to his client (the client was accused of attempting to obstruct justice post-indictment). The author's emails to his client offered his opinion about the judge in the case. The fact that the filter team was comprised of assistant U.S. attorneys from the jurisdiction in which the author regularly practiced was, to say the least, somewhat embarrassing. Maybe the prosecution team assistant U.S. attorney (AUSA) did not learn about the author's opinion, but the filter team AUSA did, and nothing prevented that AUSA from using that information in the future.
 27. *See Special Matters: Filtering Privileged Materials*, 49 Am.J.Crim.L 63 (2021) (explaining that the Special Matters Unit was created in large part as a result of the historic botched use of a filter team in the initial stages of the *Esformes* case in Miami, *United States v. Esformes*, 2018 WL 5919517 *20-24 (S.D.Fla. 2018) *affirmed*, 2023 WL 118497, *6-7 (11th Cir. 2023)). One of the earliest cases in which the Special Matters unit at the Department of Justice was involved was *United States v. Satary*, 504 F. Supp. 3d 544 (E.D. La. 2020) (the defendant is represented by one of the authors of this article).
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Standing on Broad Shoulders: The Lives and Legacy of Georgia's First Black Lawyers

The distinction of being Georgia's first African American attorney belongs to Styles L. Hutchins—admitted to the Georgia Bar Association in 1878.

BY HON. JOHN G. BROWNING



The preeminent historian of Black lawyers in America, the late J. Clay Smith, once lamented that, in many states, their history is “uncertain.”¹ Add the perspective that the account of their professional contribution is “overlooked” and “often inaccurate,” and the description would be more complete. Unfortunately, the history of Black persons who overcame the legal profession’s color barrier in Georgia could be fairly described as all of these, especially overlooked and sometimes wrong. For example, when the *Augusta Chronicle* memorialized the 1924 passing of Judson Lyons in a 2020 article, it described him as “Georgia’s First African American lawyer.”² In reality, that distinction belongs to attorney Styles Hutchins, whose 1878 admission to the Georgia Bar predated Lyons’ admission in 1884 by more than six years.

Even “official” histories of Georgia’s legal profession omit any mention of the state’s Black legal pioneers, or worse attempt to whitewash history by denying their very existence. For example, the State Bar’s own “From Banished to Justified: A History of the Legal Profession in Georgia” makes no mention of any Black lawyers in the decades following the Civil

Styles L. Hutchins, Georgia’s first African American attorney, was admitted to the Georgia Bar Association in 1878.

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War. It even goes so far as to state that before 1892, “Georgia’s legal profession during this period was made up entirely of white males.”³ Other histories of the Bar perpetuate this misconception.⁴

For much of Georgia’s early history, entry into the legal profession—as it was in most of the young republic—was not that daunting. By order of Georgia’s General Assembly in 1789, an oral examination by a Superior Court judge and a demonstration of “moral rectitude” was sufficient for a law license. During the Civil War, new restrictions emerged; in addition to state citizenship and “good moral character,” white male applicants were required to have “read law” (usually under the tutelage of an older lawyer or judge) for an unspecified period of time in order to be proficient enough to pass an oral examination that might draw upon pleading and evidence, equity, Anglo-American common law, the codes of the state and the Confederacy, and local rules of practice.⁵ And although Black men would eventually integrate into the ranks of Georgia lawyers, resistance to women (of any color) becoming attorneys persisted for decades. During an 1894 symposium on “Requirements for Admission to the Bar,” one speaker noted that Bar applicants, under the Code, had to be “of the male gender. Georgia is not yet ready to swap wifehood and motherhood even for female legal lore. The Georgia Code does not lend its influence to bring woman down from her present high estate.”⁶

Indeed no woman would be admitted to practice in Georgia until 1916.

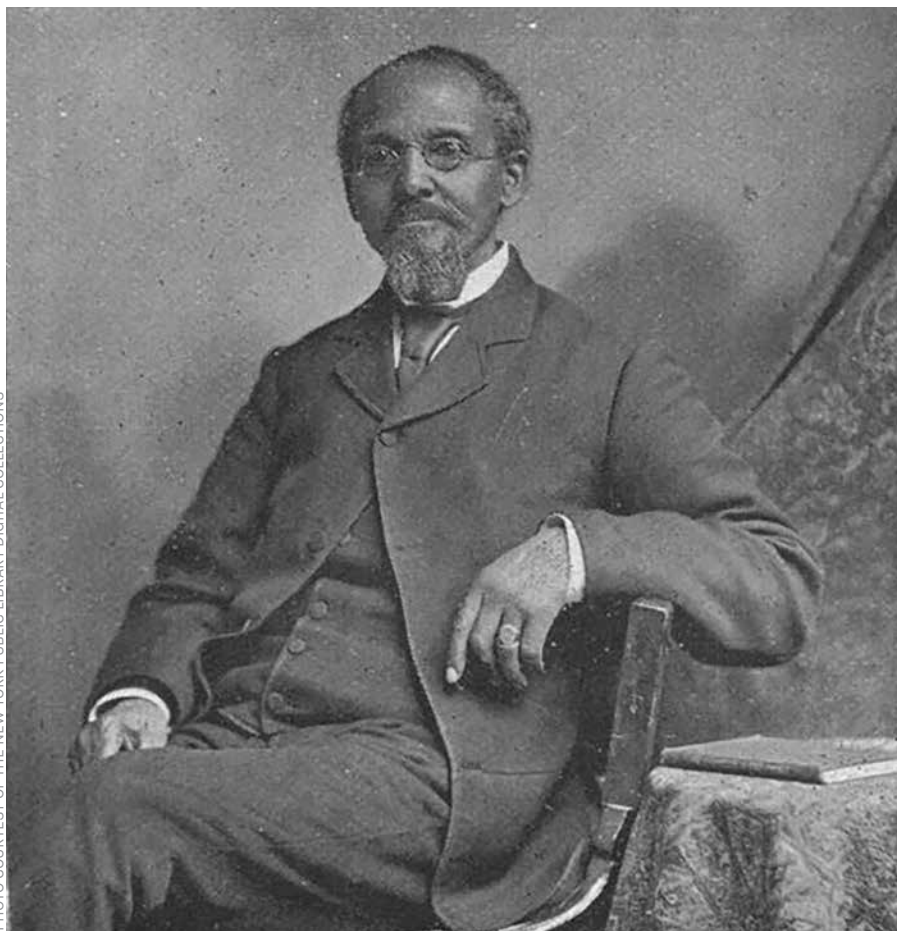
Aaron Alpeoria Bradley

The first attempts by trained Black lawyers to gain admission to practice in Georgia were unsuccessful. The first to try was noted activist and politician Aaron Alpeoria Bradley. Bradley, who was biracial, was born enslaved on a plantation owned by Francis Pickens in South Carolina in approximately 1815.⁷ He escaped to Boston in the 1830s, where he received the support of abolitionists as well as an education. In 1856, after studying the law, Bradley became only the third Black lawyer admitted to practice in Massachusetts, and the fifth in the United States.⁸ He moved to Savannah, Georgia, in 1865 and quickly became known for his vocal criticism of social injustices. Bradley was one of the first to call for reparations of both land and cash to Black Americans, and he spoke out against police brutality and perceived racism in the courts as well. Bradley went so far as to call for the impeachment of President Andrew Johnson and to encourage former slaves to seize the property of their former white owners, and the latter efforts resulted in Bradley being charged with, convicted of and imprisoned for sedition.⁹

After serving a year at hard labor in the Fort Pulaski stockade, Bradley was undeterred in his quest to gain admission to

the Bar. He applied for admission to practice before Georgia’s U.S. District Court in 1867, but Judge John Ersking denied his application. Ersking based his decision on the belief that Bradley was inadequately grounded on the “first principles” of law, and also felt that he lacked “moral and mental qualifications.”¹⁰ But the real reason is likely found in Judge Ersking’s other comments about Bradley, citing the activist’s “impudence and egotism.”¹¹ A defiant firebrand like Bradley who championed Black causes was the last person members of the establishment wanted to see with a law license. Bradley continued to seek admission to the Georgia Bar, and to publicly object to his repeated rejections. He was assailed in the press, which at one point made baseless allegations that Bradley had been disbarred in Boston for “malpractice.”¹²

Unable to get a law license, Bradley turned his attention to politics. In 1868, he was elected to the state senate. After his public service (including an unsuccessful run for Congress) ended in 1870, Bradley went back to practicing law, albeit without a license. State authorities caught up with him in 1875. Bradley moved to Beaufort, South Carolina, in 1876, where he continued to practice law and promoted Black migration to Kansas. As late as 1881—not long before his death the following year—Aaron Bradley was still trying to get admitted to practice in Georgia courts, “but was refused” at every turn.¹³



Rev. James M. Simms, appointed by Gov. Rufus Bullock to the judgeship of the First Senatorial District Court in 1871.

Rev. James M. Simms

Oddly, Georgia had a Black judge before it had its first Black lawyer. During the Georgia Constitutional Convention of 1869, it was decided that judicial positions would be filled via appointment rather than through elections. With Black voters constituting a majority in multiple counties, this had the effect of almost certainly “eliminating the possibility that Blacks could be elected to the bench.”¹⁴ But in a surprising move, Gov. Rufus Bullock appointed Rev. James M. Simms to the judgeship of the First Senatorial District Court in 1871.¹⁵ While Simms was an educated Black minister who had been elected to consecutive terms in the Georgia General Assembly in 1868, he was not trained as a lawyer. The mainstream white press vilified him, and he was not much more popular with local Republicans; in less than a year, he resigned from office.

Edwin Belcher

Reconstruction Georgia had another trained lawyer in Edwin Belcher, yet he never practiced law. Born enslaved to a white father and a Black mother, the light-skinned Belcher was sent to Philadelphia in his infancy to be raised by a white guardian. Belcher “passed” for white, was educated in white schools and even enlisted in a white regiment in the Union Army. But after the war, with political opportunities opening up for newly enfranchised Blacks, Belcher began identifying as Black and received an appointment as assessor of internal revenue for the Third District of Georgia.¹⁶ With higher ambitions,¹⁷ Belcher attended Howard University’s new law school, which opened its doors in 1869, four years after the abolition of slavery and two years after a federal court empaneled a jury of black and white citizens.¹⁸ In 1872, he was among Howard

Law’s first graduates, and was soon admitted to the Bar of the District of Columbia. Belcher returned to Georgia, but instead of practicing law, he was appointed postmaster of Macon by President Ulysses S. Grant.

Styles Linton Hutchins

Georgia wouldn’t witness a Black lawyer being admitted to its Bar until 1878, with the admission of Styles Linton Hutchins. Hutchins was born in Lawrenceville, Georgia, in 1852, the son of William Dougherty Hutchins, who purchased his freedom that same year. Dougherty Hutchins, as he was known, would later become a successful barber, at one point forming a partnership with the former slave Alonzo Herndon, the founder of the Atlanta Life Insurance Company.¹⁹

Young Styles apparently lied about his age to enlist with the 15th Infantry Regiment in 1864, at the age of 12. During his teen years after the war, Hutchins and his brother Alvin worked in their father’s busy Atlanta barbershop. The elder Hutchins encouraged education and saw to it that his son got a college education. Styles was one of Atlanta University’s first Black graduates and embarked upon a teaching career. Soon, he was serving as principal of the Knox Institute in Athens, supervising six other teachers and 250 students. But a legal career beckoned, and before long Styles Hutchins was studying at the University of South Carolina’s law school. After earning his law degree and gaining admission to the South Carolina bar, Hutchins began his legal career in the Palmetto State. At first, he enjoyed some success and was even appointed by Gov.

In a move that was “specifically designed to discourage black lawyers from moving from Northern states to Georgia,” in 1875, the Legislature passed a law that required lawyers who received their law degrees or admissions in other states to undergo an examination by the county’s presiding judge.

Wade Hampton as a trial court justice in Richland County.²⁰

However, the 1876 elections ushered in racial violence and uncertainty across the South, and like many Black officials who left office voluntarily or involuntarily as Reconstruction ended and federal troops withdrew, Hutchins decided to leave. He returned to Georgia, determined to resume his legal career in a state that wasn’t exactly welcoming of Black lawyers. In a move that was “specifically designed to discourage black lawyers from moving from Northern states to Georgia,” in 1875, the Legislature passed a law that required lawyers who received their law degrees or admissions in other states to undergo an examination by the county’s presiding judge.²¹

Hutchins was undeterred, and for the next six months waged a vigorous campaign for admission. As he told the *Atlanta Constitution*,

I intend to practice law in this city. I have been in good practice in the courts of South Carolina from the supreme court down, and in the United States circuit court. I have my diploma. I think I am capacitated to practice ... If I have to stand an examination, I am ready for it.²²

Most of the four-lawyer examination committee were skeptical at first of Hutchins. One of the examiners, believed to be Judge John T. Hopkins, was particularly harsh, no doubt due to Hutchins’ race. According to one newspaper, Hopkins “tried the old dodge, and put him through a course of questions such as nobody in the state could answer and re-

ported against his admission.”²³ Hutchins found an unlikely champion in James Banks, a young white lawyer on the committee whose eloquent recommendation to the court might have made the difference, and might have reflected changing sensibilities of a new generation:

It is a novel thing for a colored man to be admitted to practice law in Georgia. Many, however, have been admitted in other states, and I see from the papers that one was recently admitted in Alabama. I am proud to say such actions in southern states show a growing disposition to secure the colored man in the enjoyment of every legal right. Not in theory, but in fact. When this applicant was examined by me, I asked myself this question, which to some may seem an extreme view, but yet for me contains the true test. “Were Hutchins a white man, on this examination would I report in favor of his admission?” The character of his examination compelled an affirmative answer. It is, however, for your honor to decide, and I feel safe in saying that if he is entitled under his examination to be admitted, that your honor will not deny him the right on account of his color.²⁴

Styles Hutchins was officially admitted to practice on Jan. 28, 1878. Not long after he became Georgia’s first Black lawyer, he also became the first Black lawyer to argue a case in the state. Not surprisingly, however, Hutchins encountered many of the challenges common to Black lawyers in the South during this time; disrespect

from judges and white lawyers, and difficulty attracting and building a client base among the Black community. There were bright spots; the 1880 census placed the 28-year-old lawyer in McIntosh County, where he lived with his new wife, Clara. But the pressures, financial and otherwise, apparently took their toll on Hutchins, both personally and professionally. In 1891, Hutchins was convicted on criminal charges related to what one newspaper was described as “the habit of mixing his clients’ money with his own,”²⁵ and sentenced to two years in prison. By 1883, Hutchins was released, and soon thereafter he was divorced from Clara.

Seeking a fresh start, Hutchins moved to Chattanooga, Tennessee, where he opened a law practice and also became a partner in a venture with other Black businessmen to start that city’s first Black-owned and operated newspaper, *The Independent Age*. In 1896, Hutchins was elected to a term in the Tennessee Legislature.²⁶ Although he only served one term, he was successful in passing a law repealing Chattanooga’s poll tax. In 1888, Hutchins returned to his law practice, continued editing *The Independent Age* and even became an ordained minister. But his greatest claim to fame was yet to come, when he became involved in one of the most significant lynching cases in history.

In 1906, Hutchins and his law partner Noah Parden undertook the appeal of the rape conviction of a Black man named Ed Johnson. As chronicled in the compelling book “Contempt of Court,” after Johnson’s unjust conviction, Parden and Hutchins appealed to the U.S. Supreme Court for a writ of habeas corpus, fearing their client would be killed by a lynch mob. In do-



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ing so, they became among the first Black lawyers to practice before the Court. Justice John Marshall Harlan agreed to consider their writ, issuing a stay of execution and ordering the Hamilton County sheriff and other Tennessee authorities to keep Johnson safe. Despite this and with local newspapers openly calling for vigilantism, Sheriff Joseph Shipp gave all of his deputies the night off. The sheriff watched as a lynch mob numbering in the hundreds broke into the jail, and beat and hanged Ed Johnson. After desecrating Johnson's body, a member of the mob pinned a note to it reading "To Justice Harlan, Come get your n_____ now."²⁷

In a historic move—the first direct contempt proceeding ever tried before the U.S. Supreme Court—the Court tried Sheriff Joseph Shipp and others, finding them guilty of contempt of court.²⁸ Although the defendants served fairly brief sentences, the case marked a watershed moment in U.S. legal history. At a time when the Court had previously been reluctant to extend Bill of Rights protections to state court proceedings, over the next 60 years after the Shipp case, federal courts became increasingly amenable to exercising their power to safeguard individual rights from wayward state authorities.²⁹

In the aftermath of the case, both Parden and Hutchins endured considerable threats and harassment, and both left the state. Parden moved to East St. Louis, where he eventually became an assistant state's attorney. Hutchins moved to Illinois, but he soon left the practice of law and returned to the barbershop trade he had learned from his father.³⁰ Portraits of both Parden and Hutchins have adorned the walls of the Supreme Court of Georgia since June 2000,³¹ and in September 2021, the city of Chattanooga dedicated a statue to Hutchins, Parden and their client Ed Johnson, near the same Walnut Street Bridge from which Johnson was lynched.³²

Judson Whitlocke Lyons

As Styles Hutchins was starting over in Tennessee, another Black lawyer came on the scene to be admitted to practice in Georgia. Born enslaved in Richmond County, Georgia, in 1860, Judson Whitlocke Lyons taught himself how to read and write after Emancipation. He gained an education, eventually studying at both Augusta Theological Institute and Atlanta Baptist Seminary—the predecessor institutions to Morehouse College. After graduation, he attended Howard University Law School, graduating in 1884.³³ With

his admission to the Georgia Bar later that year, Lyons became the first "Morehouse Man" to practice law. In fact, today, Morehouse's honorary body of those who have gone on to distinguish themselves in the legal profession is named for him—the Judson Lyons Society.

Lyons formed a partnership in 1896 with another Black lawyer in Augusta, Henry Moses Porter.³⁴ Porter, a University of Michigan Law School graduate, handled a number of high-profile cases, and is credited as the first Black lawyer to argue a case before the Supreme Court of

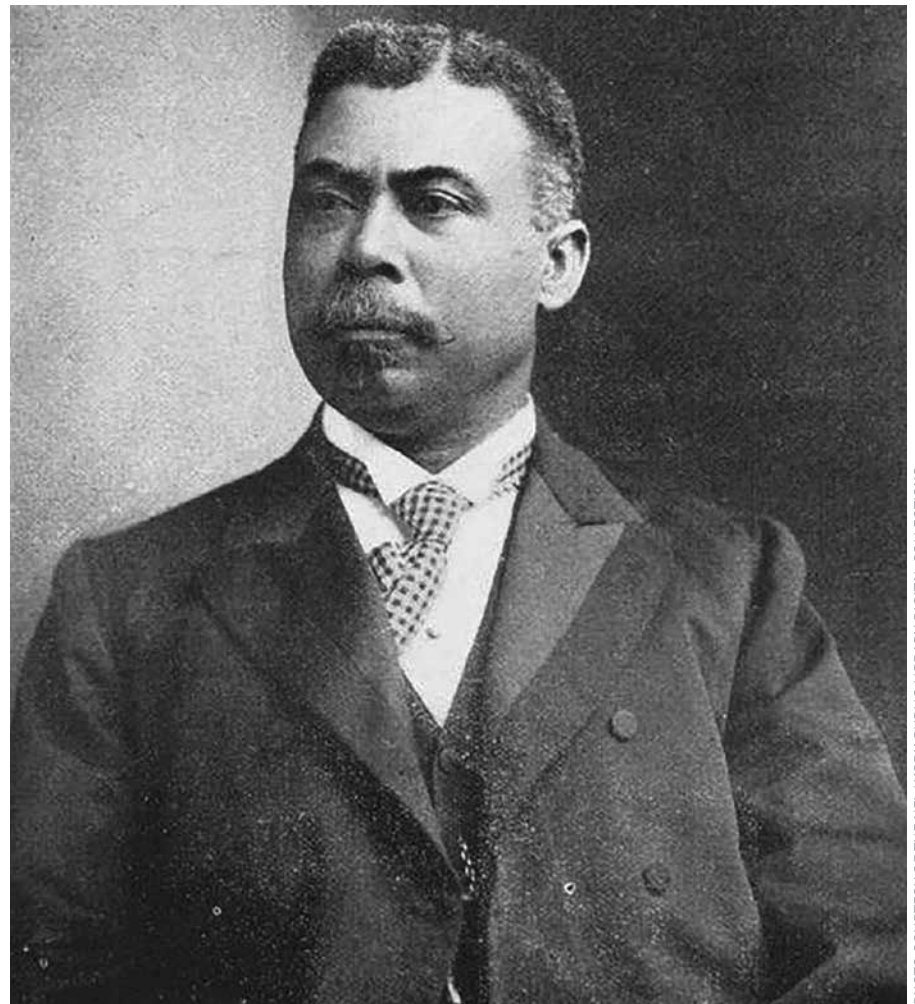


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Judson Whitlocke Lyons was appointed Register of the U.S. Treasury in 1898, making him one of the highest ranking Black Americans serving in the federal government.

Georgia.³⁵ Lyons became best known not for his courtroom skills, but for his civil rights advocacy and political organizing. Lyons helped found the Georgia Equal Rights Association, one of the state's first civil rights organizations. A major player in the Republican Party, Lyons was a delegate to the 1896 Republican National Convention, where he was a prominent supporter of the eventual candidate (and president), William McKinley. Lyons' support was rewarded with an appointment as registrar of the U.S. Treasury, making him one of the highest ranking Black Americans serving in the federal government.³⁶ He is one of only five Black individuals whose signatures have appeared on U.S. currency.

Lyons was reappointed in 1901. After leaving public service in 1906, he returned to Augusta and became president of Haines Institute, a private school for the Black community. Lyons remained active in community service until his death in 1924.³⁷

Growing Numbers

As the 19th century came to a close, the rolls of Georgia Black lawyers continued to grow, albeit incrementally. From Savannah to Macon, from Columbus to Atlanta, Black practitioners would steadfastly make inroads to become members of "the noble profession." Charles Henry James Taylor, admitted in 1888, would build a "large and lucrative practice" in the capital city.³⁸ John H. Kinckle Jr. was one of the first Savannah practitioners to enjoy success in the "Hostess City of the South."³⁹ D.J. Pledger, admitted in 1884, made great strides in education, becoming dean of Morris Brown College. It would be another 35 years, however, before the first attempt at admission by a Black female lawyer, and still almost another quarter of a century before Rachel Pruden Herndon would be admitted in 1943.⁴⁰

Estelle A. Henderson prepared to take the Georgia examination in 1919 after having gone through "the usual formalities."⁴¹ There are no records of

Henderson—who had already been admitted to the Alabama Bar and who was on the faculty at Morris Brown College—of actually passing the examination, but it is clear that she passed the mantle of that accomplishment to Herndon. Over the course of 15 hours, she was one of the first Bar applicants to answer all of the required 50 questions.⁴²

Despite the paths blazed by these early pioneers, the number of Black lawyers in Georgia remained small well into the 1960s. According to the 1890 census, there were 17 Black attorneys in the state, many of whom supported themselves with jobs outside the legal profession, such as teaching or the clergy.⁴³ And by 1940, even that figure had dwindled to just eight. For some stretches of time, Macon (and later Atlanta) attorney Austin T. "A.T." Walden—who was licensed in 1911 after graduating from the University of Michigan Law School—was the only Black lawyer in the state. In his fine biography of Walden, scholar David Kenneth Pye points out that historians like Tomiko Brown-Nagin have overlooked the important role played by early 20th century lawyers like Walden while chronicling the legacy of the civil rights lawyers of the 1940s, 1950s and 1960s.⁴⁴ However, the same criticism can be directed toward everyone who has overlooked the lives of those who first went up against and broke through the racial barriers of the Georgia legal profession.

Conclusion

By virtue of their very presence as Black professionals in a society unaccustomed to viewing those of their race as anything other than "lesser," lawyers like Styles Hutchins and Judson Lyons sent a powerful message to Blacks and white people alike. They dared to seek entry into a profession at a time when one white judge openly declared that the concept of admitting "a Negro upon social professional equality with white men was an innovation hardly to be tolerated."⁴⁵ Great lawyers emerged after World War II to win the critical battles of the civil rights

movement, but they stood on the broad shoulders of giants, whose great legacy lives in us all. ●



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 26. CURRIDEN & PHILLIPS, *supra* note 22, at 138.
 27. *Id.* at 214.
 28. *United States v. Shipp*, 203 U.S. 563 (1906).
 29. Among those rights were the guarantee of effective assistance of counsel, the right to an open and public trial, protections against self-incrimination, extending effective counsel rights to appeals, and invalidating the systematic exclusion. See, Derrick Alexander Pope, *Bending the Arc: Georgia Lawyers in the Pursuit of Social Justice*, GA. B.J., 29 (April 2018).
 30. Dave Clarke, *Lawyer Fleeing Lynch Mob Became Kewanee's Black Barber*, KEWANEE STAR COURIER (Feb. 20, 2009).
 31. CURRIDEN & PHILLIPS, *supra* note 22, at 349.
 32. John Shearer, *Attendees Brave Rain for Ed Johnson Memorial Dedication*, CHATTANOOGAN (Sept. 20, 2021).
 33. *Who Is Judson Lyons?*, JUDSON LYONS SOC'Y (); <https://www.judsonlyonssociety.com/>.
 34. SMITH, *supra* note 1, at 197.
 35. *Id.*
 36. *Id.*
 37. *Who Is Judson Lyons?*, *supra* note 29.
 38. Smith, *supra* note 1, at 197.
 39. *Id.*
 40. Smith, *supra* note 1, at 201.
 41. *Id.*
 42. *Id.*
 43. Hunt, *supra* note 5; see also JEROLD AUERBACH, UNEQUAL JUSTICE: LAWYERS AND SOCIAL CHANGE IN MODERN AMERICA 211 (1976) (“With Professional opportunities at a premium, black attorneys were compelled to supplement their incomes by non-legal work, which diminished their professional identity and self-esteem and contributed to a conspicuously high rate of failure.”).
 44. David Kenneth Pye, *Complex Relations: An African-American Attorney Navigates Jim Crow Atlanta*, 91:4 GA. HIST. QUARTERLY 453–77 (Winter 2007).
 45. Gay Moore, *Styles Hutchins and Noah Parden: Reconstruction Lawyers Found Success*, CHATTANOOGA TIMES FREE PRESS (June 30, 2019); <https://www.pressreader.com/usa/chattanooga-times-free-press/20190630/282381221092718>.

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Law Day Past and Present

Law Day, held annually on May 1, is a national day set aside to celebrate the rule of law. Law Day provides an opportunity to understand how law and the legal process protect our liberty, strive to achieve justice and contribute to the freedoms that all Americans share.

BY DENISE M. WARNER



The State Bar of Georgia's Professionalism Committee collaborated with the Bar's Local and Voluntary Bars Committee to participate in Law Day 2022. Law Day is held on May 1 every year to celebrate the rule of law in our society and to cultivate a deeper understanding of the legal profession.

The Law Day 2022 theme was "Toward a More Perfect Union: The Constitution in Times of Change." Elected or appointed public officials from each of Georgia's 10 judicial districts were invited to visit schools throughout the state to discuss the Law Day theme. The Professionalism Committee created talking points for the officials to focus on three issues: 1) a brief history of the U.S. Constitution; 2) reflecting on the best interests of U.S. citizens; and 3) comparing the 1791 ratification of the First Amendment with the historic implementation of the First Amendment. The Local and Voluntary Bars Committee, chaired by Hon. Ashley Palmer, invited participation from various judges and lawyers who are public officials.

This year, the committees will focus on the American Bar Association's 2023 theme: "Cornerstones of Democracy: Civics, Civility and Collaboration." Elected officials and attorneys from Georgia's 10 judicial districts will be invited to discuss this year's theme by visiting a high school government class or serving as a guest speaker at a civic association meeting.

Middle school and high school students will be encouraged to submit either a one- to two-page essay or a 30-second

social media video focusing on the Law Day theme. Middle school students will receive a certificate of achievement, while the high school students will compete for a coveted \$100 certificate and rights of accomplishment.

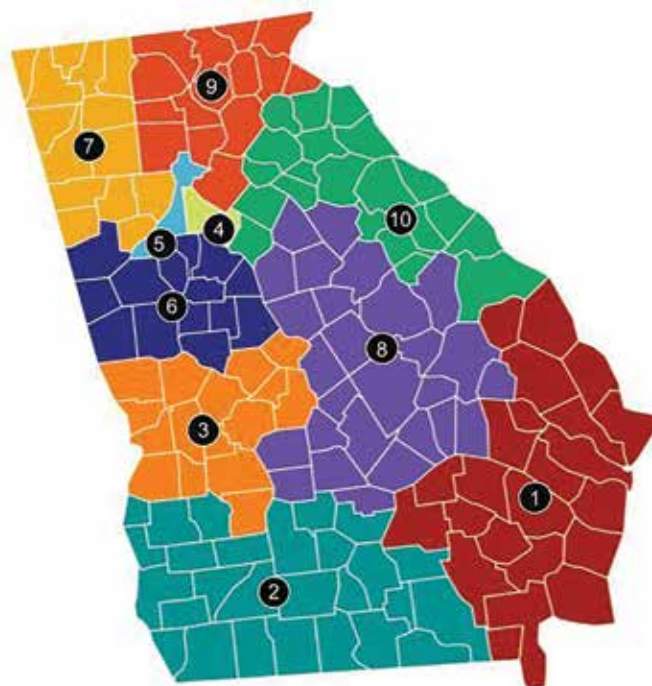
State Bar of Georgia members are encouraged to participate in this year's Law Day by discussing the "Cornerstone of Democracy: Civics, Civility and Collaboration" theme with their community, including, but not limited to: school groups, Rotary Clubs, Kiwanis, and fraternity and sorority associations. While Law Day is officially observed on May 1 of each year, Law Day projects are held throughout the month of May. Therefore, lawyers or judges who are interested in participating may schedule a Law Day presentation during days and times that best fit their schedules during the month of May.

Contact State Bar of Georgia Professionalism Committee Law Day Subcommittee Chair Denise Warner for participation and talking points for Law Day 2023 at dmwarner@dekalbcountyga.gov. ●



Denise M. Warner is senior staff attorney to Hon. Mark Anthony Scott at the Superior Court of DeKalb County. She is a past president of the DeKalb County Bar Association. Warner is chair of the Law Day Subcommittee of the State Bar of Georgia Professionalism Committee.

GEORGIA JUDICIAL DISTRICTS AND CIRCUITS



District 1

Atlantic
Brunswick
Eastern
Ogeechee
Waycross

District 2

Alapaha
Dougherty
Pataula
South Georgia
Southern
Tifton

District 3

Chattahoochee
Houston
Macon
Southwestern

District 4

Rockdale
Stone Mountain

District 5

Atlanta

District 6

Clayton
Coweta
Flint
Griffin
Towaliga

District 7

Cherokee
Cobb
Conasauga
Douglas
Lookout Mountain
Paulding
Rome
Tallapoosa

District 8

Cordele
Dublin
Middle

Ocmulgee
Oconee

District 9

Appalachian
Bell-Forsyth
Blue Ridge
Enotah
Gwinnett
Mountain
Northeastern

District 10

Alcovy
Augusta
Northern
Piedmont
Toombs
Western

The Dodge County Courthouse at Eastman: The Grand Old Courthouses of Georgia

BY WILBER W. CALDWELL

The construction of architect E. C. Hosford's grand 1907 courthouse at Eastman marks the end of an era for Dodge County. The saga of the three and a half decades before this building was erected is a compelling tale of the transformation of a vast and virtually uninhabited wilderness of virgin pine into the lumber empire of two notable northern entrepreneurs, William E. Dodge and William Pitt Eastman, who in 1869, established The Georgia Land and Lumber Company. The company soon owned more than 400,000 acres of virgin forest including most of the land between the Oconee and the Ocmulgee Rivers extending southward from Laurens, Telfair, Pulaski and Montgomery counties to the confluence of these two streams where the Altamaha River begins.

In 1870, Dodge County was created, and the new village of Eastman soon gained a notable reputation as a winter resort for northern tourists. But by 1880, The Georgia Land and Lumber Company had "transformed a bucolic former resort into a noisy timber colony." As the fingers of tiny tram railroads spread throughout the region between the two great rivers, Dodge built two enormous lumber mills: one at Normandale, south of Eastman, and one on the Ocmulgee River at Wilcox

Lake. Finished lumber was shipped down The Macon and Brunswick Railroad and logs were floated down the Ocmulgee and the Altamaha to Darien where they were nursed by steam tugs to The Dodge Lumber Company's great new mills on Saint Simon's Island.

Eastman and Dodge brought to Georgia enormous sums of that scarce commodity which New South promoters would later term "Northern capital." But as their story unfolded, it became clear that, despite their capital investments in the area's future, Eastman and Dodge were far from unilaterally welcome in the county which bore Dodge's name. William Eastman's great land purchase and William Dodge's magnificent entrepreneurial empire of timber and rail were the target of one of the largest and most persistent legal actions in Georgia's history. In a series of cases that lasted from 1877 to 1923, Dodge and his heirs were continually in court defending title to their domain against hundreds of claimants. This period was punctuated by evictions, injunctions, intimidation and even a brutal murder. All attempts to discredit Dodge's title failed. As the battle raged, the people of Dodge County elected officials who opposed the man for whom the county was

named, developed a thoroughly unhealthy opinion of the federal justice system and became further entrenched in their prejudices against northern men of business.

William Dodge died in 1883, leaving his vast empire in Georgia in the hands of his son, Norman. The year before, The East Tennessee, Virginia and Georgia Railroad had acquired the failed Macon and Brunswick Railroad and built northward from Macon to Rome, thus linking South Georgia's vast timber lands to the timber-hungry cities of the American interior. A new wave of lumbering began, and large mills popped up across Dodge County. By 1906, all the vast stands of virgin timber were gone from Dodge County, and the heirs of William Dodge had begun to sell his empire piecemeal. The great mill at Normandale had burned in 1892, never to be rebuilt. Other large mills at Empire and Eastman were dismantled and moved to Southwest Georgia. The age of exploitation was passing as farmers converted the denuded timberland into fields of cotton. As if to symbolize the end of "King Timber" and the rise of "King Cotton," Eastman erected a turn-of-the-century cotton mill on the site of the enormous Eastman Lumber Company's mill, which had been abandoned in 1900.



PHOTO BY WILBER W. CADWELL

The Dodge County Courthouse at Eastman, built 1906-07. Ed C. Hosford, architect.

Norman Dodge died in 1907, the year this courthouse was completed. *The Eastman Times Journal* claimed that Dodge had once been “the largest single landowner in Georgia.” But times were changing, the lumber barons were gone, cotton covered the county and Eastman’s population was nearing 3,000. In this atmosphere of impending high times, Dodge County looked to Atlanta architect, Ed Hosford, to design a new courthouse to replace the county’s original frame court building, which had been a gift back in 1874 from none other than William E. Dodge. The bond issue to fund the new courthouse was passed by the seemingly impossible margin of 2,029 for, 65 against.

By early March of 1906, the Dodge County Commissioners had delegated a committee to inspect various new court buildings across the state. Not surprisingly the unanimous choice for a model was James Wingfield Golucke’s stunning Coweta County Courthouse at Newnan, which had been completed only two years before. On March 8, 1908, *The Eastman Times Journal* lists C. C. Hosford of Empire, Georgia, as a member of the building committee. Predictably on April 19, after “many of the leading architects of the state” submitted proposals, the com-

mittee announced the selection of C. C. Hosford’s son, Ed C. Hosford of Atlanta, as architect. Rumors circulated in Eastman that J. W. Golucke would supervise the project, but E. C. Hosford denied this, stating that the work would be his alone, and that he would move to Eastman to supervise the work.

Ed C. Hosford did eventually move back to Eastman. He went on to design at least eight more court buildings: two in Georgia—the 1909 Harris County Courthouse at Hamilton and the 1917 Wheeler County Courthouse at Alamo—two in Texas and at least four in Florida including the 1909 Jefferson County Courthouse at Monticello, Florida, which was quite similar to his effort in Eastman. Hosford was also the architect of an extensive remodeling of the Bulloch County Courthouse in 1914.

Although competent, Hosford’s work never had Golucke’s unique flair. Hosford borrowed from Golucke in fashioning a great horizontal mass with a central portico and flanking wings, but the results here in Eastman are ordinary at best. Today, Hosford’s courthouse at Eastman is difficult to assess, for in 1939 the building was completely gutted by a devastating fire which swept through the

central section causing the grand lantern to collapse and destroying the porticos at the center of the structure. The building was rebuilt to function like the original, but gone are the great clock tower and the monumental columns of the main entranceways. Only the columned side porticos remain, serving thereafter as the main entrance.

In 1906, like so many Georgia towns, Eastman saw itself on the edge of a new era of prosperity, but disappointment lay ahead. As Hosford’s courthouse rose, cotton was proving a capricious provider. ●

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.

Kudos



Stites & Harbison, PLLC, announced that the Friends of Disabled Adults and Children (FODAC) elected Lewis Perling to its Board of Directors. FODAC is a nonprofit organization created in 1986 to enhance the quality of life for those who are mobility-impaired due to any physical disability, illness or injury. FODAC provides refurbished home medical equipment and services for adults and children with disabilities. The group's programs include home medical equipment, home modifications, vehicle modifications, computer refurbishing and assistive technology.



Hon. Alison W. Toller, chief juvenile judge of the Northeastern Circuit, received the Judge Tommy Day Wilcox Award at the Council of Accountability Court Judges conference in October 2022. Toller became the presiding judge of Hall County Family Treatment Court in 2015 and then implemented the Dawson County Family Treatment Court in 2019. Both court programs have been recognized as model Family Treatment Courts in Georgia. Judge Tommy Day Wilcox was the first accountability court judge in Georgia and presided over the Macon Drug Court. In his honor, the Judge Tommy Day Wilcox Award goes to the nominee that received the highest overall score statewide.

The Leadership Council on Legal Diversity (LCLD) named Baker Donaldson a Compass Award winner. This award recognizes those law firms and corporations showing a strong commitment to building more diverse organizations and a more inclusive legal profession. LCLD is one of the nation's leading organizations promoting diversity and consists of more than 430 corporate chief legal officers and law firm managing partners who have dedicated themselves to creating a truly diverse U.S. legal profession.



Elizabeth Green Lindsey, shareholder at Davis, Matthews & Quigley, P.C., was named president-elect of the National Board of Trial Advocacy (NBTA), a nonprofit organization devoted to improving the quality of trial advocacy and aiding the public in selecting proven, tested and experienced legal representation. NBTA offers board certification in a variety of civil and criminal areas of legal practice including family trial law. The mission of NBTA is to inform and educate the public concerning legal representation by board-certified specialists.



Thomas Kennedy Sampson & Tompkins LLP announced that founding partner Thomas G. Sampson Sr. was inducted into the American College of Trial Lawyers (ACTL) in February 2022. Founded in 1950, ACTL is an honorary professional association composed of experienced trial lawyers in the U.S. and Canada, which strives to maintain and improve the administration of justice, ethics in the profession and the standards of trial practice. Membership in the college cannot exceed one percent of the total lawyer population of any state or province.

On The Move

IN ATLANTA



CHARTASH



CROWL-PARRISH



MCDONALD



MEADOWS



MIKHALEVSKY



WAGNER

Swift, Currie, McGhee & Hiers, LLP, announced the elevation of Kelly Chartash, Gillian Crawl-Parrish, Alex McDonald, Lauren Meadows, Alexander Mikhalevsky and Kori Wagner to partner. Chartash focuses her practice on third-party insurance coverage disputes, automobile litigation and premises liability. Crawl-Parrish practices in the areas of commercial litigation, trucking litigation, catastrophic injury, wrongful death, insurance coverage, premises liability and bad-faith litigation. McDonald's practice focuses on the area of civil litigation with an emphasis on the defense of individuals, businesses and insurance carriers in personal injury, automobile accident, product liability, construction, premises liability and insurance coverage litigation. Meadows practices in the commercial litigation and insurance coverage group and represents insurance companies and their insureds in personal injury, construction and premises liability litigation. Mikhalevsky focuses his practice on arson and fraud, commercial litigation and insurance coverage. Wagner's practice focuses on civil litigation with an emphasis on pre-suit and litigated matters related to automobile litigation, premises liability, complex personal injury and insurance coverage issues. The firm is located at 1420 Peachtree St. NE, Suite 800, Atlanta, GA 30309; 404-874-8800; Fax 404-888-6199; www.swiftcurrie.com.



Davis, Matthews & Quigley, P.C. announced the addition of Halie D. Smith as an associate. Smith is a member of the firm's domestic relations and family law section. The firm is located at 3400 Peachtree Road NE, Suite 1400, Atlanta, GA 30326; 404-261-3900; Fax 678-904-3169; www.dmqlaw.com.



Cannella Snyder LLC announced the addition of William "Will" Ortiz as an associate. Ortiz focuses his practice on plaintiff's products liability, catastrophic personal injury and wrongful death, and routinely represents Latino and Hispanic personal injury victims. The firm is located at 315 W. Ponce De Leon Ave., Suite 885, Decatur, GA 30030; 404-800-4828; Fax 404-393-0365; www.cannellasnyder.com.



ADAMS



BEATO



CLELAND



DABKE



HENDRICKS



RIEPE



SIMONEAUX



SPRADLEY



STALLINGS



THARANI

Hall Booth Smith, P.C., announced the addition of Danielle Adams, Alexandra Beato, Henry Cleland, Varad Dabke, Nolan Hendricks, Nate Riepe, Anne Marie Simoneaux, Olivia Spradley, Anna Stallings and Navroz Tharani as associates. Adams' practice focuses on aging services, health care, medical malpractice and premises liability matters. Beato is a member of the firm's appellate, business litigation and general liability practice groups. Cleland focuses his practice on appellate, education, government liability, and labor and employment matters. Dabke's practice focuses on construction, general liability, premises liability, real estate and transportation matters. Hendricks focuses his practice on general liability and insurance coverage matters. Riepe's practice concentrates on general liability, insurance coverage and medical malpractice matters. Simoneaux's practice focuses on business litigation and business transaction matters. Spradley's practice focuses on aging services and medical malpractice matters. Stallings focuses her practice on aging services and health care matters. Tharani's practice focuses on data privacy and cyber security and transportation matters. The firm is located at 191 Peachtree St. NE, Suite 2900, Atlanta, GA 30303; 404-954-5000; Fax 404-954-5020; www.hallboothsmith.com.



BERKLUND



CROWE



FLOWER



FRANKLIN



HANCE



MARKOVICH



SAN ROMAN



THOMPSON



VINE



WARD



WILSON

Morris, Manning & Martin announced the election of Joe Berklund, Zachary Crowe, Matthew Flower, Elliot Franklin, Douglas Hance, Alyson Markovich, Matt San Roman, Adam Thompson, Justin Vine, Justin Ward and Quinten Wilson to partnership. Berklund focuses his practice on blockchain and cryptocurrency, emerging companies, mergers and acquisitions, private equity, securities and corporate governance, technology and venture capital. Crowe's practice focuses on mergers and acquisitions, private equity, finance transactions, venture capital, strategic investments and general corporate matters. Flower focuses his practice on transactional matters, including mergers and acquisitions, private equity, finance transactions, private securities offerings, venture capital, strategic investments and general corporate matters. Franklin's practice focuses on mergers and acquisitions, private equity, finance transactions, venture capital, strategic investments and general corporate matters. Hance focuses his practice on complex commercial litigation matters with an emphasis on class action, product liability and real estate litigation. Markovich's practice focuses on the acquisition, development, disposition and financing of commercial real estate, specializing in the hospitality and lodging industry. San Roman focuses his practice on blockchain and cryptocurrency, business and technology sourcing, corporate, cybersecurity and privacy, intellectual property and technology. Thompson's practice focuses on all areas of patents, trademarks and copyrights. Vine focuses his practice on the representation of clients engaged in the acquisition, development, disposition, financing and leasing of commercial real estate. Ward's practice focuses on mergers and acquisitions, commercial transactions, private equity offerings, entity formation and governance. Wilson focuses his practice on industrial real estate, real estate, real estate development and finance. The firm is located at 3343 Peachtree Road NE, Atlanta, GA 30326; 404-233-7000; Fax 404-365-9532; www.mmmlaw.com.



GORDON



PETTIE

Taylor English Duma LLP announced the addition of Neil Gordon and Jason Pettie as partners. Gordon focuses his practice on bankruptcy, fraud investigations and creditors' rights. Pettie's practice focuses on bankruptcy, restructuring and creditors' rights matters. The firm is located at 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339; 770-434-6868; Fax 770-434-7376; www.taylorenglish.com.



Barnes & Thornburg announced the addition of Tina Dorr as a partner. Dorr's practice focuses on counseling and guiding clients on drafting, managing and prosecuting patent application portfolios. The firm is located at 3340 Peachtree Road NE, Suite 2900, Atlanta, GA 30326; 404-846-1693; Fax 404-264-4033; www.btlaw.com.



Chamberlain Hrdlicka announced the addition of Erin R. Hines as senior counsel. Hines focuses her practice on tax controversy and tax litigation. The firm is located at 191 Peachtree St. NE, Atlanta, GA 30303; 404-659-1410; Fax 404-659-1852; www.chamberlainlaw.com.



Stites & Harbison, PLLC, announced the addition of Evan W. Elam as an associate. Elam's practice focuses on commercial litigation. The firm is located at 303 Peachtree St. NE, Suite 2800, Atlanta, GA 30308; 404-739-8800; Fax 404-739-8870; www.stites.com.



Arnall Golden Gregory announced the addition of Ansly P. Moyer as a partner. Moyer focuses her practice on representing corporate, not-for-profit and governmental clients in various roles on taxable and tax-exempt public finance transactions, including as issuer's counsel, bond counsel, lender's counsel or company counsel. The firm is located at 171 17th St. NW, Suite 2100, Atlanta, GA 30363; 404-873-8500; www.agg.com.



Carlton Fields announced the addition of Nicole Stone as an associate. Stone focuses her practice on a variety of federal and state law issues relating to property and casualty insurance. The firm is located at 1201 W. Peachtree St. NW, Suite 3000, Atlanta, GA 30309; 404-815-3400; Fax 404-815-3415; www.carltonfields.com.



ADRIAN



AKERS



CARROLL



CHENG



DIMENT



KANNOF



KIM



RYAN



TOFT



WILLIS

Nelson Mullins Riley & Scarborough LLP announced the election of Jacob Adrian, George Akers, Jake Carroll, Amy B. Cheng, Ellis Diment Clinton, Abe Kannof, Frances Kim, Tom Ryan, Heather Toft and John Willis to partnership. Adrian focuses his practice on corporate finance, mergers and acquisitions, and private equity and venture capital. Akers' practice focuses on emerging growth companies and their investors, with a focus on equity and debt financings, mergers and acquisitions transactions, and general corporate matters. Carroll focuses his practice on construction, manufacturing and real estate industries in business disputes, commercial transactions and related corporate matters. Cheng's practice focuses on areas of labor and employment, business litigation, white collar defense and government investigations. Diment focuses her practice on commercial real estate. Kannof's practice focuses on residential and commercial real estate transactions. Kim focuses her practice in the areas of commercial finance and real estate capital markets. Ryan's practice focuses on mergers

and acquisitions, private equity, venture capital, corporate governance and securities offerings. Toft works in low-income housing tax credits, affordable housing equity and debt financing, market rate financing, real estate and general business organizations law. Willis focuses his practice on mergers and acquisitions, asset purchases and sales, corporate governance, third-party risk management, loan portfolio sales, securities and regulatory compliance. The firm is located at 201 17th St. NW, Suite 1700, Atlanta, GA 30363; 404-322-6000; Fax 404-322-6050; www.nelsonmullins.com.



Balch & Bingham announced the addition of Katherine Carey as an associate. Carey focuses her practice on civil litigation, advising and representing clients in matters involving complex commercial litigation, property disputes, personal injury and wrongful death, and intellectual property. The firm is located at 30 Ivan Allen Jr. Blvd. NW, Suite 700, Atlanta, GA 30308; 404-261-6020; www.balch.com.

IN ALPHARETTA



HICKS



MOBLEY

Hall Booth Smith, P.C., announced the addition of Jim Hicks and Mikayla Mobley as associates. Hicks' practice focuses on business litigation, business transactions, corporate and partnership, fiduciary litigation, government affairs,

government liability, and labor and employment matters. Mobley focuses her practice on business litigation, business transactions, and corporate and partnership matters. The firm is located at 2710 Old Milton Parkway, Suite 200, Alpharetta, GA 30009; 404-386-6900; www.hallboothsmith.com.

IN AUGUSTA



Robert T. Homlar announced that The Law Office of Robert T. Homlar P.C. opened its second location. The firm focuses on wrongful death, whistleblower, products liability, civil rights, criminal, serious bodily injury, equestrian and firearms law. The firm is located at 580 James

Brown Blvd., Augusta, GA 30901; 706-831-0859; Fax 706-432-1722; www.homlarlaw.com.

IN BRUNSWICK



Hall Booth Smith, P.C., announced the addition of Bubba Dunn as an associate. Dunn focuses his practice on medical malpractice matters. The firm is located at 3528 Darien Highway, Suite 300, Brunswick, GA 31525; 912-554-0093; Fax 912-554-1973; www.hallboothsmith.com.

IN COLUMBUS



NAIL



SPINA

Hall Booth Smith, P.C., announced the addition of Brooke Nail and Paul Joseph "PJ" Spina IV as associates. Nail focuses her practice on general liability and insurance coverage matters. Spina's practice focuses on appellate matters. The firm

is located at 1301 First Ave., Suite 100, Columbus, GA 31901; 706-494-3818; Fax 706-494-3828; www.hallboothsmith.com.

IN MARIETTA



CARMAN



POLAND

Cobb County Probate Court announced the appointment of Kristin Poland as associate judge and Stephanie Carman as hearing officer in October 2022. Poland began working for the court in April 2016 as a hearing officer. Upon graduation from law school in 2014, she concentrated on estate plan-

ning and elder law. Prior to joining the judicial staff at the court, Carman practiced probate law at The Chan Law Firm and spent six years as both a staff attorney for Cobb County Legal Aid and director of the Cobb Justice Foundation. Cobb County Probate Court is located at 32 Waddell St., Marietta, GA 30090; 770-528-1900; Fax 770-528-1996; www.cobbcounty.org/courts/probate-court.

IN SAVANNAH



Weiner, Shearouse, Weitz, Greenberg & Shawe announced the addition of Belen M. Wilson as an associate. Wilson focuses her practice on real estate law, civil litigation and business law. The firm is located at 14 E. State St., Savannah, GA 31401; 912-233-2251; www.wswgs.com.

IN NEW YORK, NEW YORK



S&P Global announced the addition of Alan Moore as assistant general counsel for privacy and data protection. Moore's role focuses on handling contract and vendor negotiations, and ensuring customers' and employees' personal information is adequately protected when shared with

vendors, advising on the business implications of new privacy and data protection legislation, and helping further develop the company's vendor risk assessment framework. The firm is located at 55 Water St., New York, NY 10041; 212-904-3070; www.spglobal.com.

Announcement Submissions

The *Georgia Bar Journal* welcomes the submission of news about local and voluntary bar association happenings, Bar members, law firms and topics of interest to attorneys in Georgia. Learn more at www.gabar.org/newsandpublications.

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

Meet Your New Computer Overlords

What are the ethics implications of artificial intelligence like ChatGPT?

BY PAULA FREDERICK

Mesmerized by the computer screen, your partner doesn't even look up as you enter his office. "Have you tried this?" he asks, turning the monitor so you can read along. "This ChatGPT is amazing! I asked it to write a demand letter in one of my cases. It came up with a pretty good draft in about three seconds!"

"I've tried it too," you admit. "You have to be careful—I asked it an ethics question and it gave me an answer that was only partly right. It didn't catch that Georgia's Rules of Professional Conduct aren't the same as the ABA Model."

"That's just detail!" your partner explains. "You have to admit it's at least a great starting point. It could save us lots of time—maybe we can do without that intern we've been considering!"

"Not so fast," you answer. "Do you even understand how it works? How do we know whether we're getting accurate information from this thing—every day it gives a different answer to the exact same question! And even if we're sure it's accurate, would we have to tell our clients we were using it? Do we get to bill if we're not actually doing the research?"

What are the ethics implications of artificial intelligence like ChatGPT? We asked ChatGPT to answer that question, and here's what it said:

As an AI language model, ChatGPT can be a useful tool for lawyers in many ways, such as conducting legal research, drafting legal documents and communicating with clients.

However, there are several ethical issues that lawyers should consider when using ChatGPT:

1. **Confidentiality:** Lawyers have a duty to maintain the confidentiality of their clients' information. When using ChatGPT, lawyers should ensure that they do not disclose any confidential information to the AI model or anyone else who may have access to the conversation.
2. **Competence:** Lawyers have a duty to provide competent representation to their clients. When using ChatGPT, lawyers should ensure that they have the necessary knowledge and skills to use the AI model effectively and accurately.
3. **Unauthorized Practice of Law:** Lawyers have a duty to avoid engaging in the unauthorized practice of law. When using ChatGPT, lawyers should ensure that they are not providing legal advice or services beyond their jurisdiction or expertise.
4. **Bias and Fairness:** ChatGPT, like any machine learning model, may have inherent biases based on the data it was trained on. Lawyers should be aware of these biases and take steps to ensure that they do not contribute to unfair or discriminatory outcomes.
5. **Informed Consent:** Lawyers have a duty to obtain informed consent from their clients before using technology that may affect their representation. When using ChatGPT, lawyers should inform their clients of the risks and limitations associated with using the AI model and obtain their consent before proceeding.

Overall, lawyers should use ChatGPT in a manner that upholds their ethical obligations to their clients, the legal profession and the justice system. They should also stay informed about emerging ethical issues related to the use of AI in law and adapt their practices accordingly.

Pretty good, huh?

The "intelligence" behind ChatGPT and similar programs is still evolving. For the time being, lawyers should use this AI the same as any basic, fill-in-the-blank form found online—as a potentially time-saving starting point that needs to be double-checked and adapted before use.

So don't fire those associates just yet... ●



Paula Frederick

General Counsel
State Bar of Georgia
paulaf@gabar.org

Attorney Discipline Summaries

From October 4, 2022, through October 25, 2022

BY LEIGH BURGESS

Disbarments

Edward Hine Jr.

139 Shoals Ferry Road SE
Rome, GA 30161

Admitted to the Bar 1976

On Oct. 4, 2022, the Supreme Court of Georgia accepted the petition of Edward Hine Jr. (State Bar No. 355775) for voluntary surrender of his license, which is tantamount to disbarment. The disciplinary matter came before the Court on Hine's petition which was filed before the issuance of a formal complaint but after the Court rejected an earlier petition for voluntary discipline.

In this petition, Hine admitted that, in connection with two client matters, he violated Rules 1.4, 1.8 (a), 1.15 (I) (a) and 1.15 (II) (b) of the Georgia Rules of Professional Conduct. The maximum sanction for a violation of Rules 1.4 and 1.8 (a) is a public reprimand, and the maximum sanction for a violation of Rules 1.15 (I) (a) and 1.15 (II) (b) is disbarment. Although Hine set out some factors in mitigation of discipline, he acknowledged that the seriousness of his misconduct justified the surrender of his license.

In Hine I, Hine admitted that in November 2018, he was appointed as executor of a client's estate; that he deposited the estate's funds into his trust account; and that he used those funds to pay the estate's expenses and to make distributions

to the estate's beneficiaries. Hine further admitted that, without the consent of the estate's beneficiaries, he transferred \$129,071.50 from the funds that had been entrusted to him to his operating account, despite the fact that, as of that time, the fees and expenses that Hine had charged to the estate totaled only \$59,363.50, and that he considered the difference between the earned fees and allocated funds to be a loan. Hine asserted that he intended to repay the loan before making the final distributions to the state's beneficiaries, but that he failed to repay the entire amount of the loan such that the final distribution to the beneficiaries in 2020, caused an overdraft of \$3,344.31 in his trust account—an overdraft that he covered with personal funds. Subsequently, Hine reported the matter to the State Bar and sent a letter explaining the situation to the estate's beneficiaries.

Although not admitted in Hine I, Hine admitted in his petition that in that letter, he not only explained the situation described above, but also explained to the beneficiaries that the will underlying the estate authorized him to charge an hourly fee; that under the will's terms, the total amount of earned fees to which he was entitled was \$43,526; that he nevertheless collected \$59,363.50 in fees from the estate; and that he was, therefore, refunding the \$15,837.50 fee overcharge to the beneficiaries. He asserted that he fully dis-

closed both of these instances of misconduct related to the estate to the Bar and that the beneficiaries of the estate made no claim against him.

With regard to a separate trust matter, which also was not admitted in Hine I, Hine admitted in his petition that he was the sole trustee of a trust established by a client who died in October 2003, and that the trust provided that the remainder interest was to be distributed for the benefit of a college after the death of the client's wife. Hine admitted that in January 2011, he executed a promissory note to the trust in exchange for an \$85,000 loan from the trust to Hine, with an apparent maturity date on the note of Dec. 31, 2011. Although he claimed that the client's wife was aware of the loan and repeatedly permitted him to defer repayment of the loan, the wife passed away in September 2018, and Hine presented no documentation proving either of those facts. Regardless, Hine admitted that he remained the trustee of the trust and the obligor on the note for years and that, upon the passing of the client's wife, he paid the balances of the proceeds of the trust to the college named as the remainder beneficiary, but did not forward to the remainder beneficiary the \$85,000 plus interest that he owed the trust pursuant to the note until 2021, after he was prompted to do so as a result of the Bar's investigation into the estate matter.

Hine admitted that by his actions, he violated Rule 1.4 in that he failed to adequately consult with his clients as to matters; Rule 1.8 in that there was no evidence that he had ever obtained informed consent from any of the interested parties prior to borrowing money from the sums entrusted to his care; Rule 1.15 (I) (a) in that he commingled funds over which he had a fiduciary duty and converted them to his own use; and Rule 1.15 (II) (b) in that he withdrew funds belonging to the estate and trust accounts over and above attorney fees he had actually earned and never debited those funds against the accounts of the clients, eventually having to deposit significant personal funds into his trust account to make up shortfalls in the clients' accounts. Further, Hine acknowledged that under the ABA Standards for Imposing Lawyer Sanctions, to which the Court looks for guidance in deciding disciplinary cases, the intentional nature of his conduct coupled with the fact that his conduct had the potential to seriously harm his clients called for the presumptive punishment for his actions to be disbarment. Hine listed his substantial experience in the practice of law as a factor in aggravation of discipline, but also asserted in mitigation that he had no prior disciplinary history despite 45 years in the practice of law; that he made a timely and good faith effort to rectify the consequences of his misconduct; that he had demonstrated a cooperative attitude in these disciplinary proceedings; and that he had otherwise exhibited good character, integrity and a positive reputation in the community. Nevertheless, he asserted that the seriousness of his misconduct justified the surrender of his license. The State Bar filed a response to the petition agreeing with his recitation of the facts and arguing that the law supported the loss of his license.

Franklin David McCrea

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P.O. Box 412

Alma, GA 31510

Admitted to the Bar 1992

On Oct. 4, 2022, the Supreme Court of Georgia disbarred attorney Franklin David McCrea (State Bar No. 486850) from the practice of law in Georgia. The disciplinary matter came before the Court on a consolidated report and recommendation by the special master addressing two formal complaints and recommending that the Court disbar McCrea for his violation of the Georgia Rules of Professional Conduct in connection with two client matters.

The record reflected that after the State Bar filed its two complaints, which were docketed as State Disciplinary Board Docket (SDBD) Nos. 7322 and 7448, McCrea participated in the disciplinary proceedings initially, but for 17 months leading up to the Court's order, it appeared he ignored the proceedings. Specifically, in connection with SDBD No. 7322, he failed to respond to the notice of investigation, and although he acknowledged service of the formal complaint, he failed to file a timely answer. In response to the State Bar's motion for default, however, he admitted he had no defense to the allegations. In connection with SDBD 7448, McCrea filed an inadequate response to the notice of investigation and, after being personally served with the formal complaint in April 2021, filed an untimely answer to the formal complaint in August 2021, in which he admitted most of the facts and all of the rules violations alleged. In March 2022, the State Bar moved for judgment on the pleadings, and McCrea failed to respond. In his response to the Bar's motion for default in SDBD 7322 and in his untimely answer in SDBD 7448, McCrea sought an opportunity to present mitigating evidence, but he ul-

timately failed to respond to the special master's and the Bar's counsel's lengthy efforts to set up a hearing. Ultimately, the special master granted the motion for default and the motion for judgment on the pleadings.

Based on McCrea's admissions and his default, the following facts appeared. In connection with SDBD 7322, McCrea represented a client in 2018 in a federal criminal matter in which the client entered a guilty plea. The client retained appellate counsel to pursue post-conviction remedies, and appellate counsel contacted McCrea in late November 2018, asking that McCrea provide him with the client's complete file. McCrea never provided the client's file to appellate counsel, and the client's appeal was ultimately dismissed. In connection with SDBD 7448, McCrea was retained to represent a client in obtaining an uncontested divorce and was paid a flat fee of \$950, but he failed to respond to inquiries from his client regarding the status of the case. In late November 2018, McCrea sent his client an email stating that he would call later that afternoon and that the divorce would be final by January 2019 at the latest. However, the divorce was never finalized by McCrea, and the client retained another attorney to finalize the divorce.

The special master determined, and the Court agreed, that by this conduct, McCrea violated Rules 1.2, 1.3, 1.4 (a) (3), 1.4 (a) (4), 1.16 (d) and 9.3 of the Georgia Rules of Professional Conduct. The maximum sanction for a violation of Rules 1.2 (a) and 1.3 is disbarment, and the maximum sanction for a violation of the remaining rules is a public reprimand. The special master determined that the following aggravating circumstances were present: multiple offenses and substantial experience in the practice of law. The special master noted that McCrea's lack of prior discipline was the sole miti-

gating factor and noted that McCrea was given the opportunity to present evidence of mitigating circumstances at the hearing but concluded that he waived that opportunity by failing to respond to the special master's and Bar's efforts to set up a hearing. The special master concluded that disbarment was the appropriate sanction for an attorney who abandoned his client and failed to respond to disciplinary authorities. The Court agreed that disbarment was the appropriate sanction and was consistent with prior cases in which an attorney had, indisputably, violated provisions of the Rules that carry disbarment as a sanction and failed to participate fully in the disciplinary process.

Suspensions

Trent Lee Coggins

108 E. College St.

Valdosta, GA 31602

Admitted to the Bar 2001

On Oct. 4, 2022, the Supreme Court of Georgia accepted attorney Trent Lee Coggins' (State Bar No. 173299) petition for voluntary discipline and imposed a suspension of six months nunc pro tunc to Sept. 1, 2021. The disciplinary matter came before the Court on the report of the special master recommending that the Court accept the petition for voluntary discipline filed by Coggins after the filing of a formal complaint. Coggins asked the court to impose the suspension for his admitted violations of Rules 1.15 (I) (a)–(b) and 1.15 (II) (a)–(c) of the Georgia Rules of Professional Conduct. The maximum penalty for a violation of Rules 1.15 (I) and 1.15 (II) (a) and (b) is disbarment, and the maximum penalty for a violation of Rule 1.15 (II) (c) is a public reprimand.

In his report, the special master made the following findings of fact: Coggins owned his own practice and represented clients in commercial and residential

real estate transactions, acting at times as a closing attorney, and receiving and disbursing client and third-party funds required to be held in IOLTA accounts. Coggins maintained two IOLTA accounts with Guardian Bank of Valdosta. On May 27, 2016, Coggins acted as the closing attorney on the sale of four residential lots owned by Palm Beach Development, LLC, (PBD) which were part of a 41-lot parcel owned by PBD. At the time of the sale and thereafter, Coggins' client was the sole member of PBD. Several years prior to the sale, in 2010, the client borrowed \$136,555.24 from a third party (the Loan). Although Coggins was not involved in either the origination or the closing of the Loan, he understood that the Loan was secured by PBD's ownership interest in the 41-lot parcel and that his client had provided the third party with a security deed to the 41 lots as collateral for the Loan. Additionally, prior to the May 2016 closing, Coggins was present and overheard a telephone conversation between his client and the third party in which they discussed applying the proceeds of the sale of the four lots towards repayment of the Loan. Coggins believed that the third party would release the four lots from the security deed upon application of the proceeds of the sale of those lots toward repayment of the Loan. Indeed, in connection with this disciplinary matter, the third party represented to the State Bar that he agreed to accept the proceeds of the sale of the four lots as payment towards the debt. Coggins' client also affirmatively represented in an affidavit to the State Bar that, at the time of the May 2016 closing, he was under the impression that a written release was sent to the third party. The client further represented to the State Bar that in June 2017, the third party acknowledged having received a release. However, notwithstanding the client's

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

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representations to the State Bar, Coggins admitted that the record in this case does not include a written release, and no such release ever existed.

Following the closing on May 27, 2016, Coggins deposited \$49,898.91 into one of his IOLTA accounts at Guardian Bank which amount represented the gross proceeds from the sale of the four lots. On the same day, Coggins wrote several checks from his IOLTA account in connection with the closing, including Check No. 5016 in the amount of \$33,096.94 made payable to the third party, which Coggins understood would be applied as partial repayment of the Loan. According to the third party, sometime after the closing in 2016, he attempted to negotiate

Check No. 5016 at a Regions Bank, but the teller informed him that the IOLTA account did not have sufficient funds for the check to be honored. More than a year later, in June 2017, the third party contacted Coggins' client and requested a replacement check, representing that Check No. 5016 had been dishonored by the bank due to the length of time that had elapsed since it was issued. The client told the third party that he would request a replacement check from Coggins, but the client did not do so.

Almost three years later, on May 14, 2019, the third party, through counsel, sent Coggins a written demand to replace Check No. 5016, maintaining that the check had been dishonored for insufficient funds. Coggins contacted the third party's counsel and offered to tender the amount of the check (i.e., \$33,096.94) immediately, but the third party refused the offer, purportedly in order to pressure Coggins' client to repay the full amount due on the Loan. On May 30, 2019, the third party commenced foreclosure proceedings against the 41-lot parcel, setting July 2, 2019, as the date of the non-judicial foreclosure sale. The day before the sale, Coggins, on behalf of his client, wired \$208,853.15 from his IOLTA account to the third party in settlement of the Loan. The third party and Coggins' client agreed that \$33,096.94 of the \$208,853.15 would satisfy the net proceeds due to third party in connection with the May 27, 2016, closing of the four lots.

While the issue of whether Check No. 5016 was actually dishonored by the bank remains in dispute, Coggins admitted that on 35 occasions between December 2016 and June 2019, the average daily balances of his IOLTA account dropped below \$33,096.94, such that he would have had insufficient funds to cover the obligation to the third party in connection with the May 27, 2016, closing. According to Coggins, the shortfall in funds in his IOLTA account on those occasions was caused by his lack of understanding of proper trust account management, which resulted in his failure to maintain a ledger of every transaction and a failure to reconcile the IOLTA account on a regular basis. Coggins also admitted that between June

2019 and October 2019, he transferred unearned client funds from the IOLTA account into his business operating account, which he used in support of his other business interests that were at risk of financial collapse. Coggins explained that in 2019 he was involved in a high-profile development project in his community that unexpectedly required an infusion of capital, and his only two options were either to go into default with the project sponsors—facing a very public embarrassment and damage to his reputation—or borrow funds from the IOLTA account. Coggins acknowledged that he made the wrong choice and explained that he did so based on his fear of being humiliated in the community where he has lived, raised a family and practiced law for more than 20 years. The parties acknowledged that Coggins had made restitution for each unauthorized transfer from the IOLTA account and that all parties had been made whole.

The special master concluded that Coggins admitted that he violated Rule 1.15 (I) (a) by failing to maintain third-party funds and other client funds in his IOLTA account at all times and keep those funds separate from his own funds, and by failing to keep and preserve complete records of those funds held in his IOLTA account. In addition, Coggins admitted that he violated Rule 1.15 (I) (b) when he disregarded the third party's interest in the \$33,096.94 by not maintaining it at all times in the IOLTA account and by not keeping it separate from his personal funds. Moreover, he admitted to violating Rule 1.15 (II) (a) by administering part of the funds held for the third party in his IOLTA account to someone other than the third party without authorization. He also admitted to violating Rule 1.15 (II) (b) by depositing funds into the IOLTA account; holding personal funds in his IOLTA account beyond the time when they were earned; failing to maintain a ledger for the IOLTA account showing the balances held for each client or third person; and withdrawing funds from the IOLTA account for personal use that were not earned fees debited against the account of a specific client and recorded as such. Finally, Coggins admitted

that he violated rule 1.15 (II) (c) in that the funds he held in the IOLTA account were not available for the third party to withdraw upon request without delay.

The special master relied on the ABA Standards for Imposing Lawyer Sanctions for guidance in determining the appropriate level of punishment noting he considered the duties violated, Coggins' mental state, the actual or potential injury caused by his misconduct, and the aggravating and mitigating factors. As for his mental state, the special master concluded that Coggins admitted that he knowingly and intentionally misused client and third-party funds to prevent the failure of his business venture, but that some of his violations also arose from his failure to appreciate the importance of trust account management. The special master concluded that given the third party's apparent inaction for three years, it did not appear he had suffered any actual injury in 2016 when he may or may not have attempted to negotiate Check No. 5016; however, even assuming that he never tried to cash the check, the special master concluded that the third party still suffered some actual injury when the \$33,096.94 went unpaid for a period of time following his counsel's specific, written demand for payment. As for potential injury, the special master also noted that Coggins admitted that the third party was exposed to potential financial harm by virtue of Coggins not maintaining sufficient funds to cover Check No. 5016 at all relevant times; that the owners of the four lots were also exposed to injury when the third-party's counsel initiated non-judicial foreclosure against those properties; and that the deficit in the trust account had the potential to undermine the integrity of the significant funds Coggins held on deposit for numerous clients and third persons between 2016 and 2019.

As for aggravating factors, the special master considered Coggins' substantial experience in the practice of law and his dishonest and selfish motive in using client funds to pay for his business interests. As for mitigating factors, the special master considered Coggins' personal problems—primarily his lapse of judgment in fearing public humiliation—which the

special master concluded provided a limited degree of mitigation and the fact that Coggins made a timely, good faith effort to make restitution and rectify the consequences of his misconduct. In addition, the special master noted that Coggins had submitted character references that attested to his professionalism, integrity and commitment to public services, and that he had shown genuine remorse.

As for the level of discipline the special master determined that while the Court views trust account violations as exceptionally serious and the maximum penalty for any single violation of Rules 1.15 (I) or 1.15 (II) is disbarment, disbarment is generally reserved for the most egregious circumstances. The special master concluded that in marked contrast, where the totality of the circumstances supported less severe discipline, the Court has without hesitation imposed a suspension or reprimand for trust account violation. Here, the special master concluded that Coggins' misconduct, although certainly serious, was mitigated by a number of considerations that tended to offset or deemphasize the aggravating factors, including his restitution, general acceptance of responsibility, remorse and lack of any prior disciplinary history. Thus, the special master deemed that a six-month suspension was appropriate. Moreover, the special master concluded that it would be appropriate for the suspension to be imposed nunc pro tunc to Sept. 1, 2021, the date that Coggins stopped practicing law by closing his law office and his trust accounts and withdrawing properly from all representations. The State Bar did not oppose this recommendation, and the Court accepted Coggins' petition.

William DeForest Thompson Jr.

306 51st St.

Vienna, WV 26105

Admitted to the Bar 2003

On Oct. 25, 2022, the Supreme Court of Georgia accepted attorney William DeForest Thompson Jr.'s (State Bar No. 710152) amended petition for voluntary reciprocal discipline after the Court rejected the first petition and imposed a suspension of one year, nunc pro tunc to Jan. 8, 2020. In his amended petition,

Thompson whose license was also inactive for failure to pay his license fee, asked the Court to impose a one-year suspension, to be imposed retroactively, as substantially similar discipline to the one-year suspension, plus probation, that he received in Florida for mismanaging his trust account.

In his amended petition, Thompson admitted that he was suspended from the practice of law in Florida for one year, effective Jan. 8, 2020, to be followed by two years on "probation," for misconduct involving the mismanagement of his trust account. He was also required to attend a trust accounting workshop to pay costs incurred by The Florida Bar related to the disciplinary matter, and to pay restitution to the client. On Aug. 19, 2021, the Florida Supreme Court reinstated his law license based on his compliance with those terms, although he remained subject to the period of probation. He was required to pay a quarterly monitoring fee to the Florida Bar and certify that he no longer maintained a trust account and that he was not required to do so based on the nature of his practice. He included with his amended petition evidence that he was in compliance with the terms of his probation. While Thompson was under the one-year suspension, he received a public reprimand for violating Florida Bar Rule 3-5.1 (h) for what he claims was his failure to take down social media sites operated by his firm after he was placed on emergency suspension preceding the one-year suspension.

Regarding the conduct leading to his one-year suspension, Thompson admitted the following facts, as ratified and adopted by the Florida referee in his report and approved by the Florida Supreme Court. In January 2019, The Florida Bar received an overdraft notice for Thompson's trust account. This led The Florida Bar to complete an audit of his trust account records. The audit revealed that during the period of March 1, 2018, to April 30, 2018, Thompson did not maintain appropriate trust accounting records; that as a result, he made six transfers from his trust account to his operating account under the mistaken belief that he was entitled to the funds being transferred

improperly; and that this also led to conversion of his clients' funds. Specifically, Thompson admitted that between March 23, 2018, and April 27, 2018, he converted for his own business or personal purposes at least \$27,000 when he made the six transfers described in his stipulation to The Florida Bar from his trust account to his operating account, and that each time he made a transfer to his operating account he did not have enough funds in his trust account to pay the clients who were owed monies. Thompson also admitted that although he maintained trust account records, they were not compliant with the Florida Rules.

Thompson claimed that he did not selfishly intend to take client money. He also stated that when he discovered that the account was overdrawn in January 2019, the check at issue was immediately covered, and he and his bookkeeper conducted an internal audit, which revealed that his paralegal had acted criminally by stealing from office accounts and mishandling client funds. He admitted that he was responsible for his paralegal's misconduct and his own negligence in supervising the accounts. Based on his misconduct, Thompson was found to have violated several Florida Bar Rules. Moreover, at the time of the Florida disciplinary proceedings, Thompson's trust account contained \$12,323.52 owed to clients, with a trust account shortfall of \$5,834.44 representing a cost advance paid by a client. As part of his discipline, Thompson agreed to the distribution of the remaining trust account funds with the shortage of \$5,834.44 to be paid by Thompson as restitution to the client.

Thompson further admitted that the Florida referee identified as aggravating factors that there was a pattern of misconduct, multiple offenses and that he had substantial experience in the practice of law. As for mitigating factors, the Florida referee considered the absence of a prior disciplinary record, the absence of a dishonest or selfish motive, his cooperative attitude toward the proceedings, and his good character and reputation. Thompson stated that his admitted conduct would be a violation of Georgia Rules of Professional Conduct (GRPC) 8.4,

1.15 (I), 1.15 (II) and 1.15 (III). Thompson stated that the Court had the authority to impose discipline substantially similar to his one-year Florida suspension, with reinstatement being conditioned upon proof of reinstatement in Florida. He added that Florida's imposition of probation, which is unavailable in Georgia, did not preclude the Court from recognizing the one-year suspension as substantially similar, as this Court had previously approved reciprocal suspensions without adding time for the probationary period. He stated that because his one-year suspension had been fulfilled, this Court should impose a one-year reciprocal suspension, retroactive to Jan. 8, 2020, in light of the fact that he was not practicing law in Georgia at the time of the offense. The State Bar responded and requested the Court accept Thompson's amended petition. The Bar agreed with Thompson that

imposing a period of suspension without probation and without adding time for the probation satisfied the requirements of Rule 9.4 and that this Court previously accepted suspensions of the same length as those imposed in Florida, along with proof of readmission in Florida, as substantially similar discipline. The Bar also stated that although Thompson's license status in Georgia remained inactive and not in good standing, he had made substantial efforts to mitigate the problem by communicating with the State Bar's Membership Department. The Bar concluded that Thompson's amended petition included substantial evidence that indicated his compliance with the Supreme Court of Florida's Consent Judgment, his probation requirements and an understanding of the GRPC.

Accordingly, the Court accepted Thompson's amended petition for volun-

tary reciprocal discipline and suspended him from the practice of law for one year, nunc pro tunc to Jan. 8, 2020, and noted that Thompson would remain under an administrative suspension due to his failure to pay his license fee until his successful completion of all the terms and conditions as set forth in Bar Rule 1-501 (b).

Public Reprimand

Karen Lynn Pass

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Atlanta, GA 30341

Admitted to the Bar 1994

On Oct. 4, 2022, the Supreme Court of Georgia ordered that attorney Karen Lynn Pass (Bar No. 480920) receive a public reprimand with conditions for her violations of Rules 1.15 (I) (a), 1.15 (II) (b) and 5.3 (b) of the Georgia Rules of Professional Conduct (GRPC).

A graphic with a red background. On the left, a white silhouette of a person is shown from the waist up, facing right. The person has large, stylized white wings on their back and a small white halo above their head. They are holding a white pitchfork in their right hand. The graphic is split vertically by a white line, with the person's body and wings on the left and the pitchfork on the right.

Ethics dilemma?

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

 State Bar of Georgia

Two disciplinary matters came before the Court on the consolidated report submitted by the special master who recommended the Court impose a public reprimand with conditions. According to the special master, the matter underlying S22Y1156 arose from a formal complaint charging Pass with violating a number of rules during her representation of an individual in a personal injury matter. But the special master found that clear and convincing evidence showed only that Pass had deposited funds from the settlement of her client's case into her IOLTA account at a time when the account also held funds belonging to at least one other client and that Pass admittedly kept no ledgers or other records from which she would be able to tell at any given time the actual amount of funds in her IOLTA account belonging to each client. Based on those facts, the special master concluded that Pass had violated Rules 1.15 (I) (a) and 1.15 (II) (b).

With regard to S22Y1176, the special master noted that it arose from a separate formal complaint charging Pass with violations of a variety of the GRPC during her representation of a client in an investigation she had agreed to undertake. After considering the evidence, however, the special master found that the Bar had shown, by clear and convincing evidence, only that Pass had taken money in advance from her client to be used for fees and expenses connected to an investigation she was to perform for the client; that she deposited the unearned expenses into her IOLTA account, but then failed to review, audit or otherwise reconcile that account; that unbeknownst to Pass, her office manager—a longtime friend and nonlawyer employee—was accessing Pass' IOLTA account and obtaining funds via forged checks; and that, as a result, there were multiple times where Pass' IOLTA account carried a balance that was less than the almost \$4,000 she should have been holding in trust on her client's behalf. The special master found that Pass was unaware of her employee's illegal actions until several months after

that employee left Pass' employment, absconding with a firm computer and other office equipment and materials; that after discovering the thefts, Pass was able, over time, to restore enough of the stolen funds to replace the money she was required to return to her client; and that those funds have now been returned. The special master specifically noted that there was no allegation that Pass was involved in, or even contemporaneously knew of, her employee's withdrawal of client's funds from the IOLTA account. The special master concluded that Pass had violated Rules 1.15 (I) (a) and 5.3 (b).

With regard to discipline, the special master noted that the Court looks to the ABA Standards for Imposing Lawyer Sanctions for guidance and found that Pass' violations in both cases implicated ABA Standard 4 (violations of duties owed to clients) in that Pass' failure to properly monitor her trust account and her failure to properly supervise her nonlawyer employee both affected her ability to preserve her client's property. The special master concluded, however, that Pass was merely negligent in her dealings with the IOLTA account and her clients' funds, noting Pass' testimony that she is primarily a criminal defense attorney and, therefore, rarely has client funds in her IOLTA account. He further concluded that Pass did not have the "conscious awareness of the nature or attendant circumstances" of the actions of her nonlawyer employee, and, at worst, was merely negligent in her supervision of that employee. With regard to injury or potential injury, the special master noted that although the funds of the client in S22Y1176 were taken from Pass' IOLTA account, Pass did not steal those funds and, once the loss was discovered, she replaced them and returned the funds to her client. And, with regard to S22Y1156, the special master noted that there was no injury to the client in that none of that client's funds were lost or misappropriated in any way. Ultimately, the special master concluded that there was no actual injury to either client but

acknowledged that the potential for injury was present.

In terms of aggravating and mitigating factors, the special master noted, in aggravation, that Pass had one instance of prior discipline, having received a formal letter of admonition in 2011 related to a failure to communicate with a client, and that she had substantial experience in the practice of law, having been admitted to the Bar in 1994. In mitigation, he somewhat discounted Pass' former discipline on the grounds that it did not involve her trust account or her failure to supervise a nonlawyer employee. He further noted that Pass had not acted with a dishonest or selfish motive; that she made a timely and good faith effort to rectify the consequences of the actions of her nonlawyer employee; that she made full and free disclosure to the State Bar; that she had a cooperative attitude during the proceedings; and that she had a good reputation in the legal community. The special master further noted that, although neither aggravating nor mitigating, neither client filed a grievance against Pass. The special master recommended that for her negligent violation of the rules cited above, that Pass receive a public reprimand and that she consult with the Law Practice Management Program of the Bar within 60 days after the Court's opinion and follow its recommendations concerning her law practice. Neither side filed exceptions contesting the special master's factual findings, legal conclusions and recommendations. The Court agreed that a public reprimand was appropriate and sufficient to act as a penalty to Pass, a deterrent to other lawyers, and as an indication to the public that the courts will maintain the ethics of the profession and ordered that she receive a public reprimand with the recommended condition. ●



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3 Google Chrome www.google.com

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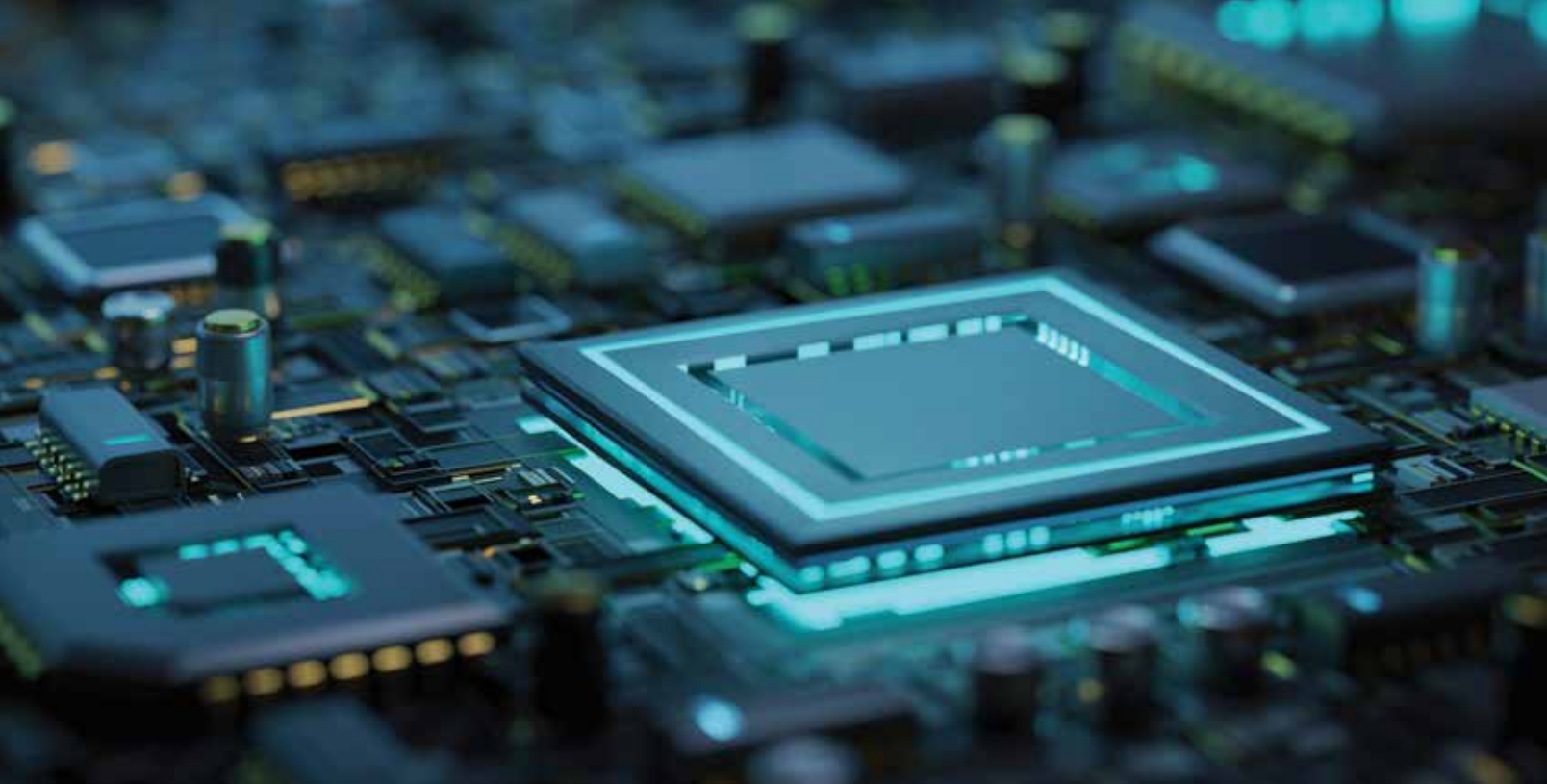


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4 Microsoft 365 www.microsoft.com

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5 PowerPoint Picture Formatting

If you didn't already know, Microsoft PowerPoint is a presentation and slides app that you can carry with you wherever you go. Make a slideshow with music, charts, graphics and photos. Want to use a photo but need to get rid of the background? PowerPoint has an integrated tool for that and more.



SessionLab

7 SessionLab

www.sessionlab.com

Have you been tasked with planning a workshop? SessionLab is the simple way to design more effective live and online workshops. Get started quickly with the facilitation library which has high-quality workshop methods, activities and templates from facilitation experts that can be adapted to your needs.



mention

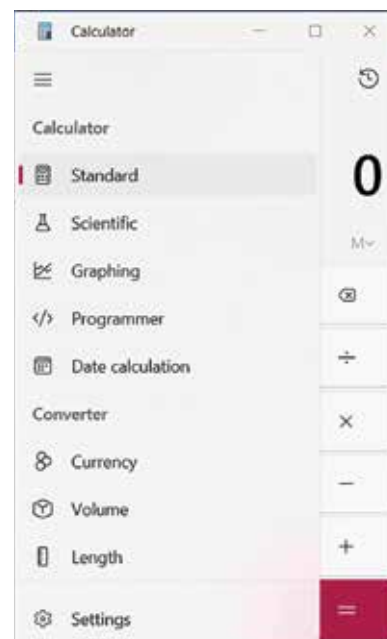
6 Mention

mention.com

Mention is a free social media and online mention monitoring tool that allows you to trace mentions of up to five keywords or your website domain, among other things. Unlike Sprout Social or Hootsuite, Mention has a free version available (but it has more dynamic paid versions as well).

8 Calculator

One of the handy dandy tools that comes with Microsoft Windows is the calculator, but did you know that it can do more than just add and subtract? Open the navigation and you will find hidden gems like scientific, graphing, programmer and date calculation modes. It can also function as a converter for currency, volume and length.



Better Clients Are a Compelling Brand Away

Creating your authentic brand is the foundation of a strong marketing strategy that consistently puts you in front of ideal clients.

BY NKOYO-ENE R. EFFIONG



It is the second month of 2023, are you attracting the type of clients you want?

If your answer is no, it might be time to revisit your law firm branding.

There are more than 1.3 million active lawyers practicing in the United States alone. As of October 2022, there are more than 40,000 active members in good standing of the State Bar of Georgia—the lion's share of whom are practicing in some capacity. How will your ideal client know that you are the right attorney for them in a sea of seemingly similar lawyers and law firms?

Branding.

We are not just talking about your business cards, logo or color schemes. We are talking about the personality of your law practice. The feeling legal consumers get when they interact with your marketing, enter your (virtual) office and otherwise engage with your company. Branding is the process of creating a distinct identity for your business in the mind of consumers. Without a strong brand, it is hard to attract the right clients and nearly impossible to stand out in a crowded market.

So how do you build a strong brand?

1 Get introspective.

Creating an enduring brand requires you to reflect on the reason you are running your own law practice in the first place. Why are you practicing law (beyond needing to repay your student loans)? What is your unique take on the practice of law? What do you want to accomplish with your own firm that you could not working for another law firm? What values or principles guide your work? What does your firm stand for and what makes it unique?

Questions like this will help you identify your brand promise (consistent customer experience), your values (how you do business, with who and for whom) and your brand story (the compelling narrative about your company and how it helps clients).

2 Be picky about who you represent.

One of the biggest mistakes attorneys make while growing their firms is not knowing who they (want to) serve. Spoiler alert—anyone with a legal problem who can pay your fee is not a target audience. If you want more of your dream clients, you have to define your target audience. A target audience is a specific group of consumers who are most likely to want your services and are attracted to your brand. A strong brand attracts and repels. Think iPhone vs. Android, PC vs. Mac. Each brand has its die-hard users and people who would not be caught dead with the product.

As the owner of your law practice, it is critical that you define your target audience and learn as much about your ideal client as possible. The more knowledgeable you are about your target audience, the more adept you will be at meeting them where they are and aligning your brand identity with the solutions they are seeking. Knowing your target audience also prevents you from spinning your wheels and chasing after clients who either are not a good fit or have no real interest in retaining your services. If you are unsure who your target audience is, review your past clients and identify those with whom you enjoyed working. What problem did you solve for them? What demographic and psychographic data points did they have in common? What expectations of a lawyer did they share? Once you are clear on your target audience, you can better shape your messaging and determine a marketing strategy that meets them where they are. Remember, you do not have to be everything to everyone. It is better if you are not.

3 Repeat yourself ... a lot.

It takes the average consumer upwards of seven touchpoints before they buy. Repetition matters. Once you have solidified your brand, you need to communicate it clearly and consistently. If there is one thing we know for sure, a confused mind does not buy. Therefore, it is important for you to communicate your brand story as simply and as frequently as possible. Your brand story is the compel-

ling narrative about your brand and how it helps your ideal clients that to clearly communicate how you help your ideal clients solve their problems. If it is too complicated to understand how you can help, your ideal clients will tune out. If you do not communicate consistently, you will not remain top of mind. You must deliver a steady message to your target audience at regular intervals.

Those are three preliminary steps you can take today to start building a stronger brand for your law practice. Running a law firm is more than just business cards and an eye-catching logo. It is about creating a strong, clear and consistent message that you want to convey to your potential clients as well as current clients. Creating your authentic brand is the foundation of a strong marketing strategy that consistently puts you in front of ideal clients. If you have not thought about your brand in a while or are new to running a law practice, take some time to start building one today.

Looking for more guidance on how to build a successful, streamlined law practice? Join The LPM Insider at bit.ly/lpmnewsletter and be the first to know about our best-in-class law practice management tips, tools, tricks and events. ●



Nkoyo-Ene R. Effiong

Director, Law Practice Management Program
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The Law Practice Management Program

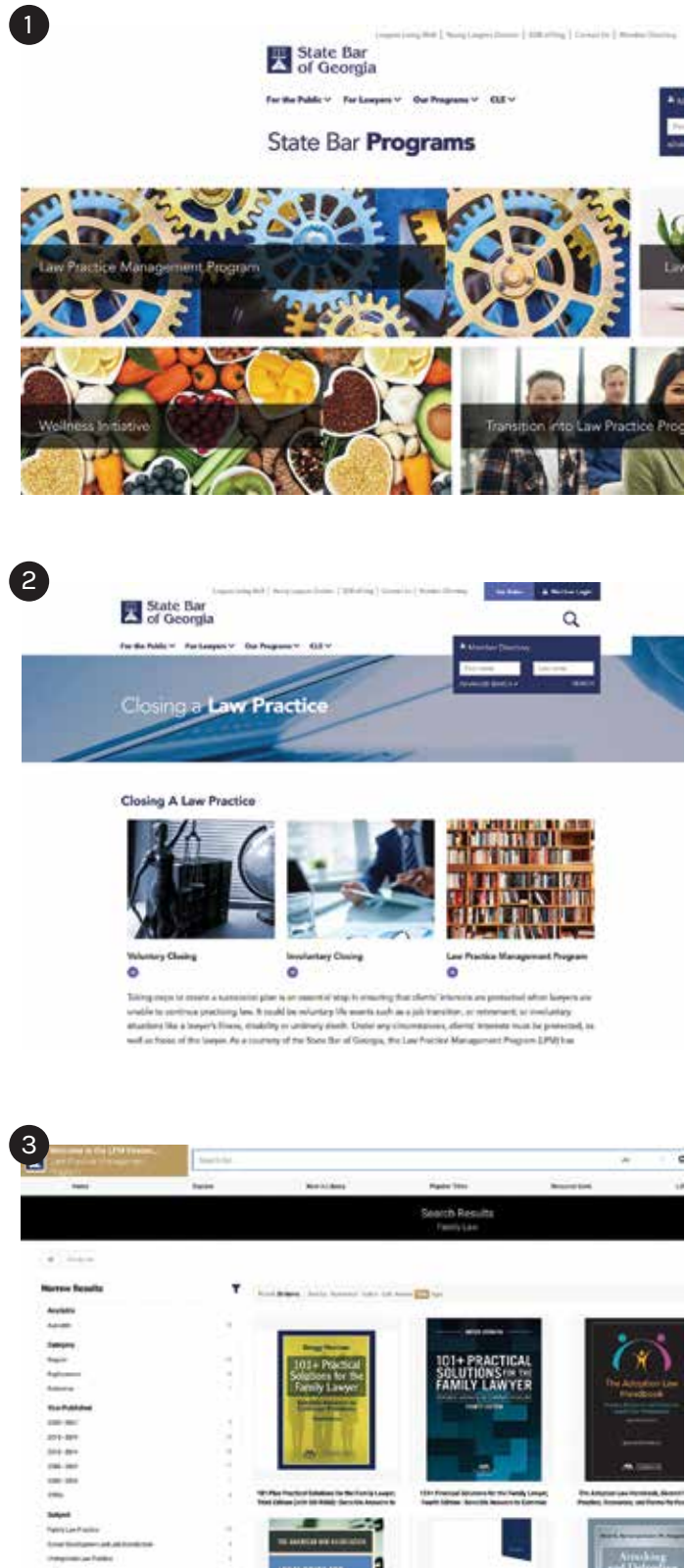
Whether you need advice on technology, firm finances, organization or library materials, the Law Practice Management Program has the resources and training to assist you.

BY SHEILA BALDWIN

The Law Practice Management Program is one of the most valuable member benefits for State Bar of Georgia members. The Bar's Law Practice Management (LPM) Program debuted in 1995 with a focused goal of supporting Georgia lawyers in the technological and business aspects of managing their practices. That was 27 years ago, when lawyers were replacing their IBM electric typewriters for laptops, phones were going wireless and marketing strategies moved online via company websites. Fast-forward to 2023, and one appreciates how much technological advances have affected law and business practices. Increasingly the practice of law requires legal, technological and business expertise. Since its inception, this member service has stepped in to assist Georgia attorneys in adapting their practices to a wide variety of innovations.

Nkoyo-Ene R. Effiong is the director of the Law Practice Management Program for the State Bar of Georgia. In that role, she helps Georgia lawyers tap into innovation to build a profitable and purpose-filled practice with less struggle and stress.

In case you have not made use of their services, you can access the Law Practice Management Program at www.gabar.org by selecting "Our Programs" and then "Law Practice Management Program" (see fig. 1). It's suggested that you visit the website now to better understand the information in this article.



Law Practice Start Up Resources

The guide to starting your Georgia law practice is the program's famous "Office Start Up Kit," and it answers most of the questions about opening a practice in Georgia. The guide is updated with new or changing information and is available for in-person pick up or delivery by mail. For additional business planning advice, you can also set up an office visit to help review your business plan and consult on best practices for starting your practice. Call 404-527-8772 to set up an office visit.

Closing your Practice

Taking steps to create a succession plan is an essential step in ensuring that clients' interests are protected when lawyers are unable to continue practicing law. Voluntary life events such as a job transition, or retirement, or involuntary situations like a lawyer's illness, disability or untimely death often occur. As a courtesy of the State Bar of Georgia, LPM has provided closing law office guides which outline the steps a lawyer must take to protect his or her clients in the event of a sudden inability to continue in practice. These guides can also help attorneys establish an advance exit plan to invoke in the event of disability, retirement or death (see fig. 2).

Georgia Bar Journal Articles

Check out "Law Practice Management" by Nkoyo Effiong, "Member Benefits" by Sheila Baldwin and "Legal Tech Tips" co-written by Pro Bono Resource Center Director Mike Monahan and Nkoyo Effiong in the *Georgia Bar Journal* for articles that pertain to running your firm.

Consultations

General and technical consultations assist members on setting up and improving firm business systems, procedures and technology. A general consultation offers members an evaluation of your office's existing office management procedures with a written assessment of the areas discussed and our consultant's recommendations thereon. Technical consultations involve the selection of the best law office software applications and training materials.

Resource Library

The LPM Resource Library has a diverse selection of library materials to help your law firm run efficiently and are available for check out on-site at the Bar Center or through the online library catalog. We offer resources on a variety of topics related to law office management and technology, including starting a law practice, finance and accounting, marketing, law firm automation, human resource management, risk management, legal research and more. Use statebarga.library.site to register today (see fig. 3) or scan the QR code to get access.



We also have a variety of office management forms for download from the program's main page. If you have questions

about downloading these forms or have a request for a specific form not referenced on the list, contact LPM at 404-527-8772.

Solo and Small Firm Institute

The Solo and Small Firm Institute is a gathering for solo and small firm practitioners with distinct practice needs and desires to learn how to take advantage of developments in the practice of law and business.

Enjoy two jam-packed days and receive a years' worth of CLE credit, affordably. Special guest speakers, networking and access to more than 30 local and national vendors make this an event you won't want to miss.

This year's conference is April 27–28 at the Bar Center. More information will be available at www.gabar.org and on the Bar's social media channels.

Keep Informed

LPM is always looking for ways to help you improve your practice. Keep informed by signing up for The Georgia LPM Insider newsletter at linktr.ee/gabarlpm, or follow @gabarlpm on Instagram. Also, visit www.linkedin.com/showcase/law-practice-management/ to follow LPM on LinkedIn.

If you have questions about the Law Practice Management Program, please email me at sheilab@gabar.org or call 404-526-8618. ●



Sheila Baldwin

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The Case for More Self-Love in the Legal Profession

Self-care isn't a luxury. You can't love yourself if you aren't willing to care for yourself.

BY JOY WHITE



*"Loving yourself isn't vanity; it's sanity."
—Katrina Mayer*

These days, concepts like "self-love" and "self-care" are used almost daily on social media and mainstream media. Meanwhile, many lawyers are rushing from deadline to deadline without giving either of these concepts much consideration.

Unfortunately, many attorneys struggle to realize that they can't love their work or anyone else until they love themselves. Even with countless self-help books, webinars, wellness coaches, gurus, religions, meditation, yoga and even CLEs, the legal profession can't seem to embrace this fundamental concept of life: You can't be happy until you love yourself; you can't be satisfied until you love yourself; you can't be balanced until you love yourself; and you can't achieve true professional success until you love yourself.

What Is Self-Love?

Self-love is about accepting and loving yourself for who you are while ensuring your actions and behaviors follow suit. That said, it's hard to love yourself when truly:

- You are your own worst critic.
- You judge yourself more harshly than you judge others.

- You engage in self-destructive habits and behaviors.
- You doubt your abilities.
- You question your worth.
- You engage in negative self-talk.

As members of the legal profession, “self-love” is essential for your mental and physical health, and though most of us claim to have a healthy amount of self-love, our actions say otherwise.

Self-love can be entirely different for different people, but what’s most important is whether or not you’re practicing a healthy amount of self-love and self-care as part of your daily routine.

Why Is Practicing Self-Love Important for Lawyers?

Self-love to some people, might sound like an entitled way to justify their selfishness.

In truth, self-love is essential to be balanced and content in our lives, especially for attorneys and other members of the legal profession.

When you are committed to self-love:

- You will have less doubt and fear.
- Your relationships will be more fulfilling.
- You will be less anxious.
- You will feel more satisfied and fulfilled in life.
- You will see more opportunities.
- You will be capable of loving others.
- You will achieve more and become more productive
- You will be able to assess your abilities honestly.
- You will be healthier.
- You will make more nutritious decisions.
- You will be more comfortable in your skin.

- You won’t tolerate being mistreated.
- You will recognize your true worth.
- You will be more empathetic toward others.
- You will find your passions easier.
- You will trust yourself more.

This list could be another three pages long because the truth is self-love will help improve *every area* of your life.

Benefits of Self-Love

Self-love, inspiration and innovation go hand-in-hand.

Inspiration is a critical part of a successful business because from inspiration, we reach innovation. The ability to think outside the box and truly make your business stand out depends on your ability to trust your judgment and potential.

Self-love and acceptance form the base of your faith in your abilities and give you a chance to make tough decisions where it counts.

Self-love makes you resilient.

The legal profession is full of challenges and setbacks. If you want to be successful, you must be able to pick yourself up after a fall and keep going.

As the famous African proverb reads: “When there is no enemy within, the enemy outside can do you no harm.”

Self-love creates a healthy company culture.

As members of the legal profession, each of us must set an example for others. When you lead with self-love, you have more empathy for not just yourself but others, too.

According to a worldwide study conducted by Towers Watson, the biggest driver of engagement is whether or not

workers feel their managers are genuinely interested in their well-being. Unfortunately, less than 40% of workers felt so engaged.

When you show your workforce that being human and taking care of your well-being is something everyone should prioritize, you win their loyalty to follow you to every battlefield.

Resistance to Self-Love

Although most attorneys recognize the importance of self-love and self-care, they might not give it as much priority as they should. Unfortunately, ignoring your personal needs and focusing solely on your clients and your caseload has been normalized to the extent that doing the contrary has started feeling selfish instead of well-deserved. Some of the common misconceptions are outlined below.

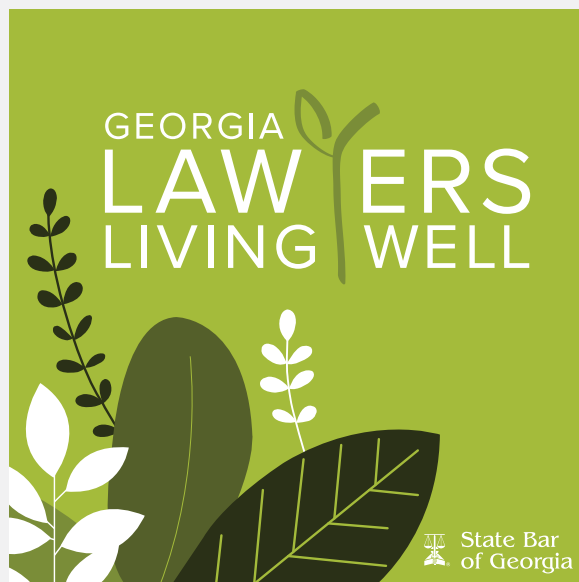
Self-care is unproductive.

Many lawyers might think “self-care” isn’t related to their work life. But they believe the time spent on taking breaks, going on a vacation—even a short one—or indulging in a hobby can be used to manage their business and work better.

In their busy routines, they feel like they don’t have time for processing their internal thoughts and emotions. Making time for something that seems so trivial feels like self-care is non-productive rest.

Self-care is selfish.

The over-emphasis on hustle culture is at fault for making everyone in the legal profession think that we aren’t working enough unless we work 18+ hours a day. With a mindset that is fixated on working more than half of the day, carving out time to appreciate yourself can feel stressful and wrong.



Lawyers Living Well,
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Professional success and self-care are unrelated.

We may think successful attorneys are the ones who don't waste any time and always focus on their business. But by doing just that, what was satisfying before is no longer enough. What was excellent before can now feel like burnout and exhaustion.

To enjoy life and feel content with your actions, you must accept and recognize your efforts. Taking care of your well-being and making your and others' mental health a priority can have a major impact your entire life.

Self-Care Is an Act of Self-Love

Self-care is exactly what it sounds like—caring for yourself and your needs. More importantly, though, self care is not self-ish, greedy or indulgent.

We must make this clear because so many members of the legal profession struggle with this idea. We are so caught up in our careers, our clients and caring about our partners, children, family, friends and colleagues that we may find the thought of self-care to be indulgent.

This feeling of indulgence could not be further from the truth.

Self-care is vital, especially for attorneys. People find it harder to unwind and slow down. But, if you don't care for your needs, you can suffer serious consequences like burnout, depression or anxiety. If you feel you suffer from one or more of these issues, *please* reach out to a trusted loved one.

Have you ever flown on a commercial flight? Flight attendants will tell you that oxygen masks will drop if things go wrong, and the airplane is depressurized. They stress the importance of putting your mask on first before you help others. After all, if you can't breathe, you won't

Below are some different areas of your life in which you should introduce self-care.

Physical

- ☐ Are you eating well?
- ☐ Do you get enough exercise?
- ☐ Do you feel in control of your health?
- ☐ Are you sleeping well?

Mental

- ☐ Do you have an outlet for stress?
- ☐ Have you considered unplugging from social media?
- ☐ Do you have hobbies or pursuits that allow you to relax?
- ☐ Have you discussed your mental well-being with loved ones?

Social

- ☐ Are you seeing your friends enough?
- ☐ Do you have healthy, fulfilling relationships?
- ☐ What do you need to feel more socially satiated?
- ☐ Do you nurture your meaningful relationships?

- ☐ Do your friends and family know your needs?

Spiritual

- ☐ Do you feel spiritually fulfilled?
- ☐ Are you comfortable talking about your spirituality?
- ☐ Do you engage in any spiritual practices?
- ☐ Do you regularly reflect on how your spirituality affects your life?

Emotional

- ☐ Do you have healthy ways of processing your emotions?
- ☐ Do you have people you can talk to about your emotions?
- ☐ How do you manage extreme emotions?
- ☐ Do you practice any mindfulness techniques like meditation?

Remember, self-care isn't a luxury. On the contrary, it is vital to your happiness, fulfillment and yes, even your professional success. You can't love yourself if you aren't willing to care for yourself.

be able to help the people around you. Instead of being helpful, you will soon find that you are the one in need of help.

While it is great that you want to be of service to your clients and the people in your life, it will eventually catch up to you if you consistently neglect your own well-being.

To truly love yourself, you need to prove it by treating yourself with care. ●

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 Attorney Wellness Committee.



Joy White is managing partner of The White Legal Group LLC, which specializes in labor & employment, corporate law and outsourced general counsel services for small to medium-sized businesses.

Write With the Court's Needs in Mind

A strong legal writer composes documents with purpose that recognizes the needs of the audience. This installment of "Writing Matters" will help you to become a better persuasive writer by considering the needs of the judiciary when composing briefs and motions.

BY DAVID HRICIK AND KAREN J. SNEDDON

Goals inform approaches to all projects, including writing projects. For example, a goal of a court in deciding a motion or an appeal is, of course, to resolve the matter efficiently and correctly. Consequently, the goal of a legal writer should be to compose a brief or motion that persuades the court that the writer's position is correct and do so in as few words as possible.

But courts have multiple goals, too. As an esteemed group of judges wrote, it is "not enough that a decision be correct"¹ This installment of "Writing Matters" describes other goals of judicial opinions, so that legal writers can become more persuasive.

The Goals of Judicial Opinions

It may seem axiomatic, but "it is through judicial opinions that courts communicate with litigants, lawyers, other courts, and the community."² This communication is critical because "the written word, in the end, is the source and the measure of the court's authority."³ As such, a court's goal is not only to be correct, but "to explain and to persuade and to satisfy the world that the decision is principled and sound."⁴

When judges write opinions, they consider the following questions: "Is there

a reason for organizing the opinion this way? For including these particular facts? For discussing this issue at length? For citing this case?"⁵ They also know that "[m]isstating significant facts or authorities is a mark of carelessness, and it undermines the opinion's authority and integrity."⁶ Considering these questions while writing can lead to better briefs and motions.

Does Your Writing Help the Court Draft a Favorable Opinion?

The following section unpacks each question and provides guidance to help advocates write with these four questions in mind.

1 Is there a reason to organize the brief or motion as it is, or is another way more likely to provide the court with the basis for a sound judicial opinion?

Inherent in that question is that the brief or motion is organized. Many opinions, and not just those involving pro se litigants, bemoan a lack of organization, with some courts even striking filings that fail to follow minimum standards in local rules.⁷ While a win may be a win, an opinion stating that "the mo-

tion is disorganized and requires some explaining"⁸ may not be something for the mantel piece.

Consider, for example, referencing the acronym IRAC as a guideline for the basic organizational structure. For many motions and briefs, the best organization may be issue; rule; application; conclusion. For other motions or briefs, an alternate organization may be better. Headings and strong paragraphing can showcase the key points. Only deliberate choices lead to a strong organizational structure that supports the presentation of strong arguments.

2 Are all but only the necessary facts included and stated accurately?

Several opinions admonish lawyers for not asking that question. Some go so far as to state, "to exclude immaterial and irrelevant facts, this Court has prepared its own Statement of Facts"⁹ In another opinion, a lawyer argued that the court was required to read 7,000 pages and could reject the irrelevant information, "begging the question: if certain evidence does not require the Court's review, why file it?"¹⁰

Classify facts into the following categories: (1) outcome-determinative



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facts, (2) relevant but background facts, (3) emotionally relevant facts, (4) unknown facts and (5) extraneous (i.e., irrelevant) facts. Include all outcome-determinative facts. Add in a few of the other types of facts as needed to orient the reader to the outcome-determinative facts and support the argument. Avoid cluttering the brief or motion with unnecessary facts.

3 Is the space given to each issue appropriate given its importance and the complexity of the analysis?

To assist a court in writing an opinion, and to avoid waiver, an argument must be adequately developed: “a cursory mention of an issue in a footnote without citation to legal authority is insufficient ...”¹¹ A brief or motion, however, need not include all possible arguments or a string cite—or worse, a footnote—to support every sentence.

Reciting basic legal propositions may be a waste of space and a client’s money. For example, a court is presumably familiar with the burdens in summary judgment motions, motions to dismiss for failure to state a claim and other routine motions. While those subjects must be addressed, doing so at length is often unnecessary, unhelpful and even counterproductive. “String cites are to

be avoided ... for such noncontroversial items as the standard of review on summary judgment, basic evidentiary principles, and other settled principles and procedures.”¹² Likewise, a string cite to support the proposition that the elements of negligence are duty, breach, cause in fact, proximate cause and damages is unnecessary. One case likely will do the job.

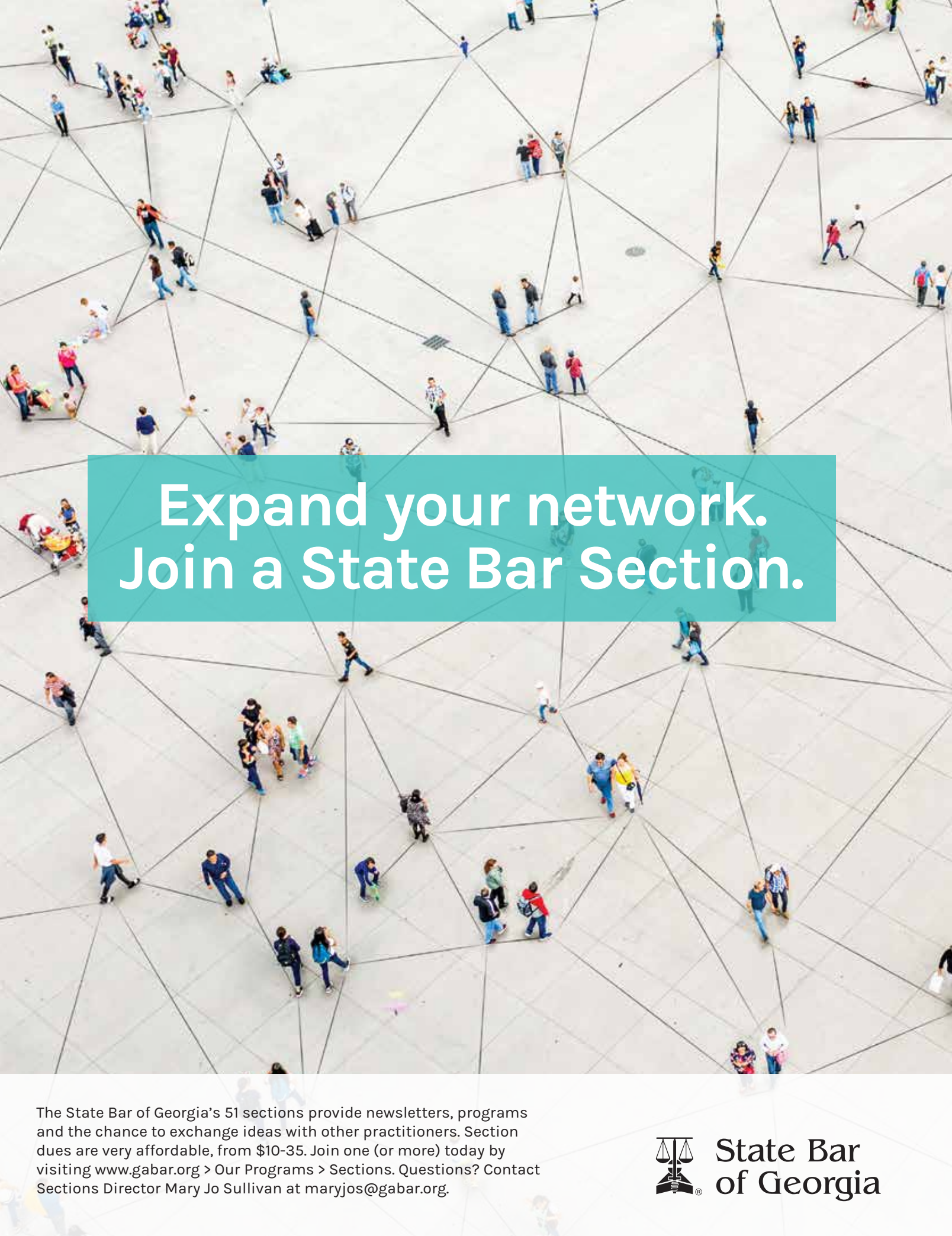
Budget time in your revision process to evaluate what arguments are featured and what level of support is needed to make those arguments in a compelling manner.

4 Does each case support the argument and is needed?

While inundating the court is unhelpful, legal propositions need to be supported with authority. Neglecting to include any citation can create problems, as does including citations without even a parenthetical explanation. One judge recently wrote: “footnotes containing long string cites of cases from outside this circuit—devoid of explanatory parentheticals—do little to aid the Court in resolving the Motion. To the extent possible, in future briefing, the Court directs both parties to cite relevant authority, primarily from this circuit, that supports their arguments ...”¹³

Advocates should assist the court by including pertinent citations. Advocates should also recognize that at times a court may need to consider multiple cases in detail. For example, where a court is evaluating whether an award of punitive damages is excessive, or when a court is called on to award compensatory damages, it may be necessary to discuss many cases because the judge needs to write the opinion to support a particular award. In a recent case involving the amount of general damages to be awarded, a court wrote:

Case law is very helpful in such circumstances, as guidance for the shape of the award in this case. While both Petitioner and Respondent cite to numerous cases in their respective briefs, however, neither party sufficiently analyzed cases that would support their requested figures. Simply adding string cites and listing the amounts awarded for pain and suffering in each case is not particularly helpful. A detailed discussion of the facts of similar cases and the amounts awarded for pain and suffering would better me in reaching a fair and appropriate award.¹⁴



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The State Bar of Georgia's 51 sections provide newsletters, programs and the chance to exchange ideas with other practitioners. Section dues are very affordable, from \$10-35. Join one (or more) today by visiting www.gabar.org > Our Programs > Sections. Questions? Contact Sections Director Mary Jo Sullivan at maryjos@gabar.org.



**State Bar
of Georgia**

While inundating the court is unhelpful, legal propositions need to be supported with authority. Neglecting to include any citation can create problems, as does including citations without even a parenthetical explanation.

Finally, and related to this, legal authorities should never be cut-and-pasted from one brief or motion into another. Advocates need to critically evaluate which authorities and how many authorities will add persuasive value to a brief or motion.

Conclusion

A strong legal writer composes documents with purpose that recognizes the needs of the audience. We hope this installment of “Writing Matters” will help you to become a better persuasive writer by considering the needs of the judiciary when composing briefs and motions. ●



David Hricik is a professor of law at Mercer University School of Law who has written several books and more than a dozen articles.

The Legal Writing Program at Mercer continues to be recognized as one of the nation's top legal writing programs.



Karen J. Sneddon is interim dean and professor of law at Mercer University School of Law.

Endnotes

- JUDICIAL WRITING MANUAL: A POCKET GUIDE FOR JUDGES (SECOND ED.) (available at <https://www.aila.org/File/Related/18082203k.pdf>).
- Id.* More specifically, courts have stated these functions are performed by opinions and the drafting process: First, written opinions communicate a court's conclusions and the reasons for them to the parties and their lawyers. Second, when published, opinions announce the law to judges, academics, other lawyers, and the interested public. Finally, the preparation of a written opinion imposes intellectual discipline on the author, requiring the judge to clarify his or her reasoning and assess the sufficiency of precedential support for it.
- Id.*
- Id.*
- Id.*
- Id.*
- E.g.*, Full Tilt Boogie, LLC v. Kep Fortune, LLC, 219CV09090DWKESX, 2022 WL 3018055, at *2 (C.D. Cal. July 29, 2022) (“The parties filed motions for summary judgment once before, but the Court found the briefing and evidence egregiously disorganized and noncompliant with both federal and local rules.”).
- Fairhaven Health, LLC v. BioOrigyn, LLC, 2:19-CV-01860-RAJ, 2021 WL 5987023, at *8 (W.D. Wash. Dec. 17, 2021).
- Certain Underwriters at Lloyds v. CSX Transp., Inc., 20-CV-0795-SPM, 2022 WL 432441, at *2 (S.D. Ill. Feb. 11, 2022), clarified on denial of reconsideration, 20-CV-0795-SPM, 2022 WL 1525243 (S.D. Ill. Apr. 18, 2022).
- Dickinson Frozen Foods, Inc. v. FPS Food Process Sols. Corp., 1:17-CV-00519-DCN, 2020 WL 2841517, at *15 (D. Idaho June 1, 2020) (citing *Indep. Towers of Washington v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) (declining to “sort through the noodles” of plaintiff’s “spaghetti approach” in order to locate a valid claim); *see also* *Zoslaw v. MCA Distrib. Corp.*, 693 F.2d 870, 883 (9th Cir. 1982) (noting a party may not prevail on a motion without identifying which evidence is relevant or “by simply overwhelming the district court with a miscellany of unorganized documentation.”).
- Momox-Caselis v. Donohue*, 897 F.2d 835, 842 (9th Cir. 2021); *see also* *United States v. Zannino*, 895 F.3d 1, 17 (1st Cir. 1990) (“It is not enough merely to mention a possible argument in the most skeletal way, leaving the court to do counsel’s work, create the ossature for the argument, and put flesh on its bones”); *cf.* *John Wyeth & Bro., Ltd. v. CIGNA Int’l Corp.*, 119 F.3d 1070, 1076 n.6 (3d Cir. 1997) (Alito, J.) (“Arguments raised in passing ... , but not squarely argued, are considered waived.” (cleaned up)). *See Dickinson Frozen Foods, Inc. v. FPS Food Process Sols. Corp.*, 1:17-CV-00519-MMB, 2021 WL 3264271, at *11 (D. Idaho July 30, 2021).
- Judge Kevin C. Brazile, Elizabeth Mann, Grant Miller, *Demurrer Practice Considerations in California Courts*, L.A. Law., July/August 2015, at 16, 17 (2015).
- Denver Homeless Out Loud v. City & Cnty. of Denver, Colorado*, 20-CV-2985-WJM-SKC, 2022 WL 974284, at *6 (D. Colo. Mar. 31, 2022).
- Merson v. Sec’y of Health & Human Servs.*, 18-0589V, 2022 WL 4855661, at *9 (Fed. Cl. Aug. 16, 2022).

The Plumb Line

The principles embodied in A Lawyer's Creed and the Aspirational Statement on Professionalism help us remain true to what should be the normal in lawyers' dealings with their clients, opposing counsel, colleagues, courts, other legal professionals and the public in general.

BY KARLISE Y. GRIER

The plumb bob or plumb line employs the law of gravity to establish what is "plumb" (that is, what is exactly vertical, or true).¹

I once heard a speaker say that society cannot let the crazy, the abnormal and the actions that we believe are wrong become the "normal." No matter how painful it might sometimes be to face the circumstances of the day, we cannot become numb to what is wrong around us. This is true of what happens in our world. It is also true of what happens in our profession. We have to fight against the sentiment that "it's just the way things are" when we know something is wrong or abnormal. Becoming desensitized and simply ignoring unacceptable conduct should not be an option.

When you read this article, the first two months of the "new year" will be almost complete. Yet, with most of 2023 in front of us, it will still be the perfect time

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One tenet of A Lawyer's Creed and the Aspirational Statement on Professionalism states: "The dignity and the integrity of our profession is an inheritance that must be maintained by each successive generation of lawyers."

to dust off your copy of A Lawyer's Creed and the Aspirational Statement on Professionalism² and consider the "plumb line." One tenet of A Lawyer's Creed and the Aspirational Statement on Professionalism states: "The dignity and the integrity of our profession is an inheritance that must be maintained by each successive generation of lawyers." You might ask, "What does this have to do with a plumb line"? A plumb line (or plumb bob) is a tool dating back to ancient Egypt. Evidence suggests that Egyptian architects used plumb bob-like tools to establish verticals in constructing the pyramids between 2600 BCE and 2500 BCE.

A Lawyer's Creed and the Aspirational Statement on Professionalism also gives us principles to help establish what is true for our profession. The creed embodies principles such as honesty, truthfulness, trustworthiness, integrity, fairness and civility. These principles are our "verticals" to help us remain true to what should be the normal in lawyers' dealings with their clients, opposing counsel, colleagues, courts, other legal professionals and the public in general.

Notice, the plumb does not change its result based on the circumstances in which it is placed. It remains a true measure of the vertical. Likewise, despite the circumstances in which we are placed as lawyers, our true principles should remain the same. The "result" we should

give when someone is rude, dishonest, condescending, untrustworthy, unfair or uncivil is not determined by our circumstances but by our plumb line, the vertical that should show our true character. Does this sound unrealistic and out of touch? If yes, perhaps that is because we have allowed—or are allowing—the abnormal and the crazy to seem normal. For our generation of lawyers to have an inheritance of dignity and integrity to share with future lawyers, we should all have a plumb line that keeps us vertical—which is also defined as upright³ or upstanding.⁴

It won't always be easy to remain true to the aspirational goals to which the Supreme Court of Georgia in 1992 asked lawyers to adhere in A Lawyer's Creed and the Aspirational Statement on Professionalism. We should, nevertheless, not lose sight of these aspirational goals as the normal. This generation of lawyers will, I hope, stand against accepting as normal behavior that is rude, dishonest, condescending, untrustworthy, unfair or uncivil on the occasions when we see it in our profession.

Just as Bob Vila continues to use a plumb line tool similar to the tool the Egyptians used almost 5,000 years ago, let's continue to use the aspirational goals given to us by the Supreme Court of Georgia a little more than 30 years ago to help keep us vertical so that we may maintain the dignity and the integrity of

our profession as an inheritance for the next generation of lawyers. ●



Karlise Y. Grier

Executive Director
*Chief Justice's Commission
on Professionalism*

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Endnotes

1. Bob Vila, The Plumb Bob: What Is This Tool, and How Do You Use It?, Bob Vila, Tools & Workshop (Last visited Dec. 16, 2022), <https://www.bobvila.com/articles/495-the-plumb-bob/>.
2. Chief Justice's Commission on Professionalism, *A Lawyer's Creed and Aspirational Statement on Professionalism* at lines 64 - 66 (Last visited Dec. 16, 2022), <http://cjcpga.org/wp-content/uploads/2019/07/2-Lawyers-CreedAspStatement-v-2013-Line-Number-with-new-logo-and-seal-v07-25-19.pdf>.
3. Upright is on synonym for vertical. One definition of upright is "marked by strong moral rectitude," Merriam-Webster, Inc, Dictionary, upstanding (Dec. 16, 2022), <https://www.merriam-webster.com/dictionary/upright>.
4. Upstanding is on synonym for vertical. One definition of upstanding is "marked by integrity," Merriam-Webster, Inc, Dictionary, upstanding (Dec. 16, 2022), <https://www.merriam-webster.com/dictionary/upstanding>.

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.

ROBERT S. BOMAR
Atlanta, Georgia
University of Georgia
School of Law (1968)
Admitted 1968
Died December 2022

J. RICHARDSON BRANNON
Gainesville, Georgia
Atlanta Law School (1977)
Admitted 1978
Died October 2022

LOVIC A. BROOKS III
Chapin, South Carolina
University of South
Carolina School
of Law (1977)
Admitted 1978
Died November 2022

TERI L. BROWN
Woodstock, Georgia
Georgia State University
College of Law (2008)
Admitted 2008
Died January 2023

E. CLAY BRYANT JR.
Watkinsville, Georgia
University of Georgia
School of Law (1971)
Admitted 1971
Died January 2023

CHARLES RAY CHAPMAN
Decatur, Georgia
Woodrow Wilson College
of Law (1951)
Admitted 1952
Died December 2022

DOREY NAQUIN COLE
Chicago, Illinois
Southern University
Law Center (2003)
Admitted 2008
Died October 2022

**ROBERT O'KELLEY
COLLIERSMITH**
Marietta, Georgia
Mercer University
Walter F. George School
of Law (1980)
Admitted 1980
Died November 2022

SCOTT LUCKIE DIX
Lilburn, Georgia
University of Georgia
School of Law (1984)
Admitted 1993
Died December 2022

W. HOMER DRAKE JR.
Newnan, Georgia
Mercer University
Walter F. George School
of Law (1956)
Admitted 1956
Died December 2022

WILLIAM E. DUNCAN JR.
Atlanta, Georgia
William & Mary
Law School (1973)
Admitted 1973
Died November 2022

JAMES N. FINKELSTEIN
Albany, Georgia
Duke University School
of Law (1976)
Admitted 1976
Died July 2022

RICHARD C. HAGLER
Columbus, Georgia
University of Georgia
School of Law (1977)
Admitted 1977
Died November 2022

ANGELA LITTLE HAMILTON
Senoia, Georgia
Georgia State University
College of Law (1991)
Admitted 1991
Died October 2022

STEVEN L. HEAD
Atlanta, Georgia
Emory University School
of Law (1979)
Admitted 1979
Died September 2022

CHARLES H. IVY
Matthews, North Carolina
Georgetown University
Law Center (1975)
Admitted 1975
Died November 2022

PATRICIA LOUISE JACKSON
Atlanta, Georgia
Woodrow Wilson College
of Law (1986)
Admitted 1989
Died July 2022

JULIA BENNETT JAGGER
Atlanta, Georgia
Emory University School
of Law (1980)
Admitted 1980
Died January 2023

MARY B. JAMES
Atlanta, Georgia
Emory University School
of Law (1978)
Admitted 1978
Died December 2022

THERMON WILLIAM JONES
Colorado Springs, Colorado
Atlanta's John Marshall
Law School (1979)
Admitted 1981
Died December 2022

L. CLARK LANDRUM
Tifton, Georgia
Mercer University
Walter F. George School
of Law (1972)
Admitted 1972
Died January 2023

DOUGLAS WAYNE LEWIS
Lawrenceville, Georgia
West Virginia University
College of Law (1992)
Admitted 1992
Died December 2022

CHARLES MEADOWS
College Park, Georgia
Woodrow Wilson College
of Law (1980)
Admitted 1983
Died January 2023

M. DAVID MERRITT
Atlanta, Georgia
Emory University School
of Law (1964)
Admitted 1963
Died November 2022

JACK MORTON
Atlanta, Georgia
Wake Forest University
School of Law (1959)
Admitted 1965
Died May 2022

HAROLD L. MURPHY
Rome, Georgia
University of Georgia
School of Law (1949)
Admitted 1949
Died December 2022

BIRGIT GERDES NOMURA
Atlanta, Georgia
Emory University School
of Law (1991)
Admitted 1991
Died January 2023

JAMES HUGH PHILLIPS
Dalton, Georgia
Emory University School
of Law (1957)
Admitted 1956
Died September 2022

CLYDE LOWAINE REESE III
Atlanta, Georgia
Mercer University
Walter F. George School
of Law (1996)
Admitted 1996
Died December 2022

MAE CATHERINE REEVES
Hunt Valley, Maryland
Emory University School
of Law (1972)
Admitted 1973
Died August 2022

C. B. ROGERS
Atlanta, Georgia
Emory University School
of Law (1953)
Admitted 1952
Died November 2022

JAMES H. ROLLINS

Cumberland, Maine
University of Virginia
School of Law (1969)
Admitted 1973
Died July 2022

RUSSELL M. STOOKEY

Hiawassee, Georgia
Atlanta's John Marshall
Law School (1980)
Admitted 1981
Died July 2022

PETER TURCOTTE

Atlanta, Georgia
Columbia University Law
School (1981)
Admitted 1987
Died November 2022

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Atlanta, Georgia
University of Georgia
School of Law (1984)
Admitted 1984
Died November 2022

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Emory University School
of Law (1970)
Admitted 1974
Died January 2023

J. CLINTON SUMNER JR.

Rome, Georgia
University of Virginia
School of Law (1964)
Admitted 1965
Died November 2022

**WILLIAM WAUGH
TURNER III**

Nashville, Georgia
University of Georgia
School of Law (1968)
Admitted 1970
Died January 2023

EUGENE RITCHIE WILLIAMS

Austin, Texas
University of Georgia
School of Law (1988)
Admitted 1988
Died December 2022

PAUL W. SLONIOWSKI

Atlanta, Georgia
Atlanta's John Marshall
Law School (1971)
Admitted 1973
Died October 2022

FLETCHER THOMPSON

Marietta, Georgia
Woodrow Wilson College
of Law (1957)
Admitted 1958
Died September 2022

KENNETH G. VINSON

Dallas, Georgia
University of Georgia
School of Law (1973)
Admitted 1973
Died November 2022

OBITUARIES

Martin David "Dave" Merritt Jr., of Atlanta, died in November 2022. Merritt was born July 5, 1933, in Birmingham, Alabama. Later his family moved to Atlanta, where he remained a resident for the rest of his life. Merritt graduated from North Fulton High School in 1951, then studied journalism at the University of Alabama where he played football and was a member of the Sigma Phi Epsilon fraternity. He enlisted in the U.S. Army in 1955, shortly after graduating college, and served in the infantry while stationed in Korea and Japan; he was honorably discharged in 1957. Upon returning to Atlanta, he worked as a copy editor at the *Atlanta Journal Constitution*. While there, he enrolled in graduate school at Emory University, switching to the study of law and enrolling at Emory University's Lamar School of Law, earning his J.D.

in 1964. During this time, he met Mary Elizabeth "Liz" O'Hara; they married in 1961, and their marriage was blessed with four children. In March 1967, Merritt joined Shoob, McLain & Jesse as an associate. The firm changed its name to McLain & Merritt, P.C., after Marvin Shoob joined the federal bench in 1977. Merritt was admitted to the U.S. Supreme Court in 1974, and, over the course of his career, he earned and enjoyed the highest level of respect and admiration from his peers. A renowned litigator, primarily in the area of insurance defense, he tried hundreds of jury cases in the federal and state courts until his retirement in 2015. He attended Peachtree Presbyterian Church for many years. His real passions, however, were enjoying English literature, watching the Atlanta Braves, maintaining the landscape at his home and enthusiastically supporting the Alabama Crimson Tide. ●



Hon. Clyde L. Reese III died in December 2022.

Reese was born in Florence, South Carolina, and moved to Atlanta with his parents in 1969 at the age of 10. Reese, along with his cousin, Marsha Reese, and her cousin, Alonzo Brown, integrated Pace Academy of Atlanta in 1969. He graduated from Pace in 1976.

Reese graduated from Georgia State University in 1980 with a B.A. in world history and a minor in economics. From 1980-1993, Reese worked in residential real estate in the southwest Atlanta area. His family operated Brown and Reese Realty, one of the first Black-owned residential brokerage firms in Atlanta.

In 1993, Reese entered law school at the Mercer University Walter F. George School of Law in Macon, Georgia. He graduated in 1996 with a J.D. In the summer of 1996, Reese began work as an assistant attorney general in the Georgia Department of Law un-

der Attorney General Michael Bowers. He began in the Regulated Industries Section, which included the Department of Insurance, the Subsequent Injury Trust Fund and the State Health Planning Agency (SHPA). In the fall, the SHPA, which administered the Georgia Certificate of Need law, hired him to be its in-house general counsel. In 1999, SHPA was merged into the newly created Department of Community Health (DCH) along with the Georgia Medicaid program and the State Health Benefit Plan. From 1999 through the summer of 2003, Reese was deputy general counsel of DCH, the largest health care agency in the executive branch.

In 2003, Reese left state government for the private practice of law. From 2003-04, he practiced with Rod Meadows at Meadows & Lewis in Stockbridge, Georgia. From 2004-07 he was owner and principal of Reese & Hopkins, LLC, a firm specializing in state and federal health care regulatory matters. The firm represented hospi-



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tals, ambulatory surgery centers, physicians and physician group practices, imaging providers and other health care entities.

In the fall of 2007, Reese returned to state government with DCH to oversee the Certificate of Need program and as general counsel. In May 2010, Gov. Sonny Perdue appointed Reese as commissioner of DCH. In January 2011, Gov. Nathan Deal appointed him as commissioner of the Department of Human Services (DHS). DHS oversees the state's child welfare system, human services benefits, child support and aging programs. In July 2013, Reese returned to DCH as commissioner for a second time and served in that capacity until his appointment to the Court of Appeals of Georgia on Nov. 1, 2016, by Gov. Nathan Deal. At the time of his departure from DCH, it had a combined state and federal budget of more than \$14 billion with more than 1,000 employees. Reese spent considerable time traveling the state visiting hospitals and other health care providers. He took a particular in-

terest in the challenge of access to health care in rural areas of Georgia.

Reese was a member of the Chief Justice's Commission on Professionalism of the Supreme Court of Georgia. He was a member of the Mercer Law School Board of Visitors. Reese established the Judge Clyde Reese Book Award at Mercer University Walter F. George School of Law. The award, in honor of his parents, Clyde and Dorothy Reese, grants \$1,000 to a deserving minority student selected by the school to help defray the cost of law books. He also served as co-chair of the State Bar of Georgia SOLACE Committee. In May 2018, Reese won election to a new six-year term on the Court of Appeals, which began on Jan. 1, 2019.

Reese was a proud father of five children. He also had three grandchildren. Reese was a resident of Douglas County and a member of the Friendship Community Church for more than 36 years. ●



Fletcher Thompson, former U.S. congressman and Georgia state senator, died in September 2022.

Thompson was born in College Park, Georgia, on Feb. 5, 1925. He attended Central Park Elementary and Russell High School in East Point graduating in June 1942.

In February 1943, he enlisted in the U.S. Army Air Corps serving as a second lieutenant and navigator in the Pacific until 1946. He entered Emory University, graduating in 1949. Thompson was called back into the U.S. Air Force and served as pilot in a B-47 until the end of 1953. Among other things, his duties included flying through hydrogen bomb test clouds at Enewetok Atoll to collect samples and determine the level of radioactivity.

Returning to East Point, Thompson began a career in aviation insurance while attending Woodrow Wilson College of Law. After graduation in 1957, he passed the Georgia bar exam in 1958. Thompson commenced the practice of law in East Point in 1963.

He was elected to the Georgia Senate in 1964. In 1966, Thompson was elected to the U.S. House of Representatives where he served three terms. He was president of the freshman Republican Congress (90th) and also was president of an aviation insurance firm before and after his public service, later selling his interest.

Thompson practiced law full time until the late '70s when he acquired and ran a freight forwarding company in addition to his law practice. He was a member of the Atlanta Regional Commission in the mid-'80s.

From 2009-11, Thompson served as the commander of the Atlanta World War II Roundtable, an organization that was created in 1986 "to hear and record the war experiences of World War II, and to pass on to posterity the knowledge of World War II and the price—human and material—that was paid by our nation for the preservation of freedom in the United States and the world." He remained a faithful and loyal member of the group until his death. ●

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.



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The Courtyard Residence Inn by Marriott |
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12 CLE Hours
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Bar Center | Atlanta, Georgia
6 CLE Hours
- 21 Narcissists Among Us**
Bar Center | Atlanta, Georgia
6 CLE Hours
- 23 Abusive Litigation**
Bar Center | Atlanta, Georgia
6 CLE Hours
- 23 Professional and Ethical Dilemmas in Litigation**
Bar Center | Atlanta, Georgia
6 CLE Hours
- 24 ADR in the Workers' Compensation Arena**
Bar Center | Atlanta, Georgia
6 CLE Hours
- 24 Agriculture Law**
Middle Georgia State University |
Macon, Georgia
6 CLE Hours
- 28 Powerful Witness Preparation**
Bar Center | Atlanta, Georgia
6 CLE Hours

MARCH

- 29 The New Negotiating Advantage**
Bar Center | Atlanta, Georgia
6 CLE Hours
- 30 Deposition Control**
Bar Center | Atlanta, Georgia
6 CLE Hours
- 31 Basic Fiduciary Law 101**
Middle Georgia State University |
Macon, Georgia
7 CLE Hours
- 31 Georgia Auto Insurance Claims Law**
Bar Center | Atlanta, Georgia
6 CLE Hours
- 31 Post Judgment Collection**
Bar Center | Atlanta, Georgia
6 CLE Hours

APRIL

- 6 Professionalism, Ethics & Malpractice**
Bar Center | Atlanta, Georgia
3 CLE Hours
- 13 Wrongful Death**
Bar Center | Atlanta, Georgia
6 CLE Hours
- 14 Social Security Law**
Bar Center | Atlanta, Georgia
6 CLE Hours
- 21 Truck Accident Claims**
Bar Center | Atlanta, Georgia
6 CLE Hours
- 27 Solo and Small Firm Conference**
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12 CLE Hours

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Special Masters Appointed by the Supreme Court of Georgia

On July 6, 2022, Nunc Pro Tunc, the Supreme Court of Georgia ordered that the following persons be reappointed to serve a one-year term as Special Masters in lawyer discipline cases from July 1, 2022, through June 30, 2023:

Michael J. Blakely Jr.
Thomas E. Cauthorn III
Delia T. Crouch
William Thomas Davis
LaVonda Rochelle DeWitt
Adam M. Hames
Patrick H. Head
J. Jeffrey Helms Jr.
Catherine H. Hicks

Charles D. Jones
Chong Joo Kim
Catherine Koura
Patrick Longan
Quentin L. Marlin
LaRae Dixon Moore
Kathryn Lauranne Powers
Daniel S. Reinhardt
S. Jeffrey Rusbridge

The Court further ordered that Kevin B. Hicks and Kalki Yalamanchili be appointed to serve a one-year term as Special Masters in lawyer discipline cases from July 1, 2022, through June 30, 2023.



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